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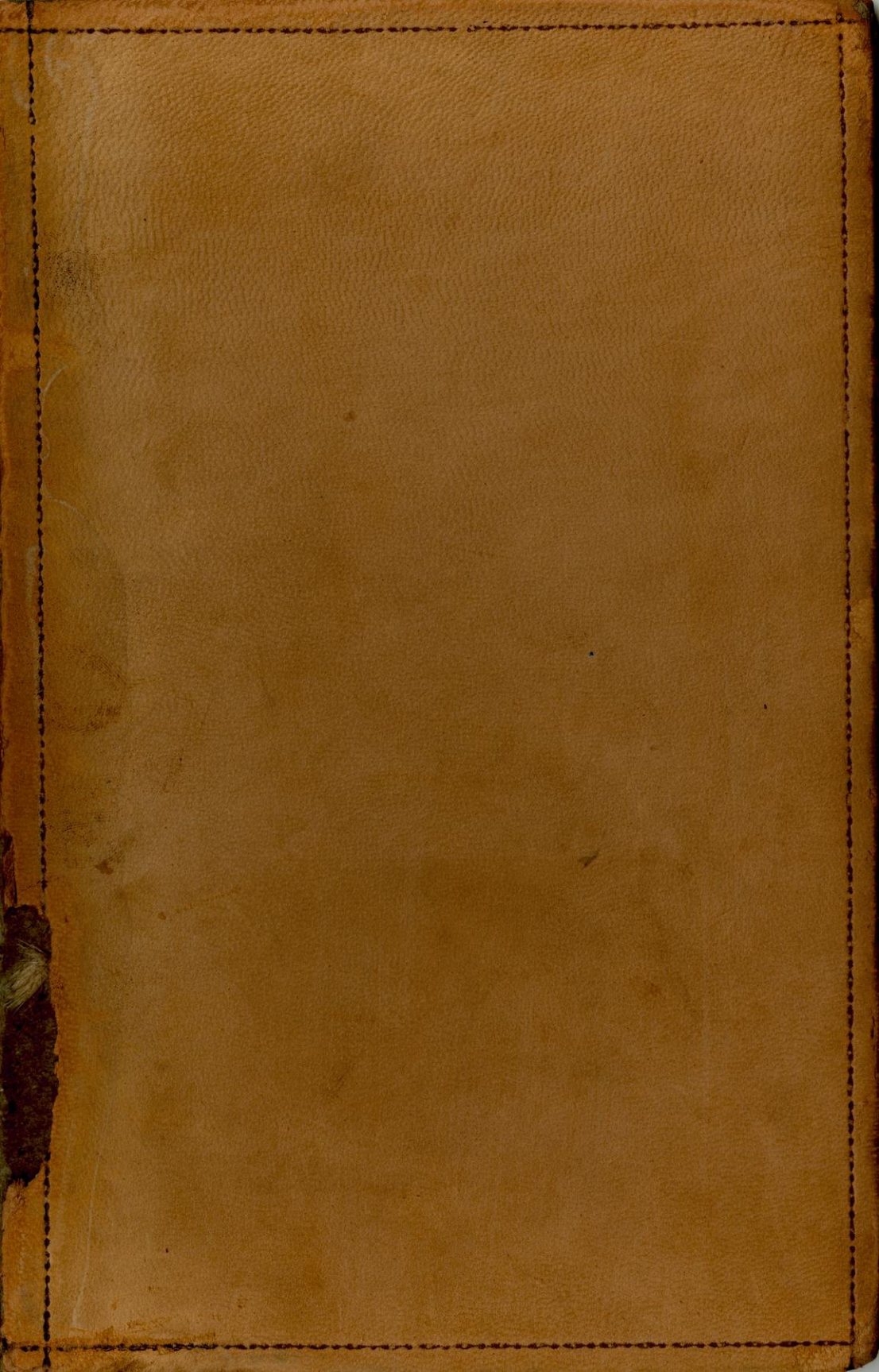
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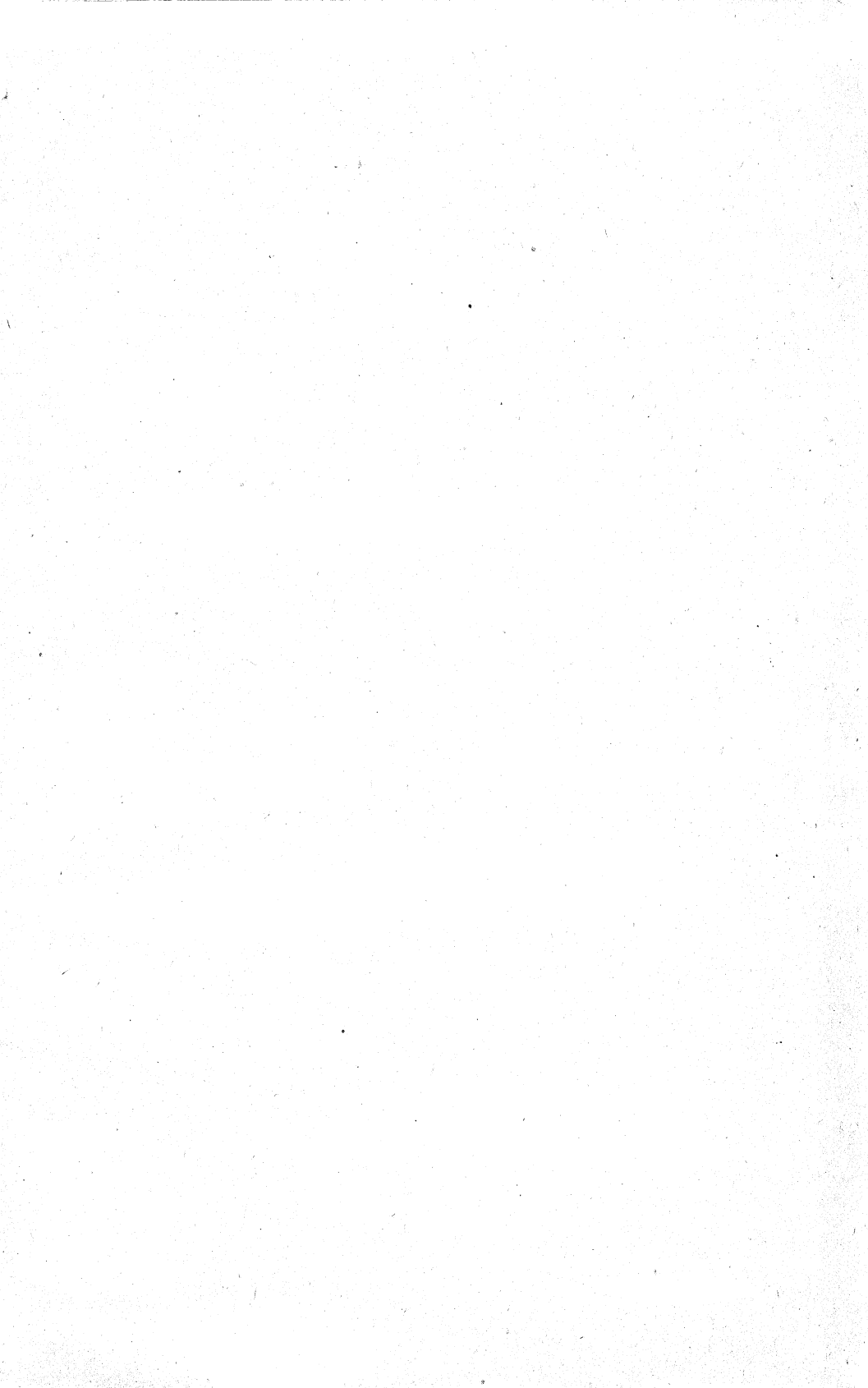
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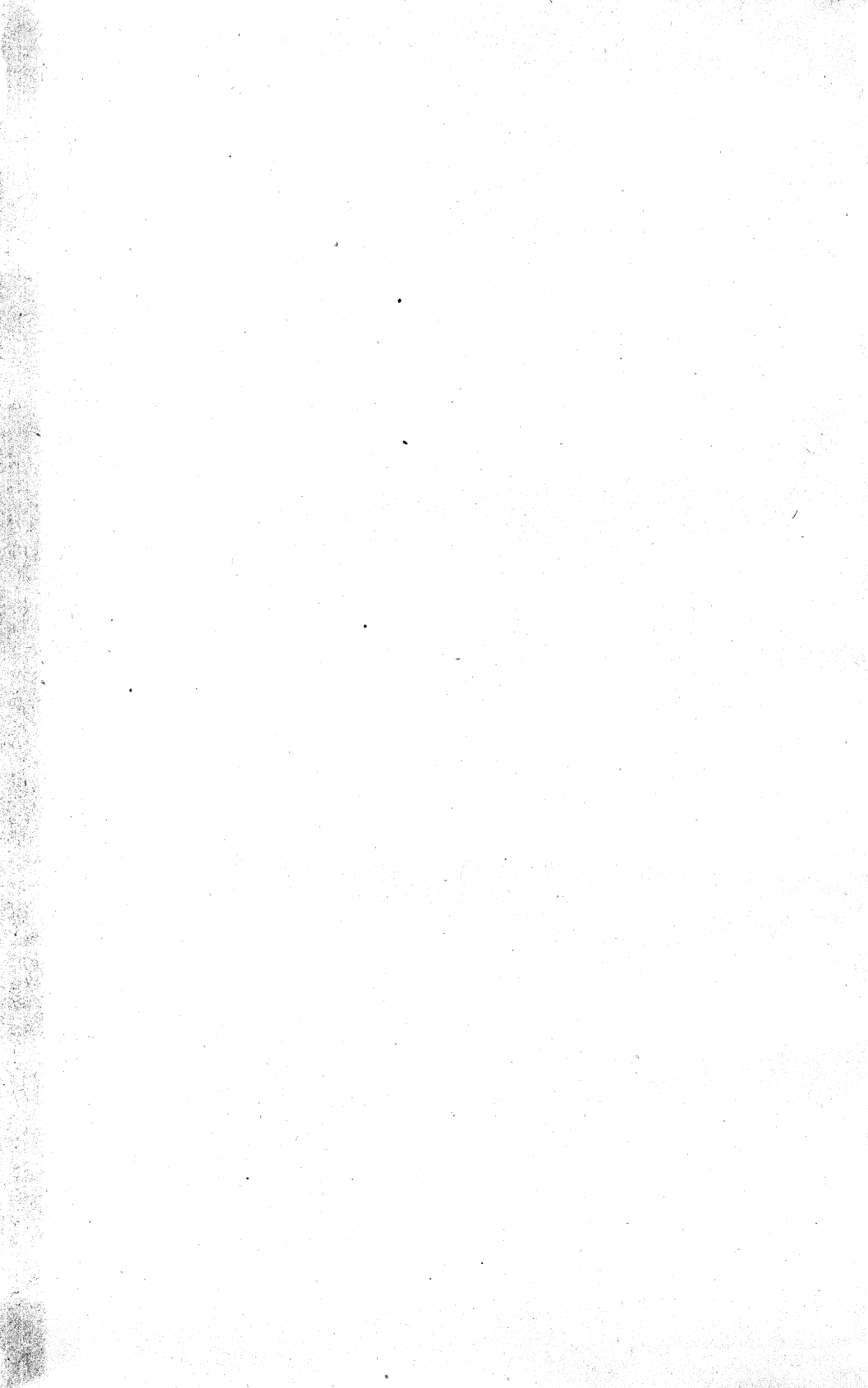
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THE
EXECUTIVE DOCUMENTS

OF THE
HOUSE OF REPRESENTATIVES

FOR THE
FIRST SESSION OF THE FIFTY-FIRST CONGRESS.

1889-'90.



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INDEX TO EXECUTIVE DOCUMENTS OF HOUSE OF REPRESENTATIVES.

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51ST CONGRESS, } HOUSE OF REPRESENTATIVES. { Ex. Doc. 1,
1st Session. } Part 1.

P A P E R S

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 3, 1889,

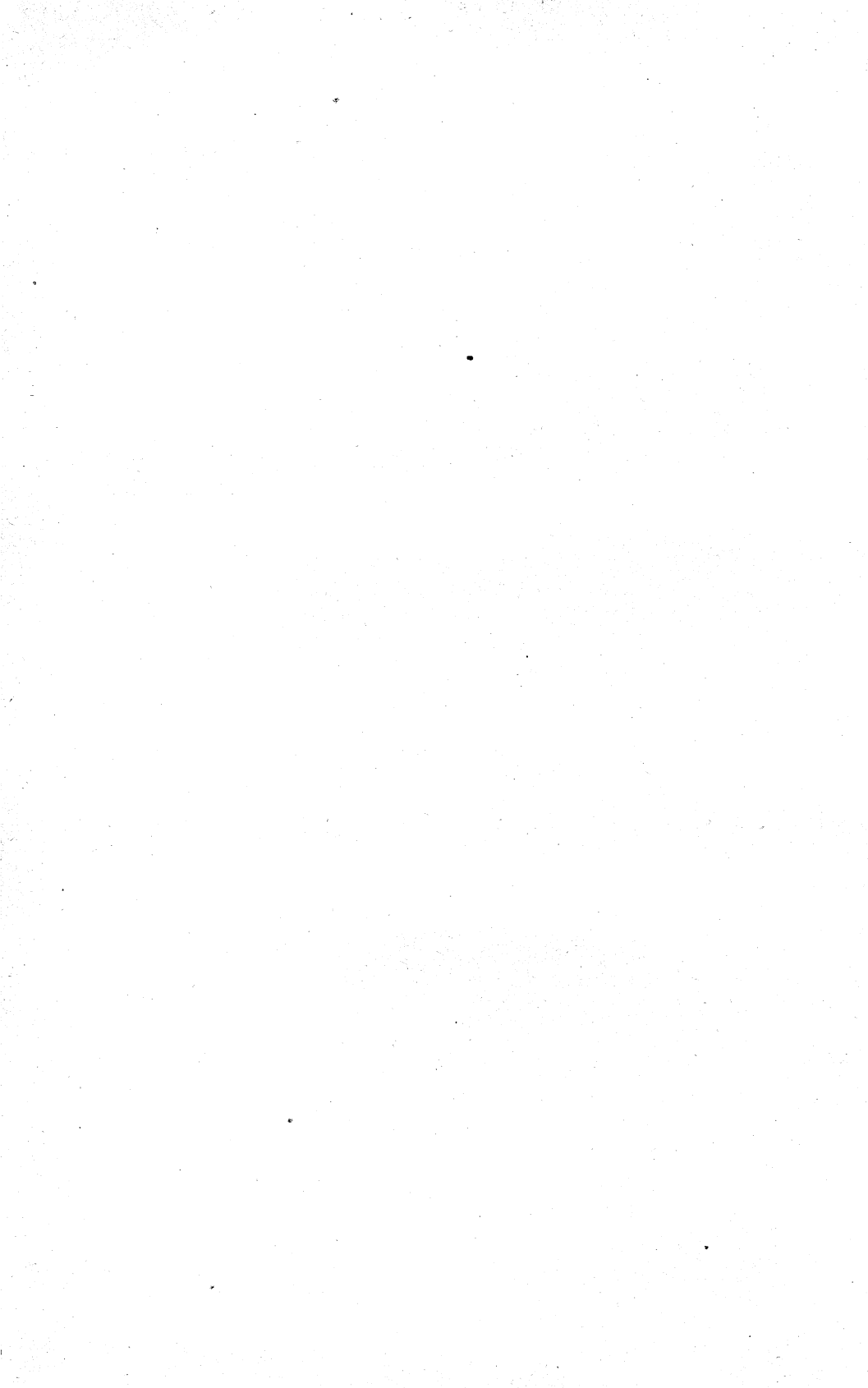
PRECEDED BY A

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



WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1890.



MESSAGE.

To the Senate and House of Representatives :

There are few transactions in the administration of the Government that are even temporarily held in the confidence of those charged with the conduct of the public business. Every step taken is under the observation of an intelligent and watchful people. The state of the Union is known from day to day, and suggestions as to needed legislation find an earlier voice than that which speaks in these annual communications of the President to Congress.

Good-will and cordiality have characterized our relations and correspondence with other Governments, and the year just closed leaves few international questions of importance remaining unadjusted. No obstacle is believed to exist that can long postpone the consideration and adjustment of the still pending questions upon satisfactory and honorable terms. The dealings of this Government with other states have been and should always be marked by frankness and sincerity, our purposes avowed, and our methods free from intrigue. This course has borne rich fruit in the past, and it is our duty as a nation to preserve the heritage of good repute which a century of right dealing with foreign Governments has secured to us.

It is a matter of high significance, and no less of congratulation, that the first year of the second century of our constitutional existence finds, as honored guests within our borders, the representatives of all the independent states of North and South America met together in earnest conference touching the best methods of perpetuating and expanding the relations of mutual interest and friendliness existing among them. That the opportunity thus afforded for promoting closer international relations and the increased prosperity of the states represented will be used for the mutual good of all, I can not permit myself to doubt. Our people will await with interest and confidence the results to flow from so auspicious a meeting of allied and, in large part, identical interests.

The recommendations of this international conference of enlightened statesmen will doubtless have the considerate attention of Congress, and its co-operation in the removal of unnecessary barriers to beneficial intercourse between the nations of America. But while the commercial results, which it is hoped will follow this conference, are worthy of pursuit and of the great interest they have excited, it is believed that the crowning benefit will be found in the better securities which may be devised for the maintenance of peace among all American nations and the settlement of all contentions by methods that a Christian civilization can approve. While viewing with interest our national resources and products, the delegates will, I am sure, find a higher satisfaction in the evidences of unselfish friendship which everywhere attend their intercourse with our people.

Another international conference, having great possibilities for good, has lately assembled and is now in session in this Capital. An invitation was extended by the Government, under the act of Congress of July 9, 1888, to all maritime nations to send delegates to confer touching the revision and amendment of the rules and regulations governing vessels at sea and to adopt a uniform system of marine signals. The response to this invitation has been very general and very cordial. Delegates from twenty-six nations are present in the conference, and they have entered upon their useful work with great zeal, and with an evident appreciation of its importance. So far as the agreement to be reached may require legislation to give it effect, the co-operation of Congress is confidently relied upon.

It is an interesting if not indeed an unprecedented fact, that the two International Conferences have brought together here the accredited representatives of thirty-three nations.

Bolivia, Ecuador, and Honduras are now represented by resident envoys of the plenipotentiary grade. All the states of the American system now maintain diplomatic representation at this Capital.

In this connection it may be noted that all the nations of the western hemisphere, with one exception, send to Washington envoys extraordinary and ministers plenipotentiary, being the highest grade accredited to this Government. The United States, on the contrary, sends envoys of lower grade to some of our sister republics. Our representative in Paraguay and Uruguay is a minister resident, while to Bolivia we send a minister resident and consul-general. In view of the importance of our relations with the states

of the American system, our diplomatic agents in those countries should be of the uniform rank of envoy extraordinary and minister plenipotentiary. Certain missions were so elevated by the last Congress with happy effect, and I recommend the completion of the reform thus begun, with the inclusion also of Hawaii and Hayti, in view of their relations to the American system of states.

I also recommend that timely provision be made for extending to Hawaii an invitation to be represented in the International Conference now sitting at this Capital.

Our relations with China have the attentive consideration which their magnitude and interest demand. The failure of the treaty negotiated under the administration of my predecessor for the further and more complete restriction of Chinese labor-immigration, and, with it, the legislation of the last session of Congress dependent thereon, leave some questions open which Congress should now approach in that wise and just spirit which should characterize the relations of two great and friendly powers. While our supreme interests demand the exclusion of a laboring element which experience has shown to be incompatible with our social life, all steps to compass this imperative need should be accompanied with a recognition of the claim of those strangers now lawfully among us to humane and just treatment.

The accession of the young Emperor of China marks, we may hope, an era of progress and prosperity for the great country over which he is called to rule.

The present state of affairs in respect to the Samoan Islands is encouraging. The conference which was held in this city in the summer of 1887 between the representatives of the United States, Germany, and Great Britain having been adjourned because of the persistent divergence of views which was developed in its deliberations, the subsequent course of events in the islands gave rise to questions of a serious character. On the 4th of February last, the German minister at this Capital, in behalf of his Government, proposed a resumption of the conference at Berlin. This proposition was accepted, as Congress, in February last, was informed.

Pursuant to the understanding thus reached, commissioners were appointed by me, by and with the advice and consent of the Senate, who proceeded to Berlin, where the conference was renewed. The deliberations extended through several weeks, and resulted in the conclusion of a treaty which will be submitted to the Senate for its approval. I trust that the efforts which have been made to effect

an adjustment of this question will be productive of the permanent establishment of law and order in Samoa upon the basis of the maintenance of the rights and interests of the natives as well as of the treaty powers.

The questions which have arisen during the past few years between Great Britain and the United States are in abeyance or in course of amicable adjustment.

On the part of the Government of the Dominion of Canada an effort has been apparent during the season just ended to administer the laws and regulations applicable to the fisheries with as little occasion for friction as was possible, and the temperate representations of this Government in respect of cases of undue hardship or of harsh interpretations have been in most cases met with measures of transitory relief. It is trusted that the attainment of our just rights under existing treaties and in virtue of the concurrent legislation of the two contiguous countries will not be long deferred and that all existing causes of difference may be equitably adjusted.

I recommend that provision be made by an international agreement for visibly marking the water boundary between the United States and Canada in the narrow channels that join the Great Lakes. The conventional line therein traced by the Northwestern Boundary Survey, years ago, is not in all cases readily ascertainable for the settlement of jurisdictional questions.

A just and acceptable enlargement of the list of offenses for which extradition may be claimed and granted is most desirable between this country and Great Britain. The territory of neither should become a secure harbor for the evil-doers of the other through any avoidable short-coming in this regard. A new treaty on this subject between the two powers has been recently negotiated and will soon be laid before the Senate.

The importance of the commerce of Cuba and Porto Rico with the United States, their nearest and principal market, justifies the expectation that the existing relations may be beneficially expanded. The impediments resulting from varying dues on navigation and from the vexatious treatment of our vessels, on merely technical grounds of complaint, in West India ports, should be removed.

The progress toward an adjustment of pending claims between the United States and Spain is not as rapid as could be desired.

Questions affecting American interests in connection with railways constructed and operated by our citizens in Peru have claimed the attention of this Government. It is urged that other Governments, in pressing Peru to the payment of their claims, have disregarded the property rights of American citizens. The matter will be carefully investigated, with a view to securing a proper and equitable adjustment.

A similar issue is now pending with Portugal. The Delagoa Bay Railway in Africa was constructed under a concession by Portugal to an American citizen. When nearly completed the road was seized by the agents of the Portuguese Government. Formal protest has been made through our minister at Lisbon against this act, and no proper effort will be spared to secure proper relief.

In pursuance of the charter granted by Congress, and under the terms of its contract with the Government of Nicaragua, the Inter-oceanic Canal Company has begun the construction of the important water-way between the two oceans which its organization contemplates. Grave complications for a time seemed imminent, in view of a supposed conflict of jurisdiction between Nicaragua and Costa Rica in regard to the accessory privileges to be conceded by the latter Republic toward the construction of works on the San Juan River, of which the right bank is Costa Rican territory. I am happy to learn that a friendly arrangement has been effected between the two nations. This Government has held itself ready to promote in every proper way the adjustment of all questions that might present obstacles to the completion of a work of such transcendent importance to the commerce of this country, and indeed to the commercial interests of the world.

The traditional good-feeling between this country and the French Republic has received additional testimony in the participation of our Government and people in the International Exposition held at Paris during the past summer. The success of our exhibitors has been gratifying. The report of the commission will be laid before Congress in due season.

This Government has accepted, under proper reserve as to its policy in foreign territories, the invitation of the Government of Belgium to take part in an International Congress, which opened at Brussels on the 16th of November, for the purpose of devising measures to promote the abolition of the slave-trade in Africa and

to prevent the shipment of slaves by sea. Our interest in the extinction of this crime against humanity, in the regions where it yet survives, has been increased by the results of emancipation within our own borders.

With Germany the most cordial relations continue. The questions arising from the return to the Empire of Germans naturalized in this country are considered and disposed of in a temperate spirit, to the entire satisfaction of both Governments.

It is a source of great satisfaction that the internal disturbances of the Republic of Hayti are at last happily ended, and that an apparently stable government has been constituted. It has been duly recognized by the United States.

A mixed commission is now in session in this Capital for the settlement of long-standing claims against the Republic of Venezuela, and it is hoped that a satisfactory conclusion will be speedily reached. This Government has not hesitated to express its earnest desire that the boundary dispute now pending between Great Britain and Venezuela may be adjusted amicably and in strict accordance with the historic title of the parties.

The advancement of the Empire of Japan has been evidenced by the recent promulgation of a new constitution, containing valuable guaranties of liberty and providing for a responsible ministry to conduct the government.

It is earnestly recommended that our judicial rights and processes in Corea be established on a firm basis, by providing the machinery necessary to carry out treaty stipulations in that regard.

The friendliness of the Persian Government continues to be shown by its generous treatment of Americans engaged in missionary labors, and by the cordial disposition of the Shah to encourage the enterprise of our citizens in the development of Persian resources.

A discussion is in progress touching the jurisdictional treaty rights of the United States in Turkey. An earnest effort will be made to define those rights to the satisfaction of both Governments.

Questions continue to arise in our relations with several countries in respect to the rights of naturalized citizens. Especially is this

the case with France, Italy, Russia, and Turkey, and to a less extent with Switzerland. From time to time earnest efforts have been made to regulate this subject by conventions with those countries. An improper use of naturalization should not be permitted, but it is most important that those who have been duly naturalized should everywhere be accorded recognition of the rights pertaining to the citizenship of the country of their adoption. The appropriateness of special conventions for that purpose is recognized in treaties which this Government has concluded with a number of European states, and it is advisable that the difficulties which now arise in our relations with other countries on the same subject should be similarly adjusted.

The recent revolution in Brazil in favor of the establishment of a republican form of government is an event of great interest to the United States. Our minister at Rio de Janeiro was at once instructed to maintain friendly diplomatic relations with the provisional government, and the Brazilian representatives at this capital were instructed by the provisional government to continue their functions. Our friendly intercourse with Brazil has, therefore, suffered no interruption.

Our minister has been further instructed to extend on the part of this Government a formal and cordial recognition of the new Republic so soon as the majority of the people of Brazil shall have signified their assent to its establishment and maintenance.

Within our own borders a general condition of prosperity prevails. The harvests of the last summer were exceptionally abundant, and the trade conditions now prevailing seem to promise a successful season to the merchant and the manufacturer, and general employment to our working people.

The report of the Secretary of the Treasury for the fiscal year ending June 30, 1889, has been prepared, and will be presented to Congress. It presents with clearness the fiscal operations of the Government, and I avail myself of it to obtain some facts for use here.

The aggregate receipts from all sources for the year were \$387,050,884.84, derived as follows :

From customs -----	\$223, 832, 741. 69
From internal revenue -----	130, 881, 513. 92
From miscellaneous sources -----	32, 335, 803. 23

The ordinary expenditures for the same period were \$281,996,615.60, and the total expenditures, including the sinking fund, were \$329,579,929.25. The excess of receipts over expenditures was, after providing for the sinking fund, \$57,470,129.59.

For the current fiscal year the total revenues, actual and estimated, are \$385,000,000, and the ordinary expenditures, actual and estimated, are \$293,000,000, making, with the sinking fund, a total expenditure of \$341,321,116.99, leaving an estimated surplus of \$43,678,883.01.

During the fiscal year there was applied to the purchase of bonds, in addition to those for the sinking fund, \$90,456,172.35, and during the first quarter of the current year the sum of \$37,838,937.77, all of which were credited to the sinking fund. The revenues for the fiscal year ending June 30, 1891, are estimated by the Treasury Department at \$385,000,000, and the expenditures for the same period, including the sinking fund, at \$341,430,477.70. This shows an estimated surplus for that year of \$43,569,522.30, which is more likely to be increased than reduced when the actual transactions are written up.

The existence of so large an actual and anticipated surplus should have the immediate attention of Congress, with a view to reducing the receipts of the Treasury to the needs of the Government as closely as may be. The collection of moneys not needed for public uses imposes an unnecessary burden upon our people, and the presence of so large a surplus in the public vaults is a disturbing element in the conduct of private business. It has called into use expedients for putting it into circulation of very questionable propriety. We should not collect revenue for the purpose of anticipating our bonds, beyond the requirements of the sinking fund, but any unappropriated surplus in the Treasury should be so used, as there is no other lawful way of returning the money to circulation, and the profit realized by the Government offers a substantial advantage.

The loaning of public funds to the banks without interest, upon the security of Government bonds, I regard as an unauthorized and dangerous expedient. It results in a temporary and unnatural increase of the banking capital of favored localities, and compels a cautious and gradual recall of the deposits to avoid injury to the commercial interests. It is not to be expected that the banks having these deposits will sell their bonds to the Treasury so long as the present highly beneficial arrangement is continued. They now practically get interest both upon the bonds and their proceeds. No further use should be made of this method of getting the surplus

into circulation, and the deposits now outstanding should be gradually withdrawn and applied to the purchase of bonds. It is fortunate that such a use can be made of the existing surplus, and for some time to come of any casual surplus that may exist after Congress has taken the necessary steps for a reduction of the revenue. Such legislation should be promptly, but very considerably, enacted.

I recommend a revision of our tariff law, both in its administrative features and in the schedules. The need of the former is generally conceded, and an agreement upon the evils and inconveniences to be remedied and the best methods for their correction will probably not be difficult. Uniformity of valuation at all our ports is essential, and effective measures should be taken to secure it. It is equally desirable that questions affecting rates and classifications should be promptly decided.

The preparation of a new schedule of customs duties is a matter of great delicacy because of its direct effect upon the business of the country, and of great difficulty by reason of the wide divergence of opinion as to the objects that may properly be promoted by such legislation. Some disturbance of business may perhaps result from the consideration of this subject by Congress, but this temporary ill effect will be reduced to the minimum by prompt action and by the assurance which the country already enjoys that any necessary changes will be so made as not to impair the just and reasonable protection of our home industries. The inequalities of the law should be adjusted, but the protective principle should be maintained and fairly applied to the products of our farms as well as of our shops. These duties necessarily have relation to other things besides the public revenues. We can not limit their effects by fixing our eyes on the public treasury alone. They have a direct relation to home production, to work, to wages, and to the commercial independence of our country, and the wise and patriotic legislator should enlarge the field of his vision to include all of these.

The necessary reduction in our public revenues can, I am sure, be made without making the smaller burden more onerous than the larger by reason of the disabilities and limitations which the process of reduction puts upon both capital and labor. The free list can very safely be extended by placing thereon articles that do not offer injurious competition to such domestic products as our home labor can supply. The removal of the internal tax upon tobacco would relieve an important agricultural product from a burden which was imposed only because our revenue from customs duties was insufficient for the public needs. If safe provision against fraud can be

devised the removal of the tax upon spirits used in the arts and in manufactures would also offer an unobjectionable method of reducing the surplus.

A table presented by the Secretary of the Treasury, showing the amount of money of all kinds in circulation each year from 1878 to the present time, is of interest. It appears that the amount of national-bank notes in circulation has decreased during that period \$114,109,729, of which \$37,799,229 is chargeable to the last year. The withdrawal of bank circulation will necessarily continue under existing conditions. It is probable that the adoption of the suggestions made by the Comptroller of the Currency, viz, that the minimum deposit of bonds for the establishment of banks be reduced, and that an issue of notes to the par value of the bonds be allowed, would help to maintain the bank circulation. But, while this withdrawal of bank notes has been going on, there has been a large increase in the amount of gold and silver coin in circulation and in the issues of gold and silver certificates.

The total amount of money of all kinds in circulation on March 1, 1878, was \$805,793,807, while on October 1, 1889, the total was \$1,405,018,000. There was an increase of \$293,417,552 in gold coin, of \$57,554,100 in standard silver dollars, of \$72,311,249 in gold certificates, of \$276,619,715 in silver certificates, and of \$14,073,787 in United States notes, making a total of \$713,976,403. There was during the same period a decrease of \$114,109,729 in bank circulation, and of \$642,481 in subsidiary silver. The net increase was \$599,224,193. The circulation per capita has increased about five dollars during the time covered by the table referred to.

The total coinage of silver dollars was, on November 1, 1889, \$343,638,001, of which \$283,539,521 were in the Treasury vaults and \$60,098,480 were in circulation. Of the amount in the vaults, \$277,319,944 were represented by outstanding silver certificates, leaving \$6,219,577 not in circulation and not represented by certificates.

The law requiring the purchase, by the Treasury, of two million dollars' worth of silver bullion each month, to be coined into silver dollars of four hundred and twelve and one-half grains, has been observed by the Department; but neither the present Secretary nor any of his predecessors has deemed it safe to exercise the discretion given by law to increase the monthly purchases to four million dollars. When the law was enacted (February 28, 1878) the price

of silver in the market was \$1.20 $\frac{4}{10}$ per ounce, making the bullion value of the dollar 93 cents. Since that time the price has fallen as low as 91.2 cents per ounce, reducing the bullion value of the dollar to 70.6 cents. Within the last few months the market price has somewhat advanced, and on the 1st day of November last the bullion value of the silver dollar was 72 cents.

The evil anticipations which have accompanied the coinage and use of the silver dollar have not been realized. As a coin it has not had general use, and the public Treasury has been compelled to store it. But this is manifestly owing to the fact that its paper representative is more convenient. The general acceptance and use of the silver certificate show that silver has not been otherwise discredited. Some favorable conditions have contributed to maintain this practical equality, in their commercial use, between the gold and silver dollars. But some of these are trade conditions that statutory enactments do not control and of the continuance of which we cannot be certain.

I think it is clear that if we should make the coinage of silver at the present ratio free, we must expect that the difference in the bullion values of the gold and silver dollars will be taken account of in commercial transactions, and I fear the same result would follow any considerable increase of the present rate of coinage. Such a result would be discreditable to our financial management and disastrous to all business interests. We should not tread the dangerous edge of such a peril. And, indeed, nothing more harmful could happen to the silver interests. Any safe legislation upon this subject must secure the equality of the two coins in their commercial uses.

I have always been an advocate of the use of silver in our currency. We are large producers of that metal, and should not discredit it. To the plan which will be presented by the Secretary of the Treasury for the issuance of notes or certificates upon the deposit of silver bullion at its market value, I have been able to give only a hasty examination, owing to the press of other matters and to the fact that it has been so recently formulated. The details of such a law require careful consideration, but the general plan suggested by him seems to satisfy the purpose—to continue the use of silver in connection with our currency, and at the same time to obviate the danger of which I have spoken. At a later day I may communicate further with Congress upon this subject.

The enforcement of the Chinese exclusion act has been found to be very difficult on the northwestern frontier. Chinamen, land-

ing at Victoria, find it easy to pass our border, owing to the impossibility, with the force at the command of the customs officers, of guarding so long an inland line. The Secretary of the Treasury has authorized the employment of additional officers who will be assigned to this duty, and every effort will be made to enforce the law. The Dominion exacts a head tax of fifty dollars for each Chinaman landed, and when these persons, in fraud of our law, cross into our territory and are apprehended, our officers do not know what to do with them, as the Dominion authorities will not suffer them to be sent back without a second payment of the tax. An effort will be made to reach an understanding that will remove this difficulty.

The proclamation required by section 3 of the act of March 2, 1889, relating to the killing of seals and other fur-bearing animals, was issued by me on the 21st day of March, and a revenue vessel was dispatched to enforce the laws and protect the interests of the United States. The establishment of a refuge station at Point Barrow, as directed by Congress, was successfully accomplished.

Judged by modern standards, we are practically without coast defenses. Many of the structures we have would enhance rather than diminish the perils of their garrisons if subjected to the fire of improved guns; and very few are so located as to give full effect to the greater range of such guns as we are now making for coast-defense uses. This general subject has had consideration in Congress for some years, and the appropriation for the construction of large rifled guns, made one year ago, was, I am sure, the expression of a purpose to provide suitable works in which these guns might be mounted. An appropriation now made for that purpose would not advance the completion of the works beyond our ability to supply them with fairly effective guns.

The security of our coast cities against foreign attack should not rest altogether in the friendly disposition of other nations. There should be a second line wholly in our own keeping. I very urgently recommend an appropriation at this session for the construction of such works in our most exposed harbors.

I approve the suggestion of the Secretary of War that provision be made for encamping companies of the National Guard in our coast works for a specified time each year, and for their training in the use of heavy guns. His suggestion that an increase of the artillery force of the Army is desirable is also in this connection commended to the consideration of Congress.

The improvement of our important rivers and harbors should be promoted by the necessary appropriations. Care should be taken that the Government is not committed to the prosecution of works not of public and general advantage, and that the relative usefulness of works of that class is not overlooked. So far as this work can ever be said to be completed, I do not doubt that the end would be sooner and more economically reached if fewer separate works were undertaken at the same time, and those selected for their greater general interest were more rapidly pushed to completion. A work once considerably begun should not be subjected to the risks and deterioration which interrupted or insufficient appropriations necessarily occasion.

The assault made by David S. Terry upon the person of Justice Field, of the Supreme Court of the United States, at Lathrop, California, in August last, and the killing of the assailant by a deputy United States marshal who had been deputed to accompany Justice Field and to protect him from anticipated violence at the hands of Terry, in connection with the legal proceedings which have followed, suggest questions which, in my judgment, are worthy of the attention of Congress.

I recommend that more definite provision be made by law, not only for the protection of Federal officers, but for a full trial of such cases in the United States courts. In recommending such legislation I do not at all impeach either the general adequacy of the provision made by the State laws for the protection of all citizens or the general good disposition of those charged with the execution of such laws to give protection to the officers of the United States. The duty of protecting its officers, as such, and of punishing those who assault them on account of their official acts, should not be devolved expressly or by acquiescence upon the local authorities.

Events, which have been brought to my attention, happening in other parts of the country, have also suggested the propriety of extending, by legislation, fuller protection to those who may be called as witnesses in the courts of the United States. The law compels those who are supposed to have knowledge of public offenses to attend upon our courts and grand juries and to give evidence. There is a manifest resulting duty that these witnesses shall be protected from injury on account of their testimony. The investigations of criminal offenses are often rendered futile, and the punishment of crime impossible, by the intimidation of witnesses.

The necessity of providing some more speedy method for disposing of the cases which now come for final adjudication to the Supreme Court becomes every year more apparent and urgent. The plan of providing some intermediate courts, having final appellate jurisdiction of certain classes of questions and cases, has, I think, received a more general approval from the bench and bar of the country than any other. Without attempting to discuss details, I recommend that provision be made for the establishment of such courts.

The salaries of the judges of the district courts in many of the districts are, in my judgment, inadequate. I recommend that all such salaries now below five thousand dollars per annum be increased to that amount. It is quite true that the amount of labor performed by these judges is very unequal, but as they can not properly engage in other pursuits to supplement their incomes, the salary should be such in all cases as to provide an independent and comfortable support.

Earnest attention should be given by Congress to a consideration of the question how far the restraint of those combinations of capital commonly called "trusts" is matter of Federal jurisdiction. When organized, as they often are, to crush out all healthy competition and to monopolize the production or sale of an article of commerce and general necessity, they are dangerous conspiracies against the public good, and should be made the subject of prohibitory and even penal legislation.

The subject of an international copyright has been frequently commended to the attention of Congress by my predecessors. The enactment of such a law would be eminently wise and just.

Our naturalization laws should be so revised as to make the inquiry into the moral character and good disposition towards our Government of the persons applying for citizenship more thorough. This can only be done by taking fuller control of the examination, by fixing the times for hearing such applications, and by requiring the presence of some one who shall represent the Government in the inquiry. Those who are the avowed enemies of social order, or who come to our shores to swell the injurious influence and to extend the evil practices of any association that defies our laws, should not only be denied citizenship but a domicile.

The enactment of a national bankrupt law of a character to be a permanent part of our general legislation is desirable. It should be simple in its methods and inexpensive in its administration.

The report of the Postmaster-General not only exhibits the operations of the Department for the last fiscal year, but contains many valuable suggestions for the improvement and extension of the service, which are commended to your attention. No other branch of the Government has so close a contact with the daily life of the people. Almost every one uses the service it offers, and every hour gained in the transmission of the great commercial mails has an actual and possible value that only those engaged in trade can understand.

The saving of one day in the transmission of the mails between New York and San Francisco, which has recently been accomplished, is an incident worthy of mention.

The plan suggested of a supervision of the post-offices in separate districts that shall involve instruction and suggestion and a rating of the efficiency of the postmasters would, I have no doubt, greatly improve the service.

A pressing necessity exists for the erection of a building for the joint use of the Department and of the city post-office. The Department was partially relieved by renting outside quarters for a part of its force, but it is again overcrowded. The building used by the city office never was fit for the purpose, and is now inadequate and unwholesome.

The unsatisfactory condition of the law relating to the transmission through the mails of lottery advertisements and remittances is clearly stated by the Postmaster-General, and his suggestion as to amendments should have your favorable consideration.

The report of the Secretary of the Navy shows a reorganization of the Bureaus of the Department that will, I do not doubt, promote the efficiency of each.

In general, satisfactory progress has been made in the construction of the new ships of war authorized by Congress. The first vessel of the new Navy, the *Dolphin*, was subjected to very severe trial tests and to very much adverse criticism. But it is gratifying to be able to state that a cruise around the world, from which she has recently returned, has demonstrated that she is a first-class vessel of her rate.

The report of the Secretary shows that while the effective force of the Navy is rapidly increasing, by reason of the improved build and armament of the new ships, the number of our ships fit for sea duty grows very slowly. We had, on the 4th of March last, thirty-seven serviceable ships, and though four have since been added to the list, the total has not been increased, because in the mean time four have been lost or condemned. Twenty-six additional vessels

have been authorized and appropriated for, but it is probable that when they are completed our list will only be increased to forty-two, a gain of five. The old wooden ships are disappearing almost as fast as the new vessels are added. These facts carry their own argument. One of the new ships may, in fighting strength, be equal to two of the old, but it can not do the cruising duty of two. It is important, therefore, that we should have a more rapid increase in the number of serviceable ships. I concur in the recommendation of the Secretary that the construction of eight armored ships, three gun-boats, and five torpedo-boats be authorized.

An appalling calamity befell three of our naval vessels on duty at the Samoan Islands, in the harbor of Apia, in March last, involving the loss of four officers and forty-seven seamen, of two vessels, the *Trenton* and the *Vandalia*, and the disabling of a third, the *Nipsic*. Three vessels of the German Navy, also in the harbor, shared with our ships the force of the hurricane and suffered even more heavily. While mourning the brave officers and men who died, facing with high resolve perils greater than those of battle, it is most gratifying to state that the credit of the American Navy for seamanship, courage, and generosity was magnificently sustained in the storm-beaten harbor of Apia.

The report of the Secretary of the Interior exhibits the transactions of the Government with the Indian tribes. Substantial progress has been made in the education of the children of school age and in the allotment of lands to adult Indians. It is to be regretted that the policy of breaking up the tribal relation and of dealing with the Indian as an individual did not appear earlier in our legislation. Large reservations, held in common, and the maintenance of the authority of the chiefs and head-men have deprived the individual of every incentive to the exercise of thrift, and the annuity has contributed an affirmative impulse towards a state of confirmed pauperism.

Our treaty stipulations should be observed with fidelity, and our legislation should be highly considerate of the best interests of an ignorant and helpless people. The reservations are now generally surrounded by white settlements. We can no longer push the Indian back into the wilderness, and it remains only, by every suitable agency, to push him upward into the estate of a self-supporting and responsible citizen. For the adult, the first step is to locate him upon a farm, and for the child, to place him in a school,

School attendance should be promoted by every moral agency, and those failing, should be compelled. The national schools for Indians have been very successful, and should be multiplied, and, as far as possible, should be so organized and conducted as to facilitate the transfer of the schools to the States or Territories in which they are located, when the Indians in a neighborhood have accepted citizenship, and have become otherwise fitted for such a transfer. This condition of things will be attained slowly, but it will be hastened by keeping it in mind. And in the mean time that co-operation between the Government and the mission schools, which has wrought much good, should be cordially and impartially maintained.

The last Congress enacted two distinct laws relating to negotiations with the Sioux Indians of Dakota for a relinquishment of a portion of their lands to the United States and for dividing the remainder into separate reservations. Both were approved on the same day—March 2. The one submitted to the Indians a specific proposition; the other (section 3 of the Indian appropriation act) authorized the President to appoint three commissioners to negotiate with these Indians for the accomplishment of the same general purpose, and required that any agreements made should be submitted to Congress for ratification.

On the 16th day of April last I appointed Hon. Charles Foster, of Ohio, Hon. William Warner, of Missouri, and Major-General George Crook, of the United States Army, commissioners under the last-named law. They were, however, authorized and directed, first, to submit to the Indians the definite proposition made to them by the act first mentioned, and only in the event of a failure to secure the assent of the requisite number to that proposition to open negotiations for modified terms under the other act. The work of the Commission was prolonged and arduous, but the assent of the requisite number was, it is understood, finally obtained to the proposition made by Congress, though the report of the Commission has not yet been submitted. In view of these facts, I shall not, as at present advised, deem it necessary to submit the agreement to Congress for ratification, but it will in due course be submitted for information. This agreement releases to the United States about nine million acres of land.

The Commission provided for by section 14 of the Indian appropriation bill to negotiate with the Cherokee Indians and all other Indians owning or claiming lands lying west of the ninety-sixth degree of longitude, for the cession to the United States of all such

lands, was constituted by the appointment of Hon. Lucius Fairchild, of Wisconsin, Hon. John F. Hartranft, of Pennsylvania, and Hon. Alfred M. Wilson, of Arkansas, and organized on June 29 last. Their first conference with the representatives of the Cherokees was held at Tahlequah, July 29, with no definite results. General John F. Hartranft, of Pennsylvania, was prevented by ill-health from taking part in the conference. His death, which occurred recently, is justly and generally lamented by a people he had served with conspicuous gallantry in war and with great fidelity in peace. The vacancy thus created was filled by the appointment of Hon. Warren G. Sayre, of Indiana.

A second conference between the Commission and the Cherokees was begun November 6, but no results have yet been obtained, nor is it believed that a conclusion can be immediately expected. The cattle syndicate now occupying the lands for grazing purposes is clearly one of the agencies responsible for the obstruction of our negotiations with the Cherokees. The large body of agricultural lands constituting what is known as the "Cherokee Outlet" ought not to be, and indeed can not long be, held for grazing, and for the advantage of a few against the public interests and the best advantage of the Indians themselves. The United States has now under the treaties certain rights in these lands. These will not be used oppressively, but it can not be allowed that those who by sufferance occupy these lands shall interpose to defeat the wise and beneficent purposes of the Government. I can not but believe that the advantageous character of the offer made by the United States to the Cherokee Nation, for a full release of these lands, as compared with other suggestions now made to them, will yet obtain for it a favorable consideration.

Under the agreement made between the United States and the Muscogee (or Creek) Nation of Indians on the 19th day of January, 1889, an absolute title was secured by the United States to about three and a half millions of acres of land. Section 12 of the general Indian appropriation act, approved March 2, 1889, made provision for the purchase by the United States from the Seminole tribe of a certain portion of their lands. The delegates of the Seminole Nation, having first duly evidenced to me their power to act in that behalf, delivered a proper release and conveyance to the United States of all the lands mentioned in the act, which was accepted by me and certified to be in compliance with the statute.

By the terms of both the acts referred to all the lands so purchased were declared to be a part of the public domain, and open to settle-

ment under the homestead law. But of the lands embraced in these purchases, being in the aggregate about five and a half million acres, three and a half million acres had already, under the terms of the treaty of 1866, been acquired by the United States for the purpose of settling other Indian tribes thereon, and had been appropriated to that purpose. The land remaining and available for settlement consisted of 1,887,796 acres, surrounded on all sides by lands in the occupancy of Indian tribes. Congress had provided no civil government for the people who were to be invited by my proclamation to settle upon these lands, except as the new court, which had been established at Muscogee, or the United States courts in some of the adjoining States, had power to enforce the general laws of the United States.

In this condition of things I was quite reluctant to open the lands to settlement. But in view of the fact that several thousand persons, many of them with their families, had gathered upon the borders of the Indian Territory, with a view to securing homesteads on the ceded lands, and that delay would involve them in much loss and suffering, I did, on the 23d day of March last, issue a proclamation declaring that the lands therein described would be open to settlement under the provisions of the law on the 22d day of April following, at 12 o'clock noon. Two land districts had been established and the offices were open for the transaction of business when the appointed time arrived.

It is much to the credit of the settlers that they very generally observed the limitation as to the time when they might enter the Territory. Care will be taken that those who entered in violation of the law do not secure the advantage they unfairly sought. There was a good deal of apprehension that the strife for locations would result in much violence and bloodshed, but happily these anticipations were not realized. It is estimated that there are now in the Territory about sixty thousand people; and several considerable towns have sprung up, for which temporary municipal governments have been organized. Guthrie is said to have now a population of almost eight thousand. Eleven schools and nine churches have been established, and three daily and five weekly newspapers are published in this city, whose charter and ordinances have only the sanction of the voluntary acquiescence of the people from day to day.

Oklahoma City has a population of about five thousand, and is proportionately as well provided as Guthrie with churches, schools, and newspapers. Other towns and villages having populations of from one hundred to a thousand are scattered over the Territory.

In order to secure the peace of this new community, in the absence of civil government, I directed General Merritt, commanding the Department of the Missouri, to act in conjunction with the marshals of the United States to preserve the peace, and upon their requisition to use the troops to aid them in executing warrants and in quieting any riots or breaches of the peace that might occur. He was further directed to use his influence to promote good order and to avoid any conflicts between or with the settlers. Believing that the introduction and sale of liquors, where no legal restraints or regulations existed, would endanger the public peace, and in view of the fact that such liquors must first be introduced into the Indian reservations before reaching the white settlements, I further directed the general commanding to enforce the laws relating to the introduction of ardent spirits into the Indian country.

The presence of the troops has given a sense of security to the well-disposed citizens, and has tended to restrain the lawless. In one instance the officer in immediate command of the troops went further than I deemed justifiable in supporting the *de facto* municipal government of Guthrie, and he was so informed and directed to limit the interference of the military to the support of the marshals on the lines indicated in the original order. I very urgently recommend that Congress at once provide a Territorial government for these people. Serious questions, which may at any time lead to violent outbreaks, are awaiting the institution of courts for their peaceful adjustment. The American genius for self-government has been well illustrated in Oklahoma, but it is neither safe nor wise to leave these people longer to the expedients which have temporarily served them.

Provision should be made for the acquisition of title to town lots in the towns now established in Alaska, for locating town sites and for the establishment of municipal governments. Only the mining laws have been extended to that Territory, and no other form of title to lands can now be obtained. The general land laws were framed with reference to the disposition of agricultural lands, and it is doubtful if their operation in Alaska would be beneficial.

We have fortunately not extended to Alaska the mistaken policy of establishing reservations for the Indian tribes, and can deal with them from the beginning as individuals with, I am sure, better results. But any disposition of the public lands and any regulations relating to timber and to the fisheries should have a kindly regard to their interests. Having no power to levy taxes, the people of Alaska are wholly dependent upon the General Government, to

whose revenues the seal fisheries make a large annual contribution. An appropriation for education should neither be overlooked nor stinted.

The smallness of the population and the great distances between the settlements offer serious obstacles to the establishment of the usual Territorial form of government. Perhaps the organization of several subdistricts, with a small municipal council of limited powers for each, would be safe and useful.

Attention is called in this connection to the suggestions of the Secretary of the Treasury relating to the establishment of another port of entry in Alaska, and of other needed customs facilities and regulations.

In the administration of the land laws the policy of facilitating, in every proper way, the adjustment of the honest claims of individual settlers upon the public lands has been pursued. The number of pending cases had, during the preceding administration, been greatly increased under the operation of orders for a time suspending final action in a large part of the cases originating in the West and Northwest, and by the subsequent use of unusual methods of examination. Only those who are familiar with the conditions under which our agricultural lands have been settled can appreciate the serious and often fatal consequences to the settler of a policy that puts his title under suspicion, or delays the issuance of his patent. While care is taken to prevent and to expose fraud, it should not be imputed without reason.

The manifest purpose of the homestead and pre-emption laws was to promote the settlement of the public domain by persons having a bona-fide intent to make a home upon the selected lands. Where this intent is well established and the requirements of the law have been substantially complied with, the claimant is entitled to a prompt and friendly consideration of his case. But where there is reason to believe that the claimant is the mere agent of another, who is seeking to evade a law intended to promote small holdings, and to secure by fraudulent methods large tracts of timber and other lands, both principal and agent should not only be thwarted in their fraudulent purpose, but should be made to feel the full penalties of our criminal statutes. The laws should be so administered as not to confound these two classes, and to visit penalties only upon the latter.

The unsettled state of the titles to large bodies of lands in the Territories of New Mexico and Arizona has greatly retarded the development of those Territories. Provision should be made by

law for the prompt trial and final adjustment, before a judicial tribunal or commission, of all claims based upon Mexican grants. It is not just to an intelligent and enterprising people that their peace should be disturbed and their prosperity retarded by these old contentions. I express the hope that differences of opinion as to methods may yield to the urgency of the case.

The law now provides a pension for every soldier and sailor who was mustered into the service of the United States during the civil war and is now suffering from wounds or disease having an origin in the service and in the line of duty. Two of the three necessary facts, viz, muster and disability, are usually susceptible of easy proof; but the third, origin in the service, is often difficult, and in many deserving cases impossible to establish. That very many of those who endured the hardships of our most bloody and arduous campaigns are now disabled from diseases that had a real but not traceable origin in the service I do not doubt. Besides these there is another class composed of men many of whom served an enlistment of three full years, and of re-enlisted veterans who added a fourth year of service, who escaped the casualties of battle and the assaults of disease, who were always ready for any detail, who were in every battle line of their command, and were mustered out in sound health, and have, since the close of the war, while fighting with the same indomitable and independent spirit the contests of civil life, been overcome by disease or casualty.

I am not unaware that the pension-roll already involves a very large annual expenditure, neither am I deterred by that fact from recommending that Congress grant a pension to such honorably discharged soldiers and sailors of the civil war as having rendered substantial service during the war are now dependent upon their own labor for a maintenance, and by disease or casualty are incapacitated from earning it. Many of the men who would be included in this form of relief are now dependent upon public aid, and it does not, in my judgment, consist with the national honor that they shall continue to subsist upon the local relief given indiscriminately to paupers instead of upon the special and generous provision of the nation they served so gallantly and unselfishly. Our people will, I am sure, very generally approve such legislation. And I am equally sure that the survivors of the Union Army and Navy will feel a grateful sense of relief when this worthy and suffering class of their comrades is fairly cared for.

There are some manifest inequalities in the existing law that should be remedied. To some of these the Secretary of the Interior has called attention.

It is gratifying to be able to state that by the adoption of new and better methods in the War Department the calls of the Pension Office for information as to the military and hospital records of pension claimants are now promptly answered, and the injurious and vexatious delays that have heretofore occurred are entirely avoided. This will greatly facilitate the adjustment of all pending claims.

The advent of four new States, South Dakota, North Dakota, Montana, and Washington, into the Union under the Constitution, in the same month, and the admission of their duly chosen representatives to our National Congress at the same session, is an event as unexampled as it is interesting.

The certification of the votes cast and of the constitutions adopted in each of the States was filed with me as required by the eighth section of the act of February 22, 1889, by the governors of said Territories respectively. Having, after a careful examination, found that the several constitutions and governments were republican in form and not repugnant to the Constitution of the United States, that all the provisions of the act of Congress had been complied with, and that a majority of the votes cast in each of said proposed States was in favor of the adoption of the constitution submitted therein, I did so declare by a separate proclamation as to each; as to North Dakota and South Dakota on Saturday, November 2; as to Montana on Friday, November 8, and as to Washington on Monday, November 11.

Each of these States has within it resources the development of which will employ the energies of, and yield a comfortable subsistence to, a great population. The smallest of these new States, Washington, stands twelfth, and the largest, Montana, third, among the forty-two in area. The people of these States are already well trained, intelligent, and patriotic American citizens, having common interests and sympathies with those of the older States, and a common purpose to defend the integrity and uphold the honor of the nation.

The attention of the Interstate Commerce Commission has been called to the urgent need of Congressional legislation for the better protection of the lives and limbs of those engaged in operating the great interstate freight lines of the country, and especially of the yard-men and brakemen. A petition, signed by nearly ten thousand railway brakemen, was presented to the Commission, asking that steps might be taken to bring about the use of automatic brakes and couplers on freight cars.

At a meeting of State railroad commissioners and their accredited representatives, held at Washington in March last, upon the invitation of the Interstate Commerce Commission, a resolution was unanimously adopted, urging the Commission "to consider what can be done to prevent the loss of life and limb in coupling and uncoupling freight cars, and in handling the brakes of such cars." During the year ending June 30, 1888, over 2,000 railroad employes were killed in service, and more than 20,000 injured. It is competent, I think, for Congress to require uniformity in the construction of cars used in interstate commerce, and the use of improved safety appliances upon such trains. Time will be necessary to make the needed changes, but an earnest and intelligent beginning should be made at once. It is a reproach to our civilization that any class of American workmen should, in the pursuit of a necessary and useful vocation, be subjected to a peril of life and limb as great as that of a soldier in time of war.

The creation of an Executive Department, to be known as the Department of Agriculture, by the act of February 9, last, was a wise and timely response to a request which had long been respectfully urged by the farmers of the country. But much remains to be done to perfect the organization of the Department so that it may fairly realize the expectations which its creation excited. In this connection attention is called to the suggestions contained in the report of the Secretary, which is herewith submitted. The need of a law officer for the Department, such as is provided for the other Executive Departments, is manifest. The failure of the last Congress to make the usual provision for the publication of the annual report should be promptly remedied. The public interest in the report and its value to the farming community I am sure will not be diminished under the new organization of the Department.

I recommend that the Weather Service be separated from the War Department and established as a Bureau in the Department of Agriculture. This will involve an entire reorganization both of the Weather Bureau and of the Signal Corps, making of the first a purely civil organization and of the other a purely military staff corps. The report of the Chief Signal Officer shows that the work of the corps on its military side has been deteriorating.

The interests of the people of the District of Columbia should not be lost sight of in the pressure for consideration of measures affecting the whole country. Having no legislature of its own, either

municipal or general, its people must look to Congress for the regulation of all those concerns that, in the States, are the subject of local control. Our whole people have an interest that the National Capital should be made attractive and beautiful, and above all that its repute for social order should be well maintained. The laws regulating the sale of intoxicating drinks in the District should be revised with a view to bringing the traffic under stringent limitations and control.

In execution of the power conferred upon me by the act making appropriations for the expenses of the District of Columbia for the year ending June 30, 1890, I did, on the 17th day of August last, appoint Rudolph Hering, of New York, Samuel M. Gray, of Rhode Island, and Frederick P. Stearns, of Massachusetts, three eminent sanitary engineers, to examine and report upon the system of sewerage existing in the District of Columbia. Their report, which is not yet completed, will be in due course submitted to Congress.

The report of the Commissioners of the District is herewith transmitted, and the attention of Congress is called to the suggestions contained therein.

The proposition to observe the four hundredth anniversary of the discovery of America by the opening of a world's fair or exposition in some one of our great cities will be presented for the consideration of Congress. The value and interest of such an exposition may well claim the promotion of the General Government.

On the 4th of March last the Civil Service Commission had but a single member. The vacancies were filled on the 7th day of May, and since then the commissioners have been industriously, though with an inadequate force, engaged in executing the law. They were assured by me that a cordial support would be given them in the faithful and impartial enforcement of the statute and of the rules and regulations adopted in aid of it.

Heretofore the book of eligibles has been closed to every one, except as certifications were made upon the requisition of the appointing-officers. This secrecy was the source of much suspicion, and of many charges of favoritism in the administration of the law. What is secret is always suspected; what is open can be judged. The Commission, with the full approval of all its members, has now opened the list of eligibles to the public. The eligible lists for the classified post-offices and custom-houses are now publicly posted in the respective offices, as are also the certifications for appointments. The purpose of the civil-service law was absolutely to exclude any other

consideration in connection with appointments under it than that of merit as tested by the examinations. The business proceeds upon the theory that both the examining boards and the appointing-officers are absolutely ignorant as to the political views and associations of all persons on the civil-service lists. It is not too much to say, however, that some recent Congressional investigations have somewhat shaken public confidence in the impartiality of the selections for appointment.

The reform of the civil service will make no safe or satisfactory advance until the present law and its equal administration are well established in the confidence of the people. It will be my pleasure, as it is my duty, to see that the law is executed with firmness and impartiality. If some of its provisions have been fraudulently evaded by appointing-officers, our resentment should not suggest the repeal of the law, but reform in its administration. We should have one view of the matter, and hold it with a sincerity that is not affected by the consideration that the party to which we belong is for the time in power.

My predecessor, on the 4th day of January, 1889, by an executive order to take effect March 15, brought the Railway Mail Service under the operation of the civil-service law. Provision was made that the order should take effect sooner in any State where an eligible list was sooner obtained. On the 11th day of March, Mr. Lyman, then the only member of the Commission, reported to me in writing that it would not be possible to have the list of eligibles ready before May 1, and requested that the taking effect of the order be postponed until that time, which was done, subject to the same provision contained in the original order as to States in which an eligible list was sooner obtained.

As a result of the revision of the rules, of the new classification, and of the inclusion of the Railway Mail Service, the work of the Commission has been greatly increased, and the present clerical force is found to be inadequate. I recommend that the additional clerks asked by the Commission be appropriated for.

The duty of appointment is devolved by the Constitution or by the law, and the appointing-officers are properly held to a high responsibility in its exercise. The growth of the country and the consequent increase of the civil list have magnified this function of the Executive disproportionately. It can not be denied, however, that the labor connected with this necessary work is increased, often to the point of actual distress, by the sudden and excessive demands that are made upon an incoming administration for removals and appointments. But, on the other hand, it is not true that incum-

bency is a conclusive argument for a continuance in office. Impartiality, moderation, fidelity to public duty, and a good attainment in the discharge of it must be added before the argument is complete. When those holding administrative offices so conduct themselves as to convince just political opponents that no party consideration or bias affects in any way the discharge of their public duties, we can more easily stay the demand for removals.

I am satisfied that both in and out of the classified service great benefit would accrue from the adoption of some system by which the officer would receive the distinction and benefit that, in all private employments, comes from exceptional faithfulness and efficiency in the performance of duty.

I have suggested to the heads of the Executive Departments that they consider whether a record might not be kept in each Bureau of all those elements that are covered by the terms "faithfulness" and "efficiency," and a rating made showing the relative merits of the clerks of each class, this rating to be regarded as a test of merit in making promotions.

I have also suggested to the Postmaster-General that he adopt some plan by which he can, upon the basis of the reports to the Department and of frequent inspections, indicate the relative merit of postmasters of each class. They will be appropriately indicated in the official register and in the report of the Department. That a great stimulus would thus be given to the whole service I do not doubt, and such a record would be the best defense against inconsiderate removals from office.

The interest of the General Government in the education of the people found an early expression, not only in the thoughtful and sometimes warning utterances of our ablest statesmen, but in liberal appropriations from the common resources for the support of education in the new States. No one will deny that it is of the gravest national concern that those who hold the ultimate control of all public affairs should have the necessary intelligence wisely to direct and determine them. National aid to education has heretofore taken the form of land grants, and in that form the constitutional power of Congress to promote the education of the people is not seriously questioned. I do not think it can be successfully questioned when the form is changed to that of a direct grant of money from the public treasury.

Such aid should be, as it always has been, suggested by some exceptional conditions. The sudden emancipation of the slaves of the South, the bestowal of the suffrage, which soon followed, and the

impairment of the ability of the States where these new citizens were chiefly found to adequately provide educational facilities, presented not only exceptional but unexampled conditions. That the situation has been much ameliorated there is no doubt. The ability and interest of the States have happily increased.

But a great work remains to be done, and I think the General Government should lend its aid. As the suggestion of a national grant in aid of education grows chiefly out of the condition and needs of the emancipated slave and his descendants, the relief should, as far as possible, while necessarily proceeding upon some general lines, be applied to the need that suggested it. It is essential, if much good is to be accomplished, that the sympathy and active interest of the people of the States should be enlisted, and that the methods adopted should be such as to stimulate and not to supplant local taxation for school purposes.

As one Congress can not bind a succeeding one in such a case, and as the effort must, in some degree, be experimental, I recommend that any appropriation made for this purpose be so limited in annual amount and as to the time over which it is to extend as will, on the one hand, give the local school authorities opportunity to make the best use of the first year's allowance, and on the other deliver them from the temptation to unduly postpone the assumption of the whole burden themselves.

The colored people did not intrude themselves upon us; they were brought here in chains and held in the communities where they are now chiefly found, by a cruel slave code. Happily for both races they are now free. They have, from a stand-point of ignorance and poverty, which was our shame, not theirs, made remarkable advances in education and in the acquisition of property. They have, as a people, shown themselves to be friendly and faithful towards the white race, under temptations of tremendous strength. They have their representatives in the national cemeteries where a grateful Government has gathered the ashes of those who died in its defense. They have furnished to our regular Army regiments that have won high praise from their commanding officers for courage and soldierly qualities, and for fidelity to the enlistment oath. In civil life they are now the toilers of their communities, making their full contribution to the widening streams of prosperity which these communities are receiving. Their sudden withdrawal would stop production and bring disorder into the household as well as the shop. Generally they do not desire to quit their homes, and their employers resent the interference of the emigration agents who seek to stimulate such a desire.

But, notwithstanding all this, in many parts of our country where the colored population is large the people of that race are, by various devices, deprived of any effective exercise of their political rights and of many of their civil rights. The wrong does not expend itself upon those whose votes are suppressed. Every constituency in the Union is wronged.

It has been the hope of every patriot that a sense of justice and of respect for the law would work a gradual cure of these flagrant evils. Surely, no one supposes that the present can be accepted as a permanent condition. If it is said that these communities must work out this problem for themselves, we have a right to ask whether they are at work upon it. Do they suggest any solution? When and under what conditions is the black man to have a free ballot? When is he in fact to have those full civil rights which have so long been his in law? When is that equality of influence which our form of government was intended to secure to the electors to be restored? This generation should courageously face these grave questions, and not leave them as a heritage of woe to the next. The consultation should proceed with candor, calmness, and great patience; upon the lines of justice and humanity, not of prejudice and cruelty. No question in our country can be at rest except upon the firm base of justice and of the law.

I earnestly invoke the attention of Congress to the consideration of such measures within its well-defined constitutional powers as will secure to all our people a free exercise of the right of suffrage and every other civil right under the Constitution and laws of the United States. No evil, however deplorable, can justify the assumption, either on the part of the Executive or of Congress, of powers not granted; but both will be highly blamable if all the powers granted are not wisely but firmly used to correct these evils. The power to take the whole direction and control of the election of members of the House of Representatives is clearly given to the General Government. A partial and qualified supervision of these elections is now provided for by law, and in my opinion this law may be so strengthened and extended as to secure, on the whole, better results than can be attained by a law taking all the processes of such election into Federal control. The colored man should be protected in all of his relations to the Federal Government, whether as litigant, juror, or witness in our courts, as an elector for members of Congress, or as a peaceful traveler upon our interstate railways.

There is nothing more justly humiliating to the national pride, and nothing more hurtful to the national prosperity than the infe-

riority of our merchant marine compared with that of other nations whose general resources, wealth, and sea-coast lines do not suggest any reason for their supremacy on the sea. It was not always so, and our people are agreed, I think, that it shall not continue to be so. It is not possible in this communication to discuss the causes of the decay of our shipping interests or the differing methods by which it is proposed to restore them. The statement of a few well-authenticated facts and some general suggestions as to legislation is all that is practicable. That the great steam-ship lines sailing under the flags of England, France, Germany, Spain, and Italy, and engaged in foreign commerce, were promoted, and have since been and now are liberally aided, by grants of public money, in one form or another, is generally known. That the American lines of steam-ships have been abandoned by us to an unequal contest with the aided lines of other nations until they have been withdrawn, or, in the few cases where they are still maintained, are subject to serious disadvantages, is matter of common knowledge.

The present situation is such that travelers and merchandise find Liverpool often a necessary intermediate port between New York and some of the South American capitals. The fact that some of the delegates from South American states to the Conference of American Nations, now in session at Washington, reached our shores by reversing that line of travel, is very conclusive of the need of such a conference, and very suggestive as to the first and most necessary step in the direction of fuller and more beneficial intercourse with nations that are now our neighbors upon the lines of latitude, but not upon the lines of established commercial intercourse.

I recommend that such appropriations be made for ocean-mail service, in American steam-ships, between our ports and those of Central and South America, China, Japan, and the important islands in both of the great oceans, as will be liberally remunerative for the service rendered, and as will encourage the establishment and in some fair degree equalize the chances of American steam-ship lines in the competitions which they must meet. That the American states lying south of us will cordially co-operate in establishing and maintaining such lines of steam-ships to their principal ports I do not doubt.

We should also make provision for a naval reserve to consist of such merchant ships, of American construction and of a specified tonnage and speed, as the owners will consent to place at the use of the Government, in case of need, as armed cruisers. England has adopted this policy, and as a result can now, upon necessity, at once

place upon her naval list some of the fastest steam-ships in the world. A proper supervision of the construction of such vessels would make their conversion into effective ships of war very easy.

I am an advocate of economy in our national expenditures, but it is a misuse of terms to make this word describe a policy that withholds an expenditure for the purpose of extending our foreign commerce. The enlargement and improvement of our merchant marine, the development of a sufficient body of trained American seamen, the promotion of rapid and regular mail communication between the ports of other countries and our own, and the adaptation of large and swift American merchant steam-ships to naval uses, in time of war, are public purposes of the highest concern. The enlarged participation of our people in the carrying trade, the new and increased markets that will be opened for the products of our farms and factories, and the fuller and better employment of our mechanics, which will result from a liberal promotion of our foreign commerce, insure the widest possible diffusion of benefit to all the States and to all our people. Everything is most propitious for the present inauguration of a liberal and progressive policy upon this subject, and we should enter upon it with promptness and decision.

The legislation which I have suggested, it is sincerely believed, will promote the peace and honor of our country and the prosperity and security of the people. I invoke the diligent and serious attention of Congress to the consideration of these and such other measures as may be presented, having the same great end in view.

BENJ. HARRISON.

EXECUTIVE MANSION,

Washington, December 3, 1889.

FOREIGN RELATIONS.

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	Count von Arco Valley to Mr. Bayard.	Jan. 15	Samoa affairs: Duty of the German consul at Apia of settling questions regarding the interests of foreigners in Samoa rendered difficult by the attitude of the officer in charge of American consulate and the commander of the American war vessel, who take part of Mataafa against Tamasese, who is recognized by Germany; evils of Mataafa's rule suggested; his inability to bring guilty parties to justice.	189
	Mr. Bayard to Count von Arco Valley.	Jan. 18	Samoa affairs: Neutrality of both the consular and commanding naval officer of the United States at Apia as to native chiefs; enjoined by their Government to abstain from all recognitory action in relation to the <i>de jure</i> powers claimed by either chief; this Government regrets the conflict and its results, but must continue to maintain an attitude of neutrality in the belief that the best interests of all concerned would be served by permitting and assisting the natives to choose freely their own king; the objection to Tamasese comes from the majority of his own countrymen, who claim that he was never legally chosen king; his rule should not, therefore, be insisted upon.	189
	Mr. Bayard to Mr. Pendleton. (Telegram.)	Jan. 31	Samoa affairs: Mr. Pendleton instructed to inform German Government that advices from Apia state that German consul had declared Germany to be at war with Mataafa and Samoa to be under martial law; substance of Prince Bismarck's declaration on the subject recited; Germany must instruct German officials in Samoa not to interfere with American citizens there; Germany's declaration of martial law not recognized by the United States.	191
	Mr. Bayard to Count von Arco Valley.	Jan. 31	Samoa affairs: Declaration of war and martial law by Germany in Samoa; Mr. Pendleton communicated with on the subject, and instructed to advise the German Government that the United States expects German officials in Samoa to abstain from all interference with American citizens and their property, and that Germany's declaration of martial law can not be recognized by the United States.	191
	Mr. Pendleton to Mr. Bayard. (Telegram.)	Feb. 1	Samoa affairs: Declaration of martial law by the German consul at Apia contrary to his instructions; his action regretted and the consul rebuked; the German Government will adhere strictly to treaty status; this statement anticipates the representations Mr. Pendleton was instructed to make, and he accordingly withholds them.	192
	Count von Arco Valley to Mr. Bayard.	Feb. 1	Samoa affairs: Proclamation by commander of German squadron at Apia of martial law permissible under rules of international law; but Prince Bismarck, thinking that German military authority had gone too far, telegraphed to commander to withdraw that part of the order relating to foreigners; German consul at Apia, who had asked of Mataafa that the administration of the islands of Samoa be handed over to him, instructed to withdraw his demand immediately.	192
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	Mr. Bayard to Count von Arco Valley.	Feb. 5	Samoan affairs: Desire of the President to restore peace and order to the people of Samoa; acceptance of Germany's proposal for a conference at Berlin by the three powers, based upon protocols of conference of 1887 and regarded as a resumption of that conference; its resumption should be expedited; a truce should be proclaimed in Samoa and further armed action prevented; there is no equality in a struggle between a scanty band of Samoans and the forces at Germany's command; instructions to suspend belligerent action suggested; it is hoped they will not be delayed; the announcement of the conference will doubtless cause a cessation of hostilities; except as the conditions may be changed in Samoa by the free election of a king, affairs there should remain in <i>statu quo</i> pending the conference; with the hope that these suggestions will be fruitful, the Government of the United States will take steps at once to be properly represented at the conference; statements of the German consul in Samoa finding fault with Captain Leary, of the <i>Nipsic</i> , and Mr. Blacklock, United States consul there, must be classed as mere hearsay evidence; the statements of the German consul will be brought to the attention of Captain Leary and Mr. Blacklock and their reply communicated; allowance should be made for excitement prevailing in Samoa.	194
	Mr. Blaine to Messrs. Kasson, Phelps, and Bates.	Apr. 11	Samoan affairs: Instructions as commissioners to the conference at Berlin; the general principles which will govern the opinions and control the decisions of the United States Governments; fuller instructions will be sent from time to time; character of the substance of the protocols of the first conference; the United States Government desires a speedy and amicable solution of all problems involved; it will maintain its equality of right in disposing of all questions and protect its own citizens wherever their lawful enterprise may carry them; the President hopes for a frank and friendly conference with satisfactory results to the powers and justice to the Samoan people; his confidence in the motives and purposes of the German Government; the present conference regarded as an adjourned meeting of the conference of 1887, and not as a new one; and the influential conditions then existing regarded as unchanged; Mr. Bayard's note to Count Arco of February 5, 1889, referred to on this point; the scope and purpose of the present conference; effect in Samoa of the municipality convention of 1879, and the treaty of peace of July, 1881; the transactions of 1885 not now to be considered in detail; disavowal of irregular action of German and United States consuls of both Governments recited; quotations from former correspondence on the subject; agreement of the three treaty powers to send commissioners to Samoa to report upon the actual condition of affairs there, and their report referred to; these matters were fully discussed by the first session of the conference; events since the adjournment of the conference in July, 1887; declaration of "war" by Germany against "Maliotua, personally;" his deportation; these acts regarded as an abrupt breach of the joint relations of the treaty powers unreconcilable with the friendly language of Germany	195

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36	Same to same.....	July 11	Extradition of Thomas Barton: Form of certificate for future use at the legation in London in such cases; the certificate used in Barton's case was the same as the form used for several years in extradition cases.	453
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90	Same to same.....	Sept. 27	Extradition cases: Blank form for sworn information in such cases to procure provisional warrant; practice of legation; lack of information as to steps taken in the United States in relation to certain extradition cases; suggests form in which State authorities should make application to the Department, in order to relieve the legation from its embarrassment.	462
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	Mr. Wharton to Mr. Edwards.	July 22	Contract laborers: Case of the four men arriving a second time at New York on the <i>Obdam</i> ; incloses copy of a letter from the Secretary of the Treasury sustaining the action of the collector of the port.	477
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233	Mr. Thompson to Mr. Bayard	Dec. 14	Blockade: Of the ports of St. Marc, Gonaives, Port de Paix, and Cape Haytien provisionally declared, and the right of "changing ports" to the Grand Saline, the Mole St. Nicholas, and Fort Liberty suppressed. The authorities at Port au Prince who issue the decree have no control over the ports. Extent of territory covered by the decree. Injury to our commerce from the arbitrary actions of the authorities at Port au Prince; but the French bark <i>Joinville</i> departs from a prohibited port unmolested. Validity of blockade in Hayti discussed by Mr.	488

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237	Same to same	Dec. 20	The <i>Haytien Republic</i> : A crew under one Captain Williams arrived on the Atlas steam-ship <i>Arran</i> , prepared to seize the <i>Haytien Republic</i> , for the purpose of taking her to New York, to be there turned over to the United States court for disposition; rumors on the subject; copy of Mr. Thompson's note to the Haytian counselor for foreign affairs inclosed.	490
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240	Same to same	Dec. 26	Blockade: Of the ports of Jacmel and Port de Paix. The decree not effective as to Jacmel, which, with all other southern ports of Hayti, remains open.	493
141	Mr. Bayard to Mr. Thompson	1889 Jan. 2	The <i>Haytien Republic</i> : Approval of Mr. Thompson's course in sending note of protest against the projected removal of the vessel from Port au Prince. Purpose of the crew on the Atlas line steamer <i>Arran</i> reported in the United States just before the sailing of the <i>Galena</i> and <i>Fantic</i> . It was probably intended to seize the vessel and take her to a neutral port for condemnation as a lawful prize; avoidance of complications by the failure to carry the project out.	493
249	Mr. Thompson to Mr. Bayard	Jan. 16	The <i>Haytien Republic</i> : The U. S. S. <i>Ossipee</i> leaves Port au Prince with the vessel in tow en route for Kingston, Jamaica; the <i>Galena</i> sails for Key West.	494
156	Mr. Bayard to Mr. Thompson.	Feb 27	Blockade of certain ports in Hayti. Decree concerning the ports of Cape Haytien, Gonaïves, and St. Marc, dated October 15, 1888, from which date the authorities at Port au Prince have refused to clear or admit vessels under the American flag at those ports. The case with regard to Cape Haytien, the blockade not being effectively maintained, and for a time not even pretended by any exhibition of naval forces. The case with regard to the other ports. Seizure and release, with payment of indemnity, of the American schooner <i>William Jones</i> . Haytian vessels available for the blockade not present at blockaded ports nor able when near to enforce the decree. Entry and departure of certain vessels at Port de Paix, finding no blockading force. As to all five ports involved in the decree of blockade, it appears that the blockade was never effective nor valid, but intermittent, and at times altogether abandoned. Rules of international law on the subject of blockades. Mr. Seward's contentions with other powers on the subject compared with the Haytian contention. Mr. Thompson instructed to invite the attention of the authorities at Port au Prince to the evidence in his possession as to the actual state of affairs in Haytian ports. The United States does not re-	494

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156	Mr. Bayard to Mr. Thompson—Continued.	1889. Feb. 27	gard a blockade as effective or valid unless it be maintained by a sufficient naval force; reference to the discussion of the question with Colombia in foreign relations for 1885, and the views there expressed now reiterated; Mr. Thompson instructed to notify the authorities at Port au Prince that the United States Government will in due course present demands for indemnity for losses sustained, or which may be sustained hereafter, by reason of their action in the premises.	
306	Mr. Thompson to Mr. Blaine.	Aug. 23	Abdication of General Légitime: He, together with the principal members of his cabinet, goes on board the French ship of war <i>Kerguelen</i> ; entry of troops into Port au Prince and occupancy of the defenses; order restored and a feeling of security prevailing; General Hyppolite and the members of his cabinet expected to arrive; Mr. Thompson chosen as delegate to St. Marc, with power to make conditions; invites the Spanish consul to accompany him; the French minister and the British consul-general refuse to meet the army of the north on its entrance into the city; Mr. Thompson and the other members of the corps meet the troops.	497
307	Same to same.....	Aug. 29	Abdication of General Légitime: Attack of La Coupe by the forces of General Hyppolite; its evacuation by the forces of General Légitime; convocation of the diplomatic corps at Port au Prince; the foreign representatives meet General Légitime at the palace; he announces his abdication; Mr. Thompson appointed to make arrangements with the forces of General Hyppolite for the preservation of peace and order; his attempt, accompanied by the Spanish consul, to reach La Coupe; they proceed to St. Marc and are received by General Hyppolite; Mr. Thompson invites Rear-Admiral Gherardi to Port au Prince; General Légitime's departure; entry of the troops; entry of General Hyppolite and its effect; prospect of prosperity under his administration; departure of the U. S. S. <i>Kearsage</i> ; incloses copies of correspondence.	497
314	Same to same.....	Oct. 11	Election of President: General Hyppolite elected by the national assembly of constituents for the term of seven years; he is so informed; effect of the election; a government vessel for the diplomatic corps to take them to Gonaïves to attend the inaugural ceremonies.	501
5	Mr. Douglass to Mr. Blaine.	Oct. 26	Inauguration of General Hyppolite as president: Character of the ceremony and its effect; the new president visits the largest cities; preparations for his reception at the capital; new uniforms for the troops; no visible serious opposition to the newly organized government; peace restored.	502
14	Same to same.....	Nov. 18	Proclamation of amnesty to all political offenders issued by General Hyppolite; a copy inclosed.	502

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON.

Mr. Bayard to Mr. Preston..	1888. Dec. 4	The <i>Haytien Republic</i> : Surprise and serious concern expressed at the nature of Mr. Preston's note on the subject of the seizure and expected release of the vessel; the question deferred by the Haytian authorities at Port au Prince to the Government of the United States; the language of Mr. Preston's former note in evidence; reference to former action of the Department on the President's decision; Mr. Preston's last note does not indicate acceptance of the President's decision; the Department does not regard delay or dilatory action on the case by the Haytian authorities as admissible.	503
Mr. Preston to Mr. Bayard..	Dec. 6	The <i>Haytien Republic</i> : Mr. Preston's understanding of the agreement for the disposition of the vessel made by the Haytian minister for for-	504

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Preston to Mr. Bayard —Continued.	1888. Dec. 6	Foreign affairs and the United States minister resident at Port au Prince; quotations from the correspondence between them; charges that the United States demands the surrender of the vessel upon <i>ex parte</i> documents which he has never seen; statement of the present status of the vessel and proposition that she be placed under guard of an United States war ship and taken to New York to be libeled by the Haytian Government in the United States district court there, without prejudice by her surrender; he regards this as adequate and in conformity with the "reference" agreed to at Port au Prince; or the Government of Hayti will send the vessel to New York for the same purpose, with a prize crew if preferred; offers contradictory evidence in the case; Compton's knowledge of the purpose of the troops on board the vessel; whereabouts of the vessel on the 17th of October, and Compton's knowledge of the blockade of the north; promulgation of laws in Hayti by publication in every district; other questions to be made the subject of a subsequent communication.	
	Mr. Bayard to Mr. Preston..	Dec. 8	The <i>Haytien Republic</i> : It is unnecessary to repeat the decision of the United States Government in the case as to the duty of the authorities at Port au Prince to restore the vessel promptly to her owners or their agents; reference to Mr. Preston's statement that this Government decided the case on certain <i>ex parte</i> documents not communicated to him; papers transmitted and promised by him recited; other papers enumerated; he was fully and promptly advised both of the decision and the reasons upon which it rested; prompt and voluntary compliance with the terms of the decision by the authorities at Port au Prince is anticipated; the presence of United States vessels of war in Haytian waters will doubtless be welcome in view of the condition of affairs reported to exist in Hayti; his proposition to send the vessel to New York to be libeled by the Haytian Government is declined, and the President's decision will be carried into effect; the courts alone decide what matters they shall hear; the executive branch of the Government has no power to confer or restrict their jurisdiction; purpose of the United States Government's action in the case of the <i>Haytien Republic</i> is to assist in the restoration of order in Hayti.	506
	Mr. Preston to Mr. Bayard (telegram).	Dec. 10	The <i>Haytien Republic</i> : Mr. Preston, being empowered to sign protocol for delivery of the vessel, will send a draught protocol and appear in person to sign.	508
	Mr. Bayard to Mr. Preston (telegram).	Dec. 10	The <i>Haytien Republic</i> : American minister at Port au Prince instructed to inform provisional authorities there of the President's decision in the case of the vessel; nothing more than compliance therewith necessary. The <i>Galena</i> will sail to-morrow, and Mr. Preston may, if he desires, send his communications by her commander.	508
	Mr. Preston to Mr. Bayard.	Dec. 12	The <i>Haytien Republic</i> : Mr. Preston does not consider the questions of the case of this vessel as closed between the Department of State and the Haytian legation. Discrepancy regarding the proper interpretation of the arrangement concluded at Port au Prince on the 15th of November by the Haytian Government and the United States minister; quotes M. Magron, acting secretary for foreign affairs of Hayti, to Mr. Thompson and Mr. Thompson in reply. The two notes quoted constitute a synalagmatic contract; understanding of the Haytian Government that the matter had been fully discussed at Washington and documents fully communicated, and that if there were to be no	508

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr Preston to Mr. Bayard —Continued.	1888. Dec. 12	amicable settlement, arbitration remained; Mr. Preston has communicated certain documents, but has received none; reference to Department's note of November 28, and the allegation contained therein that the <i>Haytien Republic</i> could not have known of the blockade before her capture; the Haytian method of promulgating acts and decrees; Mr. Preston ready to prove that the vessel did know of the blockade; his view of his rights as to the question of fact involved; in this relation he refers to his note of December 6, written without knowledge of the decision; quotes Mr. Bayard's note on the subject and the statement that the Department had received a full report on the case by the captain of the U. S. S. <i>Boston</i> ; no occasion for a formal protest now, but Mr. Preston declares the right of his Government as captor of the vessel to be still intact; rejection of his proposals submitted on the 6th December; quotes the Department's reply; refers to the case of the <i>William Jones</i> ; reserves his reply to a number of other questions raised in the correspondence relating to the blockade, which is fully recognized by Germany, England, France, and Spain, and which the United States Government itself has recognized in a note of October 29; ports held by the insurgents are only Cape Haytien, Port de Paix, Gonaives, and St. Marc; the other ports held by the established Government; General Légitime's Government supported by more than a majority of the Constituent Assembly in session at the capital of Hayti; he is confident of success, which he hopes will not be retarded by foreign intervention.	
	Same to same.....	1889. Jan. 2	Election of President: General Légitime decreed elected for a term of seven years; copy of decree inclosed.	511
	Same to same.....	Jan. 2	Blockade: Closing of the ports of St. Marc, Les Gonaives, Port de Paix, and Cape Haytien; abolition of right of putting into the ports of La Grande Salin, Mole St. Nicolas, and Fort Liberty; copy of decree inclosed.	512
	Mr. Bayard to Mr. Preston..	Jan. 4	Election of President, and blockade: The Department had received intelligence of the decrees relating to the two subjects, through its official channels, before the reception of Mr. Preston's note. The United States consul at Cape Haytien has informed the Department of the organization of the Hyppolite provisional government; the United States therefore constrained to await the issue of events there.	512
	Mr. Preston to Mr. Bayard..	Jan. 10	Election of President: Quotes Mr. Bayard's note advising him of the election of General Hyppolite as provisional president, and of the appointment of councillors of state, and the consequent attitude of the United States Government. "Mr. Preston can not comprehend, since there is no such office as the latter known to the constitution of Hayti, how the matter can modify the attitude necessarily occupied by the United States." There exists but one government in Hayti under the constitution, which is supported by the majority of the representatives elected. Who then are the individuals described as the provisional government by Mr. Bayard's note? Their status defined. Quotes General Grant's message of June 13, 1870, on the subject of an insurrection in Cuba, and argues that the principles there enunciated should now be maintained by the United States. Discusses the present attitude of the United States Government, and compares the present revolt in Hayti with former revolts of more significance. Ascribes the present condition of affairs in Hayti to a band of American speculators and revolted Haytians, with headquarters in New York, who are attempting to make money out of the present	513

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Preston to Mr. Bayard— Continued.	1889. Jan. 10	agitation, and expresses the confident conviction that the laws of the United States will strike, when occasion demands, for acts contrary to the principles of neutrality.	
	Mr. Preston to Mr. Bayard..	Jan. 25	Neutrality, violation of: By purchase and outfitting of vessels and shipment of arms and munitions of war from New York to the insurgents in Hayti; refers to his note of November 24th last; the Dominican consul assisting in the present operations one, Nemours Auguste, agent of the Haytian rebellion, who has deposited a fund of \$200,000 with two New York banking firms, namely, Jimenes, Hanstedt & Co., and Kunhardt & Co., who cover their purchase and shipments under the pretence of consignments to ports in San Domingo; gives the names of the vessels purchased in Boston and New York and so fitted out; believes that men are now being enlisted at New York for the land and naval forces of the insurgents; cites an extract from the case of the United States at Geneva, to prove that he is right in contending that these acts are a violation of the neutrality of the United States; states that the agents of the insurgents at New York boast publicly of having received encouragement from the Department, but this Mr. Preston does not believe; refers to the Department's action in a similar case in 1833, in its vigorous steps to prevent a violation of the neutrality of the United States at Philadelphia and New York by Haytian insurgents; demands immediate action by the United States Government in the present case, and quotes the neutrality act and an extract from Department's note of October 29, last, in support of his argument.	515
	Mr. Bayard to Mr. Preston .	Jan. 28.	Neutrality, violation of: Nothing is found in Mr. Preston's note of the 25th instant to change the declarations of Department's note of October 29 last. Mr. Preston's citation from the latter note should not be dissociated from the context; the whole passage quoted. Copies of Mr. Preston's note of the 25th instant, sent to the United States Attorney in Brooklyn and New York, with the request that they inquire into the outfitting of vessels and shipments of arms and munitions of war to Haytian insurgents. Proof of assertions necessary to set the machinery of the courts in motion.	520
	Mr. Preston to Mr. Bayard (telegram).	Feb. 4.	Neutrality, violation of: Steam lighter <i>Admiral</i> at New York has on board armament for rebel steamer <i>Madrid</i> , part from Boston and part from New York. The armament is intended to be shipped on the <i>Carondelet</i> , the <i>Madrid's</i> tender, or another vessel, for a neutral port, but in reality for Cape Haytien. Collector Magone is advised, and asks for instructions to be sent by Mr. Bayard.	521
	Mr. Bayard to Mr. Preston .	Feb. 5.	Neutrality, violation of: Repeats text of Mr. Preston's telegram of the 4th instant in the case of the armament for the steamer <i>Madrid</i> . The intelligence has been communicated, as usual in such cases, to the Secretary of the Treasury and the Attorney-General for their action. Necessity for proof of the charges in such alleged violations of the neutrality act again brought to Mr. Preston's attention, in order that the proper judicial machinery may be set in motion.	521
	Mr. Preston to Mr. Bayard.	Feb. 14.	Neutrality, violation of: The steamer <i>Carondelet</i> , laden with munitions of war for Haytian insurgents, seized by the United States District Court at New York. The guilt of the steamer not satisfactorily proved, owing to the insufficiency of time allowed Mr. Preston to collect evidence. Argues that the neutral, that is, the United States Government should have taken the affair in hand and itself have made the investigation, and refers to the case of the <i>Mary N. Hogan</i> , tried in 1833, in support of his posi-	522

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Preston to Mr. Bayard —Continued.	1889. Feb. 14.	tion. Discusses the duties of neutrals, and complains that the United States Government has not met the obligations imposed upon it by the laws governing neutrals. Discusses the case of the steamer <i>Madrid</i> , bought and paid for by Nemours Auguste, agent of the Haytian rebels at New York. The steamer will probably sail on Saturday (the 16th instant). Asks that the collector of the port of New York may use his discretion to detain the <i>Madrid</i> provisionally, and that Mr. Magone be so instructed by the Secretary of State, and that instructions be sent also to the United States District Attorney. Mr. Preston will submit all the evidence in his possession to the United States officers of justice. Inclose copy of the testimony of Henry B. Kunhardt in the case of the <i>Carondelet</i> and <i>Madrid</i> .	
	Same to same (telegram)....	Feb. 15	Neutrality, violation of: Latest information is that steamer <i>Madrid</i> will sail to-morrow; asks that collector of port of New York be immediately instructed to detain her.	526
	Mr. Bayard to Mr. Preston (telegram).	Feb. 15	Neutrality, violation of: A telegram has been sent to the collector of the port of New York in the case of the <i>Madrid</i> , instructing him to detain the vessel upon a certain contingency; text of telegram recited.	526
	Mr. Preston to Mr. Bayard.	Feb. 15	Alliance: States that an alliance was concluded a few weeks since between the Haytian rebels, under General Hyppolite, and the Government of the Dominican Republic, which alliance has been followed by acts of war on the part of San Domingo against Hayti, in consequence of which orders have been issued to Haytian forces to commence hostilities at once against the Dominicans; the orders will be executed without delay; asks United States to maintain a strict neutrality and to oppose departure of steamer <i>Carondelet</i> laden with armaments for other vessels, namely, the <i>Novelty</i> , formerly the <i>Mercedes</i> , and the <i>Madrid</i> ; asks also the detention of the <i>Madrid</i> ; will keep the United States Government advised of events and will ask its mediation.	526
	Same to same (telegram)....	Feb. 16	Neutrality, violation of: The steamer <i>Madrid</i> , now called the <i>Conserva</i> , to be cleared to-day; in view of evidence in Mr. Preston's possession he asks that the vessel be detained.	527
	Same to same (telegram)....	Feb. 18	Neutrality, violation of: The <i>Madrid</i> , now the <i>Conserva</i> , still in Gravesend Bay, harbor of New York; requests immediate orders for her detention.	527
	Mr. Bayard to Mr. Preston (telegram).	Feb. 18	Neutrality, violation of: In the cases of the <i>Carondelet</i> , at Newport News, and the <i>Conserva</i> , at New York, full opportunity has been given for application to judicial and customs authorities for investigation; the cases have been determined by those officials, and the Secretary of State does not perceive anything which would give him authority to overrule or ground to question their action in the premises.	527

JAPAN.

275	Mr. Bayard to Mr. Hubbard.	1889. Jan. 29	Testimonial: To certain inhabitants of the island of Tanegashima, Japan, for humane treatment of the survivors of the American bark <i>Cashmere</i> , abandoned near there in September, 1885; views of the Japanese authorities of the district; recommendation of the governor that the amount appropriated by Congress be used for educational and industrial purposes; views of Mr. Mutsu, Japanese minister at Washington; the President's direction in the premises, that a school be established; assistance of Japanese officials desired in carrying out the project; a plan for the disbursement of the fund suggested; authority to draw for the fund through Messrs. Brown, Shipley & Co., of London; copies of correspondence inclosed.	529
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No.	From and to whom.	Date.	Subject.	Page.
545	Mr. Hubbard to Mr. Bayard.	1889. Feb. 5	Palace at Tokio: Reports the completion of the new imperial palace there and the removal of the emperor; description of the palace; its cost; it is visited by foreign residents on its completion.	535
547	Same to same].....	Feb. 14	Constitution of Japan: Its promulgation by the emperor and the attendant ceremonies described; character and importance of the instrument; stability of the progressive feature of Japanese civilization; congratulations of the United States Government tendered to the emperor; the emperor's gratification; article from the Japan Daily Mail inclosed.	535
548	Same to same.....	Feb. 14	Assassination of the Japanese minister of education, Viscount Arinori Mori; character and fate of the assassin; sketch of Viscount Mori; incloses extract from the Japan Mail.	538
288	Mr. Blaine to Mr. Hubbard .	Mar. 13	Assassination of Viscount Arinori Mori: The regret of the United States Government. Lack of political motive deprives the incident of significance. The condolence of this government should be suitably expressed by Mr. Hubbard to the Japanese minister for foreign affairs.	540
291	Same to same.....	Mar. 15	Constitution of Japan: Interest of the people of the New World in the subject. Its undoubted results.	540
8	Mr. Swift to Mr. Blaine	May 25	Testimonial to certain inhabitants of the Island of Tanegashima for relief of the crew of the American bark <i>Cashmere</i> . States that Mr. Swift is awaiting an intimation from the Japanese government of its final intention to receive and disburse the amount appropriated; he will then draw on the London bankers for the fund. The sum should be placed to his credit, it being at present to the credit of his predecessor.	541
32	Same to same.....	July 23	Testimonial to certain inhabitants of the Island of Tanegashima. Incloses copy of a note from the Japanese minister for foreign affairs signifying the decision of his government as to the disposition of the fund. It is intended to divide the amount between the two villiages, for educational purposes. Mr. Swift has sent a draft for the amount to the minister for foreign affairs. Incloses copy of draft and note of transmittal, and copies of other correspondence on the subject.	541
56	Same to same.....	Oct. 21	Assassination: Attempt to murder Count Okuma, Japanese minister for foreign affairs; states the result is in doubt and that the injuries inflicted are of a very serious nature; an account of the attempt; name of the assassin, who threw a dynamite bomb through the window of the minister's carriage; effect of the news of the event; troops called out; suicide of the assassin, who is said to be a student of Chinese.	543
65	Same to same.....	Nov. 8	Emigration: Sailing of 1,030 Coolie emigrants for Hawaii under contract to labor on sugar plantations there; remarks of the Japan Mail; states that this is the second shipment of 1,000 during the present autumn.	545

CORRESPONDENCE WITH THE LEGATION OF JAPAN AT WASHINGTON.

Mr. Bayard to Mr. Mutsu...	1889. Jan. 29	Testimonial: To certain inhabitants of the island of Tanegashima, Japan, for relief of shipwrecked crew of the American bark <i>Cashmere</i> ; states that the President agrees with Mr. Mutsu's suggestion that the whole amount appropriated by Congress be devoted to educational and industrial purposes for the benefit of the islanders in general, and Mr. Hubbard, at Tokio has been so instructed; expresses the gratification of the United States Government at this disposition of the fund.	545
Mr. Mutsu to Mr. Bayard...	Jan. 31	Testimonial: To islanders of Tanegashima; Mr. Mutsu has already informed his Government of the President's decision concerning the fund, and has no doubt of its high appreciation of the disposition made of the amount.	546

CORRESPONDENCE WITH THE LEGATION OF JAPAN AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Mutsu to Mr. Bayard..	1889. Feb. 11	Constitution of Japan: Its proclamation by the Emperor; quotes official telegram announcing the fact.	546
	Mr. Bayard to Mr. Mutsu...	Feb. 11	Constitution of Japan: Expresses the pleasure of the United States Government at the proclamation, and tenders congratulations upon the progress of Japan.	546
	Mr. Mutsu to Mr. Bayard...	Feb. 14	Assassination: States that an official telegram has been received by him announcing the death of Viscount Arinori Mori, minister of education, from the effect of wounds by a religious fanatic. The crime has no connection with politics.	547
	Mr. Bayard to Mr. Mutsu...	Feb. 14	Assassination of Viscount Arinori Mori: The assassin's state of mind deprives the incident of the most dangerous features. Expresses condolence at the loss of the minister.	547
	Mr. Adee to Mr. Mutsu.....	Mar. 12	Indemnity: Provision made for the payment of \$15,000 to Japan for injury of Japanese subjects by explosion of shells from the U. S. S. <i>Omaha</i> . Payment to be arranged for at an early day.	547
	Mr. Blaine to Mr. Mutsu....	Mar. 27	Indemnity: Check for \$15,000 to be delivered to Mr. Mutsu on the 28th instant, on account of Japanese subjects injured by the explosions of shells from the U. S. S. <i>Omaha</i> .	548
	Mr. Mutsu to Mr. Blaine....	Mar. 27	Indemnity: Mr. Mutsu will be gratified to receive the amount of the indemnity and to transmit it to his government.	548
	Same to same	Mar. 28	Indemnity: Acknowledgment of the receipt of \$15,000 for injuries to Japanese subjects by explosion of shells from U. S. S. <i>Omaha</i> .	548
	Same to same	May 27	Indemnity: Announces the receipt of an instruction from the Japanese minister for foreign affairs in acknowledgment of the sum of \$15,000 appropriated by Congress on account of injuries to Japanese subjects by explosion of shells from U. S. S. <i>Omaha</i> , and expresses the gratification of the Japanese government at this evidence of the spirit of justice and good will so often displayed toward Japan by the United States.	548
	Mr. Blaine to Mr. Mutsu....	May 29	Indemnity: Expresses the Department's gratification at the friendly sentiments expressed by Japan on receipt of the amount appropriated on account of injuries to Japanese subjects caused by the explosion of shells from the U. S. S. <i>Omaha</i> .	549

MEXICO.

181	Mr. Bayard to Mr. Whitehouse.	1888. Dec. 7	Claim of Mrs. Leon McLeod Baldwin: For the murder of her husband near Durango; no progress having been made in the matter since the 5th of June, 1888, it is proper again to make application for redress and to express to Señor Mariscal the earnest desire of this Government for a just, friendly, and prompt determination of the claim.	550
218	Mr. Whitehouse to Mr. Bayard.	Dec. 18	Claim of Mrs. Leon McLeod Baldwin: Señor Mariscal's attention recalled to the matter; states that Señor Mariscal had not received a full report of the case, but would call for it again from the local authorities, that he might judge impartially of the merits of the claim; Mr. Whitehouse cites neglect of the local authorities to afford protection, which neglect Señor Mariscal admits as having been possible.	550
	Same to same.....	1889. Feb. 28	Progress in Mexico: Résumé of the policy and acts of the administration of President Diaz from December 1, 1884, to November 30, 1888. The peace enjoyed by Mexico for the last years regarded as the cause of the country's prosperity and progress. Extracts from the résumé quoted. Relations with the United States; treaties of extradition and for the punishment of hostile Indians. Other treaties with other powers.	551

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	Mr. Whitehouse to Mr. Bayard—Continued.	1889. Feb. 28	The Mexican postal service. Establishment of a sanitary board, and a microbiological laboratory. The drainage of the Valley of Mexico. Construction of model penitentiaries. Organization of an efficient police force. Asylums and charitable schools; founding hospital, maternity hospital, and house of correction. The "lottery for public benefits." The National Monte de Piedad (pawn shop). Public instruction. Study and preservation of ancient monuments and historical remains. National library. Railroads and telegraphs. Colonization. District boundary demarcations. Mineral riches and the mining code. Agriculture; wines. Water ways and water fronts. The national bank and financial affairs. Customs receipts, and modifications and improvements in the administration of customs. The army, the artillery school, and the arsenal. Surveys, maps, geographical, historical and botanical explorations.	
280	Mr. Bragg to Mr. Blaine....	Mar. 23	Mexico and Mexican affairs: Incloses synopsis of a valuable work on the subject.	556
268	Mr. Blaine to Mr. Bragg....	May 16	Sanitary inspection for native and imported cattle: Incloses copy of a note to the Mexican minister at Washington urging the necessity for the adoption of such a system by Mexico.	561
8	Mr. Ryan to Mr. Blaine.....	June 1	Sanitary inspection for native and imported cattle: Mr. Ryan's presentation of the subject to the Mexican Government, unofficially. Views of Mr. Fernandez under secretary for public works.	561
17	Same to same.....	June 10	Claim of Mrs. Leon McLeod Baldwin for the murder of her husband near Durango in August, 1887: States that nothing has been heard of the subject at the legation since Mr. Whitehouse called Mr. Mariscal's attention to the subject on December 17, 1888. Mr. Ryan has deemed it his duty to renew solicitations for an adjustment of the claim; incloses copy of a note to Mr. Mariscal on the subject.	562
27	Same to same.....	June 27	Imprisonment of Robert C. Work in Tamaulipas on a charge of homicide: Incloses copy of Mrs. Work's letter to the press on the subject, and copy of a letter commenting thereon from A. W. Gifford, of St. Louis, Mo.; will send copies of the defendant's case and of the evidence presented to the court when translation is completed.	563
30	Same to same.....	June 30	Imprisonment of Robert C. Work: Incloses copies of the various papers relating to the case; states that the evidence and presentation of the case by the defendant's attorney and the findings and sentences of the court, although not authenticated are doubtless correct, but that all the evidence apparently is not furnished; enough is submitted to show the exact nature of the offense charged and the issues made at the trials. It can not be assumed that the court of last resort will deny the defendant justice. Should Work be judged guilty finally, Mr. Ryan has asked for copy of the entire record for transmission to the Department.	565
27	Mr. Wharton to Mr. Ryan ..	July 8	Claim of Shadrack White: The deputy sheriff of Maverick County, Tex., fired upon and wounded, while in discharge of his official duty, by Mexican soldiers in the town of Eagle Pass, Tex.; incloses copy of a letter from the governor of Texas and copy of another from Mr. J. A. Ware transmitting affidavits in favor of the claim, and refers to previous instruction for narration of the facts in the case.	591
30	Same to same.....	July 12	Claim of Howard C. Walker for wrongful imprisonment and cruel treatment at Minatitlan, Vera Cruz: Refers to previous instruction and incloses copy of a further statement in relation to the case; instructs the minister, if no reply has been made to the former presentation of the claim, to invite the attention of the Mexican Government to it again, and ask for a statement of the conclusions of the authorities in the matter.	600

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36	Mr. Wharton to Mr. Ryan ..	1889. July 18	Imprisonment of Robert C. Work: The papers relating to the case have been received and will be held under consideration.	601
47	Mr. Ryan to Mr. Blaine	July 20	Imprisonment of Robert C. Work: Incloses copy of a letter from Mrs. Work, which explains itself.	601
48	Same to same	July 22	Claim of Howard C. Walker: States that pursuant to instructions he has addressed a note on the subject to Mr. Mariscal. Incloses copy of the note.	602
61	Same to same	Aug. 8	Imprisonment of Robert C. Work: Incloses copy of his letter to Mr. A. W. Gifford, who was president of the Linares Land and Mining Company, of which Mr. Work was superintendent, and copy of Mr. Gifford's reply, with accompaniments, on the subject.	602
70	Mr. Ryan to Mr. Wharton..	Aug. 17	Claim of Shadrack White: States that he has addressed a note to Mr. Mariscal on the subject, and incloses copy; synopsis of the note; presence of a squad of Mexican soldiers on United States Territory, without the consent of the United States Government, for the purpose of kidnapping a deserter from the Mexican army; conduct of the soldiers on the legal interference of White, the deputy sheriff; the United States Government, assuming the truth of the alleged facts, has a right to expect full reparation from the Mexican Government.	605
110	Mr. Ryan to Mr. Blaine	Sept. 13	Claim of Shadrack White: Incloses copy of a note from Mr. Mariscal on the subject, which states that a full report has not yet been received in relation to the occurrences at Eagle Pass, but that when it shall have been received Mr. Mariscal will be ready to confer with Mr. Ryan.	607
	Mr. Whitehouse to Mr. Blaine (telegram).	Oct. 8	Claim of Shadrack White: States that Mr. Mariscal informs him that the officers concerned in the attack upon Mr. White at Eagle Pass have been punished, and that Mr. Mariscal is ready to confer with him as to the indemnity to be offered to Mr. White.	608
103	Mr. Blaine to Mr. Whitehouse.	Oct. 9	Claim of Shadrack White: Mr. Whitehouse should inform Mr. Mariscal that Mr. Ryan will join him in conference in regard to the indemnity immediately on his return to his post, at such time as may be found mutually convenient.	608
139	Mr. Whitehouse to Mr. Blaine.	Oct. 9	Claim of Shadrack White: Incloses copies of a note from Mr. Mariscal and the official documents in the case furnished by the military department of justice concerning the sentences imposed on the offenders at Eagle Pass; asks for instructions.	609
148	Same to same	Oct. 20	Claim of Shadrack White: States that, pursuant to instructions, he has informed Mr. Mariscal that Mr. Ryan will confer with him immediately on his return, when convenient to both, in regard to the indemnity to be offered Mr. White; copy of note to Mr. Mariscal inclosed.	611
164	Same to same	Nov. 15	Arrest: Of Captain Stilpen, of the American schooner <i>Robert Ruff</i> , at Coatzacoalcos, Mexico; states that the captain was arrested on his return voyage for aiding the escape from justice of one Patton, an American citizen who had boarded the vessel when some distance from port on a previous voyage; as the surrender was demanded 9 miles from land, the captain would appear to be justified; Mr. Whitehouse has left a memorandum of the facts in the case, so far as he knows them, with the request that it be given consideration; copies of papers inclosed.	611
166	Same to same	Nov. 16	Arrest of Captain Stilpen, of the American schooner <i>Robert Ruff</i> : States that Mr. Mariscal said that he discountenanced a demand for Captain Stilpen's extradition, but advised his arrest, as subsequently effected; Mr. Whitehouse's reply as to the illegality of the demand outside of Mexican waters, and the improbability of the captain's knowing Patton to be a fugitive from justice when he came on board the vessel; Mr. Mariscal offers to telegraph in regard to the matter; Mr. Whitehouse informs Mr. Mariscal that he awaits instructions.	613

No.	From and to whom.	Date.	Subject.	Page.
136	Mr. Blaine to Mr. Ryan	1889. Nov. 27	Arrest of Captain Stilpen, of the American schooner <i>Robert Ruff</i> : The facts in the case recited; failure of the officer who demanded Patton's surrender to board the vessel; the Department is of opinion, upon the facts as stated, that there is no ground for Captain Stilpen's detention, and that he should be set at liberty without delay; the <i>Robert Ruff</i> , being 9 miles from land, was not in the jurisdiction of Mexico, but was constructively a part of the territory of the United States, and the captain would have been justified in forcibly resisting the illegal demand made upon him; these views should be brought to the attention of Mr. Mariscal.	614

CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON.

Mr. Romero to Mr. Bayard .	1888. Nov. 12	Wingdams: In process of construction at Paso del Norte for the protection of the Mexican bank of the Rio Grande; purpose of the work having been misunderstood by some of the people of El Paso, Tex.; Mr. Romero sends inclosed copy of an unofficial letter on the subject from Don Ignacio Garfias, the engineer in charge.	615
Mr. Bayard to Mr. Romero .	Nov. 14	Wingdams: Desires a personal interview for the purpose of showing Mr. Romero certain correspondence on the subject.	616
Same to same.....	Nov. 15	Wingdams: Complaints by people of El Paso, Tex., concerning the work in progress; states that he has suggested the appointment of an engineer officer by the Mexican government to join such an officer appointed by the Secretary of War of the United States in an investigation of the work, and that he has learned that Mr. Romero has been instructed by telegraph to confer with him on the subject.	616
Mr. Romero to Mr. Bayard .	Nov. 26	Extradition: Requests the extradition of Rafael Treviño, ex-revenue collector at Monterey, charged with embezzlement and who has fled from Mexico and taken refuge at Laredo, Tex.	617
Mr. Bayard to Mr. Romero .	Nov. 27	Extradition of Rafael Treviño: States that when the formalities prescribed by treaty and by the laws of the United States on the subject shall have been complied with, a warrant for the surrender of the fugitive will be granted.	617
Mr. Romero to Mr. Bayard .	Dec. 6	Wingdams: States that Mexico has named an engineer to join Don Ignacio Garfias and confer with Major Ernst, United States Army Engineers, regarding the questions raised by the works on the Rio Grande at Paso del Norte, and that the three engineers are together in that city.	617
Mr. Bayard to Mr. Romero .	Dec. 7	Wingdams: Conference of engineers concerning the works at Paso del Norte; acknowledges receipt of Mr. Romero's note of the 6th instant on the subject.	61
Mr. Romero to Mr. Bayard .	Dec. 8	Extradition of Rafael Treviño: States that the Mexican Government considers it necessary only to ask extradition diplomatically, together with a presentation of the evidence of the commission of the crime to secure the extradition, and that if the President of the United States desires a judicial investigation he should apply to the proper courts, and not to the government asking the extradition.	618
Mr. Bayard to Mr. Romero .	Dec. 11	Extradition of Rafael Treviño: Does not concur in the construction given the extradition treaty by the Mexican Government; with exception of frontier cases, the course of proceedings, under the treaty in point, is the same as that pursued by other governments under the laws for the delivery of fugitive criminals; refers to case of Marcus F. Mayer, December, 1886, in which the Department's views were fully stated in detail, and finally accepted by Mexico.	619

CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Romero to Mr. Bayard.	1889. Jan. 17	Extradition of Rafael Treviño: Reiterates former argument as to what Mexico is required to do in the premises to secure the extradition; does not consider the laws of the United States binding upon Mexico; surrender can not be conditional where there is a treaty—the provisions of the treaty fix the method of demand and surrender; refers to the case of George Benson, and to the cases of Francisco G. Casanova and Francisco Querejasu; Mexico does not consider herself bound to apply to the courts for the arrest or surrender of the delinquent.	619
	Mr. Bayard to Mr. Romero.	Feb. 19	Extradition: Further discussion of Mr. Mariscal's views respecting the execution of the extradition treaty between the United States and Mexico, as expressed in the pending case of Treviño; the Department dissents from Mr. Mariscal's views; laws of the United States for extradition of criminals have been among the statutes since 1848, and they are operative under all extradition treaties alike; their meaning stated; a discussion of their necessity; compliance with their provisions not regarded as onerous by this Government, which observes similar laws in other countries without complaint; the statutes of the United States, as construed in the Benson case, are believed to afford an efficient and liberal method of procedure.	620
	Same to same.....	Mar. 1	Wingdams: Transmits copy of Major Ernst's report on the works at Paso del Norte, giving results of the investigation and submitting protocols of his conferences with Señor Garbías, the Mexican engineer; insists that this Government may be furnished with the corresponding report of the Mexican engineer; no present occasion for further discussion of the subject, in view of its apparent subjection to the river boundary convention of November 12, 1884, and of immediate prospect of the satisfactory close of negotiations for an international boundary commission; assumes that the works will be suspended until a harmonious decision can be reached.	621
	Mr. Blaine to Mr. Romero..	May 13	Cattle: Sanitary regulations concerning cattle in Mexico; states that he is informed that Mexico is without any live-stock sanitary laws; dangers of the introduction of bovine diseases under the present circumstances, and of the spread of such diseases over the Mexican border into the United States; quarantine against Mexican cattle in Arizona; views of Mr. Colman on the subject, as recited by Mr. Rusk; they are still the views of the Department of Agriculture, which has succeeded in eradicating pleuro-pneumonia from all herds in the United States, except a few in Long Island, New York; the expense involved renders it absolutely necessary to take every precaution against a re-introduction of the disease into the United States; the adoption of sanitary regulations for live-stock is therefore urged upon Mexico.	636
	Mr. Romero to Mr. Blaine..	May 13	Cattle: Sanitary regulations concerning cattle in Mexico; reviews Mr. Blaine's note of the same date, refers to previous correspondence on the subject, and states that he has forwarded copy of Mr. Blaine's note to his government with request for information, of which he will advise the Department when he receives a reply.	638

THE NETHERLANDS.

No.	From and to whom.	Date.	Subject.	Page.
41	Mr. Thayer to Mr. Blaine ...	1889. Aug. 26	Monument at Delftshaven to the memory of the "Pilgrim Fathers." Refers to "Pilgrim Statue," at Plymouth, Mass., to the interest awakened thereby, and to Holland's relation to the event then commemorated; Delftshaven and its environs described, and the route of the <i>Speedwell</i> traced; suggests the propriety of a statue to the Pilgrims who left Holland on that vessel, and describes an available site at the port of Delft.	640
72	Same to same.....	Nov. 14	Monument at Delftshaven to the memory of the "Pilgrim Fathers." Relates substance of an interview with the minister for foreign affairs at The Hague on the subject; incloses copy of a note from the minister for foreign affairs in relation to the erection of such a monument, and copy of his reply thereto.	641

PERSIA.

305	Mr Pratt to Mr. Bayard	1888. Oct. 22	Financial: The relation of silver to the economy of the Persian Empire: lack of official statistics and difficulty of the task of acquiring information of value on the subject; silver the universal medium of exchange throughout the country; sources of supply for the metal; values, and profit and loss by exchange; amount annually coined; exchange on London; an English firm arranging to import silver in bars from India; could not this be done with greater advantage from the United States?	643
347	Mr. Pratt to Mr. Blaine.....	1889. Apr. 17	Church at Tabriz: American missionaries desire permission to build a new church, the present one being unsafe for further use; necessity for an order granting permission therefor from the Central Government at Teheran, on account of a general prohibition against the building of Christian churches; suggestion for the co-operation of the British and French ministers; petition of the American missionaries laid before the first minister of the Shah; the result, an official order granting the desired permission; incloses copy of petition.	644
363	Same to same.....	June 8	Assault upon Messrs. E. W. McDowell and John G. Wishard, American citizens traveling in Persia: The assault complained of was committed in Turkish Kurdistan, territory contiguous to Persia. Mr. Pratt, therefore, sent a note on the subject to the Turkish ambassador at Teheran; states further reason for that course, and incloses copy of complaint and copy of his note.	645
365	Same to same.....	June 18	Assault upon Messrs. McDowell and Wishard: Reports action of the Turkish ambassador at Teheran in the case, and incloses copies of papers and correspondence in relation thereto; hopes that the affair may be satisfactorily settled without the necessity of intervention by United States Government.	646
383	Same to same.....	Aug. 7	Hospital at Teheran: Mr. Pratt reports having laid the corner-stone of the American hospital at Teheran and describes the ceremony.	648

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PORTUGAL.

No.	From and to whom.	Date.	Subject.	Page.
103	Mr. Bayard to Mr. Lewis ...	1889. Jan. 29	Claim of Messrs. A. Mudgett & Co., of New York, for the remission of a fine imposed at Delagoa Bay on the American bark <i>Carrie Heckle</i> : The vessel parted her chain at Fort Natal and lost an anchor, and was driven into Delagoa Bay by stress of weather without a bill of health; the bill procured by telegraph; the fine of £15 imposed; discusses the situation and hopes that the fine will be remitted; copy of a letter of Messrs. Mudgett & Co., with accompaniments.	649
163	Mr. Lewis to Mr. Bayard....	Feb. 28	Claim of Messrs. A. Mudgett & Co. for remission of the fine imposed on the American bark <i>Carrie Heckle</i> : Incloses copies of notes to and from Señor Gomez, Portuguese minister for foreign affairs, on the subject.	650
7	Mr. Loring to Mr. Blaine....	Aug. 9	Claim of Messrs. A. Mudgett & Co.: Incloses copy of note from the minister for foreign affairs, stating that the fine will be returned to the captain of the <i>Carrie Heckle</i> or his representative.	651
11	Mr. Adee to Mr. Loring.....	Aug. 30	Claim of Messrs. A. Mudgett & Co.: The owners have been notified of the remission of the fine and their direction regarding its repayment requested.	651
12	Same to same	Sept. 10	Claim of Messrs. A. Mudgett & Co.: Mr. Loring requested to collect the amount of the fine and remit it to Messrs. Mudgett & Co., through the Department.	652
11	Mr. Loring to Mr. Blaine....	Oct. 15	Illness of the King, Luiz I: The King's life in danger after a protracted illness; his character and position.	652
	Mr. Blaine to Mr. Loring (telegram).	Oct. 18	Illness of the King, Luiz I: Express President's deep concern at his Majesty's illness and his earnest hopes for recovery.	652
	Same to same (telegram)....	Oct. 19	Illness of the King, Luiz I: Suitably express President's sincere condolences upon his Majesty's lamented death.	652
13	Mr. Loring to Mr. Blaine....	Oct. 19	Death of the King, Luiz I: Announces the death of the King; lament of the Portuguese people thereat; states that he has endeavored to perform all the required duties of his position on the occasion.	653
14	Same to same	Oct. 21	Death of the King, Luiz I: Department's message of condolence suitably communicated; incloses copy of his own note and copy of note announcing the death of Dom Luiz I and the accession of Dom Carlos to the throne; also copy of a proclamation of His Majesty Dom Carlos, and copy of a proclamation of the prime minister.	653

SIAM.

80	Mr. Child to Mr. Blaine.....	1889. June 30	Riot: The lower part of the city of Bangkok held for three days by a party of rioters, two Chinese clans; fighting checked by soldiery; examination of prisoners and probable punishment of ringleaders; incloses clippings from the Bangkok Gazette.	656
82	Same to same	July 30	Hospital: Donation of property for the establishment of a hospital by the American Presbyterian Mission at Ratburi; incloses note from the minister for foreign affairs announcing the signing of an agreement and the conveyance of the property.	657

SPAIN.

No.	From and to whom.	Date.	Subject.	Page.
27	Mr. Bayard to Mr. Belmont.	1889. Feb. 20	Fines imposed on American vessels in Cuba and Porto Rico by Spanish colonial customs officials: Unjust and vexatious customs regulations; complaint of Messrs. James E. Ward & Co., of New York, agents of the New York and Cuba Mail Steam-ship Company; two different causes of complaint; reference to former correspondence on the subject; first complaint of Messrs. Ward & Co. is in relation to a fine imposed on the steamer <i>Manhattan</i> , at Matanzas, for shortage of cargo; technical objections of the Cuban authorities to a consideration of the case; history of the case; second complaint of Messrs. Ward & Co. is in regard to the steamer <i>Cienfuegos</i> for using the word "drugs" in the manifest, as too general a term in its significance; requirement of the Spanish law that the manifest, while conforming in all respects to the bills of lading, shall have in addition a minute description of the articles shipped, both in generic and specific terms; objection to such a requirement; former discussion of this subject, at Madrid in 1883, referred to; action of the Spanish Government at that time in the adoption of a more equitable rule; that rule does not appear to have been applied in the case of the <i>Cienfuegos</i> ; discusses the complaint of the captain of that vessel; principle of reciprocity recognized in the existing <i>modus vivendi</i> ; the wisdom of further extending that principle; instructs Mr. Belmont to present the matter to the attention of the Government at Madrid; quotes the draught articles 9 and 10 of Mr. Foster's proposed treaty between the United States and Spain; as these propositions have received the full assent of the Spanish Government, there would appear to be no objection to their incorporation in the existing <i>modus vivendi</i> ; advisability of adding to them some provision for prompt and equitable disposition of cases on appeal, and for explanation of delinquency; incloses copies of correspondence.	658
31	Same to same.....	Mar. 1	Fines imposed on American vessels in Cuba and Porto Rico by Spanish colonial customs officials: Refers to former instruction and particularly to the case of the fine imposed upon the steamer <i>Cienfuegos</i> . Incloses copy of a dispatch from the United States counsel at Santiago de Cuba, in relation to Captain Colton's protest, and commenting upon the recent case of the schooner <i>H. J. Cottrell</i> .	677
12	Mr. Belmont to Mr. Blaine.	April 10	Fines imposed on American vessels in Cuba: Incloses copies of notes to and from the legation at Madrid on the subject, and states that orders have been given to the customs authorities of the Island of Cuba to pay strict attention to the terms of the existing <i>modus vivendi</i> , and that the excess of tonnage dues collected from the schooner <i>Uramus</i> will be refunded.	678
13	Same to same.....	April 10	Fines imposed on American vessels by Spanish colonial customs officials: Reports an interview with the minister of foreign affairs on the subject, and states that he left a memorandum at the foreign office of the articles proposed to be incorporated in the existing <i>modus vivendi</i> . Views of the minister; consultation of Spanish cabinet on the subject; objections to the proposed addition as involving too great a change in methods of administration.	680
39	Mr. Blaine to Mr. Belmont.	May 1	Fines imposed on American vessels in Cuba: Expresses gratification at the action of the Spanish Government in giving orders to make an end of discrimination in Cuba against American vessels. While only the case of the <i>Uramus</i> is mentioned in the note of the Marquis de la Vega for refund, the orders appear to be sufficiently broad to cover all similar cases. Mr. Belmont instructed to inquire as to this point.	681

SPAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
8	Mr. Blaine to Mr. Palmer..	1889. May 27	Tonnage dues exacted from the American brig <i>J. W. Parker</i> at Zaza, Cuba; Incloses copy of letter from John W. Kane, master of the vessel, in relation to his claim for remission of the excess collected. Department will be glad to hear what has been done in the matter.	681
4	Mr. Palmer to Mr. Blaine..	June 21	Tonnage dues exacted from the American brig <i>J. W. Parker</i> : States that nothing having been heard from the Spanish government on the subject, Mr. Palmer has sent a note to the minister of state requesting action on the cases. When a reply is received copy of the entire correspondence will be forwarded to the Department.	682
8	Same to same	July 11	Claim of Calixto Lopez & Co: For remission of excess duties imposed at Havana on coffee. Mr. Palmer sent a note on the subject to the foreign office, and has received note from the minister for foreign affairs, anticipating Mr. Palmer's note, and communicating a royal order for the return of the amount of excessive duty in question. Copies of correspondence inclosed.	682

SWITZERLAND.

224	Mr. Winchester to Mr. Bayard.	1888. June 30	Naturalization treaty: Favorable aspect of the question; report of the Swiss federal council on the subject; quotes the report of a commission on the "right of citizenship"; copy of the report of the commission sent under separate cover. An amendment to the Swiss constitution will be required as precedent to the negotiation of such a treaty, but the question is in much better shape than at any time heretofore.	685
144	Mr. Bayard to Mr. Winchester.	July 26	Naturalization treaty: Expresses gratification at the disposition of the Swiss government to consider the question, and to bring about such an amendment of the municipal code as will enable it to negotiate such a convention. Mr. Winchester instructed to testify to the Swiss Government the interest of the United States Government on the subject.	686
236	Mr. Winchester to Mr. Bayard.	Dec. 1	Death of the President of the Swiss Confederation, Mr. Hertenstein: Announces the death and its cause; sketch of Mr. Hertenstein as a public man. Quiet current of the daily history of Switzerland; solicitude of the diplomatic corps at Berne during Mr. Hertenstein's illness. Mr. Winchester's course in the matter; states that Mr. Hammer, the vice-president, succeeds to the presidency; the federal assembly will elect a new president this month, whose term will begin on January 1, 1889.	686
152	Mr. Bayard to Mr. Winchester.	Dec. 18	Death of the President of the Swiss Confederation, Mr. Hertenstein: The news of his death and its cause was communicated to the Department by the Swiss minister at Washington. Mr. de Clapèrède's note answered and a telegram of condolence sent to the chancellor of the Swiss Confederation at once; copies of correspondence inclosed.	687
241	Mr. Winchester to Mr. Bayard.	Dec. 19	Death of the President of the Swiss Confederation, Mr. Hertenstein: High appreciation of the message of condolence from the United States legation, and of the presence of the United States minister at the obsequies.	688
242	Same to same	Dec. 22	Citizenship: Necessity for a naturalization treaty with Switzerland, and evils resulting from its absence. Detention of property by Switzerland from native born Switzers naturalized in the United States; contention of the Swiss Government in the premises. Appeal of the case of Carl Heinrich Weber, of Zurich, through the efforts of United States Consul Catlin at that place; copy of the judgment of the Swiss federal court in the case inclosed.	688

SWITZERLAND—Continued.

No.	From and to whom.	Date.	Subject.	Page.
157	Mr. Bayard to Mr. Winchester.	1889. Jan. 10	Citizenship: Expresses interest in the case of Carl Heinrich Weber and gratification at the result of Mr. Catlin's efforts in his behalf; hopes that the decision of the federal council in the case will tend to the conclusion of a naturalization treaty between the two governments.	691
254	Mr. Winchester to Mr. Bayard.	Jan. 24	Emigration: Cable synopsis of the report of the Immigration Investigation Committee of the House of Representatives states that the report adduces evidence of the persistent shipping of criminals by Swiss officials from Switzerland to the United States; expresses his surprise at the statement and his ignorance of such conduct on the part of the officials mentioned; refers to former correspondence on the subject, showing an earnest desire on the part of Switzerland to suppress the shipping as emigrants of all objectionable classes; the statute in the case fully as adequate as that of any other country; believes the officials are disposed to enforce it in good faith; the Swiss not an emigrating people; character and value of those going to the United States; the Swiss Government does not desire to see the people emigrate; Switzerland is not overcrowded; much general comfort in the country, and but a small idle and vicious class; Switzerland's obstruction to emigration by refusing to negotiate naturalization treaties; asks for copy of the committee's report.	692
259	Same to same.....	Feb. 1	International unions: The peculiar and advantageous position of the neutral state of Switzerland with regard to all such unions; genius of the Swiss for the administration of offices; the first step towards the establishment of international bureaus taken in 1863; meeting of a committee at Geneva to draw up a plan for the protection of the wounded in battle; the institution of national aid societies then established; Geneva convention of August 22, 1864, signed by sixteen governments; at present it has been accepted by thirty-three States; the Society of the Geneva Red Cross; its purposes and works; its badge the Swiss flag with the colors reversed; Clara Barton; her services; her influence in securing the adherence of the United States Government to the treaty in 1882; The International Telegraph Union, 1865; an account of that union; the Postal Union, 1874; international conventions for the eradication of Phylloxera, and for the regulation of the transport of goods by railways; union for the protection of industrial property; the last international union was for the protection of literary and artistic property; advantages to Switzerland growing out of these unions; the arbitration of the Alabama Claims at Geneva; project for a permanent high court of arbitration; the principle discussed.	693
280	Mr. Winchester to Mr. Blaine.	Apr. 15	Emigration: Information from United States consul Gifford at Basle, of forty assisted emigrants, among whom is one criminal, about to leave Switzerland for the United States; Mr. Winchester's report of a communication to the Swiss Government on the subject; note in reply, from the Swiss foreign office, quoted; no such complaint made heretofore during the past four years; prompt intervention of the Swiss authorities accorded when desired for the purpose of prohibiting undesirable persons from emigrating to the United States.	698

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LXXXVII

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	Mr de Claperède to Mr. Bayard.	Nov. 24	Illness of the President of the Swiss Confederation, Mr. Hertenstein: Quotes a telegram from Berne on the subject.	700
	Mr. Bayard to Mr. de Claperède.	Nov. 26	Illness of the President of the Swiss Confederation, Mr. Hertenstein: Conveys the sympathy of the President of the United States, and his hope that Mr. Hertenstein is rapidly recovering.	700
	Mr. de Claperède to Mr. Bayard.	Nov. 27	Death of the President of the Swiss Confederation, Mr. Hertenstein: Announces the fact, and asks that it be communicated to the President of the United States.	700
	Mr. Bayard to Mr. de Claperède.	Nov. 28	Death of the President of the Swiss Confederation, Mr. Hertenstein: Has communicated by telegraph to chancellor of the Swiss Confederation the condolence of the people of the United States.	701
		1889.		
	Mr. de Claperède to Mr. Blaine.	May 17	Contract laborers: Five Swiss immigrants refused permission to land at Castle Garden upon suspicion of having been engaged by contract; the names of three given who were sent back from the United States before; the other two unknown; requests as full information as may be obtainable regarding the reasons for the forced return of the five persons to Europe; law of Switzerland prohibiting the shipment of emigrants to countries where the laws prevent their landing; important that the Swiss Government should be fully informed; the Swiss consul at New York should be informed of each case as it arises to facilitate the disposition of it.	701
	Mr. Blaine to Mr. de Claperède.	May 27	Contract laborers: Inquiries concerning the five Swiss contract laborers refused permission to land at Castle Garden have been made in the proper quarters, and replies will be communicated to Mr. de Claperède when received.	702
	Mr. Blaine to Mr. Kloss.....	June 18	Contract laborers: Five Swiss immigrants refused permission to land at Castle Garden; Mr. de Claperède's note on the subject will be considered by the board of commissioners of immigration at its next meeting.	702
	Mr. Wharton to Mr. Kloss..	Aug. 5	Contract laborers: Case of the five Swiss immigrants refused permission to land; incloses copy of a letter from the Secretary of the Treasury showing why permission to land was refused the five persons described; the Swiss consul will hereafter be advised of similar cases as they arise.	702
	Mr. Kloss to Mr. Blaine.....	Aug. 13	Contract laborers: Case of the five Swiss immigrants refused permission to land; asks that his thanks be conveyed to the Secretary of the Treasury for his interest in the case and his instructions in the premises.	703
	Mr. Wharton to Mr. Kloss..	Aug. 19	Contract laborers: Case of the five Swiss immigrants refused permission to land; Mr. Kloss's thanks have been communicated to the Secretary of the Treasury.	

TURKEY.

147	Mr. Strauss to Mr. Bayard ..	1888. Dec. 3	Archæological excavations: Petition of the trustees of the University of Pennsylvania for permission to make such excavations in the vilayet of Bagdad; the desired permission finally obtained after some difficulty; the manner in which it was secured: Department's attention invited to an error in translation of article 18 of the law on excavations; incloses copy of the iradé granting the permission.	705
151	Same to same.....	Dec. 22	Bible tracts in Turkish: An order granting permission to print them secured.	706

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No	From and to whom.	Date.	Subject.	Page.
156	Mr. Strauss to Mr. Bayard..	1889. Jan. 10	Diplomas of physicians and surgeons: Repeats the substance of a report on the subject of licensing physicians and surgeons who have American diplomas to practice in the Turkish Empire by the council of administration of civil medicine; unless the applicant presents the diploma of a State medical institution he must undergo an examination before receiving his license; incloses correspondence and report on the subject.	707
161	Same to same.....	Jan. 21	Bible in Turkish: Incloses copy of a note from the Porte giving permission to print it.	709
180	Mr. Bayard to Mr. Strauss..	Jan. 21	Petroleum, storage of at Smyrna: Complaint of Messrs. La Forme & Frothingham, of Boston, that the municipal authorities are considering a plan for the compulsory storage of all importations of refined petroleum there in a public warehouse at a heavy expense. States this to be a revival of a question finally settled on a previous occasion and refers to a former and similar complaint in 1882. Appearance of another attempt to establish a monopoly in the storage of petroleum. Permission having been granted private persons at Smyrna and other Turkish ports to erect private warehouses, there would appear to be no justification of the present plan. The question discussed, and Mr. Strauss instructed to bring the matter to the attention of the Turkish Government. Reference to former correspondence. Incloses copy of letter from Messrs. La Forme & Frothingham.	710
183	Same to same.....	Jan. 31	Diplomas of physicians and surgeons: The minister can not certify officially to the standing of the American institutions issuing the diplomas, although the governors of States in the United States may do so. Copies of Mr. Strauss's dispatch will be sent to the Secretary of the Interior and to the Commissioner of Education.	712
172	Mr. Strauss to Mr. Bayard..	Feb. 8	Petroleum, storage of at Smyrna: Complaint of Messrs. La Forme & Frothingham; refers to the question as having arisen in 1882, and recites his action at that time in bringing it to the attention of the Turkish Government, and discussing it with the minister for foreign affairs; promised measures of that minister. Incloses copy of his note to the Porte on the subject.	712
186	Mr. Bayard to Mr. Strauss..	Feb. 13	Diplomas of physicians and surgeons: Thanks of the Secretary of the Interior and the Commissioner of Education for the information on the subject conveyed by Mr. Strauss's dispatch, number 156, of January 10, 1889.	713
178	Mr. Strauss to Mr. Blaine..	Mar. 15	Schools of American missionaries in Turkey: Closing of several such schools by the authorities in the vilayet of Van, although it is stated that the managers had complied with all necessary regulations. Mr. Strauss has brought the matter to the attention of the Grand Vizier, who has telegraphed the authorities to permit the schools to re-open. Probable evasions by the managers of the schools. Incloses copy of a memorandum on the subject by the Rev. H. O. Dwight.	713
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CORRESPONDENCE.

ARGENTINE REPUBLIC.

Ms. Hanna to Mr. Bayard.

No. 204.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, February 27, 1889. (Received April 8.)

SIR: I have the honor to report to the Department that by order of Dr. Costa, minister for foreign affairs, Mr. Aristides Almeida, chief of the bureau of statistics, has made a statement of the arrivals of immigrants to the Argentine Republic, from which it appears that in the thirty-two years from and including 1857 to and including 1888 no fewer than 1,374,797 immigrants abandoned Europe to start new homes in this country. This figure is more important when it is considered that the total population of the Argentine Republic is to-day calculated at 4,000,000 souls, and that the total immigration to all South America from Europe during the same time was 1,703,000.

The percentage of nationalities of the above total immigration to the Argentine Republic during the period stated was about as follows:

	Per cent.
Italians.....	65.25
Spaniards.....	14.61
French.....	9.27
English.....	2.31
Swiss.....	1.82
Austrians.....	1.69
Germans.....	1.54
Belgians.....	.78
Various.....	2.73
	100.00

The tabulated statement of the movement of immigration for the year ending December 31, 1888, published by the same authority, shows that the arrivals during the past year amount to the number of 150,000, which promises to reach 370,000 in the ensuing year, if the arrivals continue on the same scale as during the month of January. On the 16th of this month 2,000 Irish immigrants landed, and 2,000 left Queenstown yesterday for this place. On the 22d, the German steamer *Stassburg* anchored with 1,500 Dutch and Frenchmen, and advices have been lately received announcing the departure of several thousand Belgians for this country.

The National Government, aware of the great impropriety of sending out at one time so many poor emigrants, largely women and children, who can not even speak the language of the country, is taking steps to put a stop to its recurrence. Telegrams, I understand, will be sent by the minister for foreign affairs to the immigration agents of the Argentine Republic in England and Ireland, notifying them that the emigration must be limited to 200 per month.

The 2,000 immigrants just arrived here have been greatly embarrassed, and much suffering has ensued. This Government was not prepared to receive and appropriate them. They were thrown on public charity, and, though the response has been hearty and generous, it has been next to impossible to feed and house such a large sudden influx, in the absence of ample preparation beforehand.

And these people have been misled in the matter of public lands and the feasibility of getting homesteads. The public lands of this nation are about all absorbed. They are held by speculators in blocks of from 3 to 10, 10 to 50, and 50 to 100 leagues. There are men here who own from 100 to as high as 800 leagues of land. Now the Government is talking of buying back the lands it has practically given away, and of selling in small parcels of 120 acres to actual settlers, and though long time is to be given for payment, in the end, with the footings of speculation and the interest to be added, it will make dear land.

The only inducement proposed to these immigrants as yet is in the form of a contract offered them by a private land-owning corporation, under which they may obtain title to lands near Bahia Blanca by assuming an indebtedness of about \$20 gold per acre, to be paid within twenty years in installments, with 9 per cent. interest on all deferred payments, the company agreeing to furnish seeds, tools, animals, etc., to the amount of \$1,000, in the first year, at a like charge and provisions, etc., at a fixed price, with interest as above.

I am, etc.,

BAYLESS W. HANNA.

Mr. Hanna to Mr. Blaine.

[Extract.]

No. 219.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, April 7, 1889. (Received May 21.)

SIR: The immigration from European countries to these shores, hitherto chiefly Italian, Spanish, and French, is now rapidly setting in from other quarters—England, Scotland, Ireland, Holland, and Germany. It is marvelous, indeed, in what great numbers they are arriving. This element of newcomers will work a great change in agricultural development, which may become a serious question for the United States.

The prices of our wheat and corn product are already strained and depressed, about as much, perhaps, as they can well bear. All this immigration is assisted by the Government by payment of the passage of the immigrants. In this way they are easily persuaded to leave the overdone Old World for the brilliant outlook of the New. The amount

the Argentine Government paid last month for immigrants' passage is reckoned at \$500,000. This, kept up throughout the year, would reach \$6,000,000. Already this vast influx is beginning to tell on the volume of grain exports. Last year the country shipped 445,000 tons of corn; this year it will go above 2,000,000 tons.

In addition to the vast sum paid out by the Government in encouragement of immigration, there is another great outlay. The Government lands the immigrant, keeps him and his family some days at the Immigrants' Hotel, pays his passage in river steamers and in railroad trains to reach the colonies or join the farms or estancias where employment has been secured for him. This probably costs the Government fully as much more as the cost of the ocean passage—say, \$12,000,000 in all paid in encouragement of immigration in one year alone.

I am, etc.,

BAYLESS W. HANNA.

Mr. Hanna to Mr. Blaine.

No. 222.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, April 11, 1889. (Received May 25.)

SIR: In further justification of President Harrison's admirable policy, as announced in his message, for the promotion of steam-ship facilities between the United States and the Argentine Republic, I have the honor to make an additional suggestion to what I have hitherto said on the subject.

The flow of European immigration hitherward is phenomenal, not only vastly adding to the overplus product to go upon the market for sale, and increasing the supplies needed in machinery and general merchandise, but in more certainly drawing the resulting advantages away from the United States.

We need ships, steam-ships, United States ships flying our own flag, and when they are once put into service, I have little doubt we will need many of them. We certainly have the best things on earth to sell, all the means we need for obtaining necessary supplies, and there is no reason why we should not be in the market here and everywhere.

As things are now going, over 20,000 immigrants are coming to the River Platte monthly. In the first quarter of 1888, 40,527 immigrants came, and for the same period in 1889, 74,090. The showing for March, just closed, as appears from official figures, is 20,831. Sixty-nine ships were engaged in the importation of these people, thirty-eight of them under the English flag, ten French, nine German, eight Italian, two Belgian, one Spanish, and one Dutch.

The fleet of commercial ships constantly in this port equals, if it does not outnumber, that of Liverpool, but it is a rare thing to see among them the United States flag, and that only confined to small barks of from 500 to 600 tons capacity. I have never seen a United States merchant steamer carrying our great flag in Argentine waters.

I am, etc.,

BAYLESS W. HANNA.

Mr. Hanna to Mr. Blaine.

No. 229.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, April 30, 1889. (Received June 22.)

SIR: I have the honor to send herewith in duplicate, an editorial published last Sunday in the Buenos Ayres Standard, the valuable paper owned by Mr. M. G. Mulhall, the Argentine statistician, and author of "Mulhall's Hand-Book of the River Platte." He takes his reckonings from some tables just furnished by Mr. Latzina, chief of the bureau of statistics, and very high authority on such matters.

These tables seem important in several respects, especially as showing the vast volume of trade steadily going to European markets, which should and could be more largely shared by the United States if some method were devised to establish and maintain adequate and rapid steam-ship communication between the United States and this country.

These figures are also important from the fact that they show a vast Argentine exportation of corn and wheat to European markets, a very serious question in connection with farming industry in the United States.

While Mr. Mulhall, in the inclosure following, discusses only that portion of Mr. Latzina's tables relative to England, those given of the trade of Germany, Italy, France, and Belgium, are fully as significant and worthy of the attention of the United States.

I am, etc.,

BAYLESS W. HANNA.

[Inclosure in No. 229.]

MR. MULHALL'S LETTER.

Trade with Great Britain.

ANTIBES, March 17.

Mr. Latzina's tables of Argentine trade are so admirably arranged that you can see at a glance the whole working of commerce in the last ten years. Take, for example, the dealings with Great Britain, 1878-'87:

Imports from Great Britain	\$247, 000, 000
Exports to Great Britain.....	78, 000, 000
Surplus imports.....	169, 000, 000

Those people who believe in the balance of trade will weep at the idea that since 1878 Great Britain has extracted a sum equal to £34,000,000 from the Argentine Republic. As a matter of fact it is quite the other way, the Argentina having extracted from John Bull a sum twice as great. It may be said that the influx of British capital has been in the form of loans, still more aggravating the burthen on the public and the drain of its resources. Any discussion on such points is futile. Suffice it to say that in ten years Great Britain has poured into the Republic about \$250,000,000 worth of merchandise and a still larger amount of capital in loans, railways, land purchases, etc. If you would go back to the old balance-of-trade theory you must abandon all the features and elements of progress.

The imports in 1887 from the United Kingdom were so numerous that it is not easy to sum them up for our readers. They comprise 360 items, and I wish Mr. Latzina would improve his trade report in this respect by putting an additional page for each country with a summary under ten or twelve heads of the principal branches.

First, we have 960 prize cattle of all descriptions, valued at \$200,000. Then come articles of grocery, \$1,700,000; dry goods amounting to \$14,000,000; chemicals,

\$900,000; hardware and machinery, \$10,000,000; coal, \$4,000,000; and sundries, \$4,000,000; making in all \$35,000,000. Under the head of hardware is included railway material, not quite \$3,000,000 in amount. The importation of coal was nearly 400,000 tons. In the whole list of 360 items I find only cheese, salt, and sugar which could be produced as easily in the Argentine Republic as imported. I may also add soap. These items are, however, so small as hardly to deserve notice. On the other hand, three items, viz, dry goods, iron and coal, stand for \$28,000,000 or 80 per cent. of the total, sufficient evidence of the extremely useful nature of the components of British trade.

The exports to Great Britain are few, but sum up a value of \$17,000,000, or half that of the articles imported; they are, briefly, as follows:

Articles.	Tons.	Value.
Grain.....	320,000	\$9,400,000
Linseed.....	63,000	3,200,000
Meat.....	14,000	1,200,000
Hides, skins, and wool.....		2,400,000
Sundries.....		900,000
Total.....		17,100,000

Grain stands for more than half, which is surprising, since Great Britain can draw supplies so easily from India and the United States, from Russia, Austria, and elsewhere. The item of meat includes 10,000 tons of frozen mutton, the rest being jerked beef. As a proof of the great development of trade with Great Britain the exports thither in 1887 were five times what they were in 1878-79. This branch of trade must rapidly increase as the frozen mutton business expands. Meantime it is gratifying to see that small as is the number of British and Irish residents the trade relations of the republic with the United Kingdom are greater than with any other nation.

The minor ports of the Parana have risen 160 per cent., those of the Uruguay only 18 per cent. All the Parana ports show an increase, except Corrientes, whereas the Uruguay shows a heavy fall at Concepcion and a lesser one at Gualeguay.

In the second place, as regards nations we find the gross trade exchanged with them was as follows:

	1878.	1887.	Increase.
			<i>Per cent.</i>
United Kingdom.....	\$15,520,000	\$51,860,000	234
France.....	18,690,000	47,610,000	155
Germany.....	3,230,000	21,940,000	580
Belgium.....	12,380,000	23,060,000	80
United States.....	5,500,000	16,940,000	205
Italy.....	3,440,000	10,140,000	200
Spain.....	3,380,000	6,330,000	90
Brazil.....	4,010,000	4,360,000	6
Uruguay.....	3,070,000	8,870,000	190
Chili.....	2,660,000	1,160,000	.....
Paraguay.....	980,000	1,730,000	75
Bolivia.....	290,000	250,000	.....
Various.....	8,130,000	7,520,000	.....
Total.....	81,280,000	201,770,000	150

Ten years ago Great Britain held second place, the first being held by France, but the positions are reversed. The increase of trade with Germany is marvelous, that with Italy and United States is also most satisfactory. Meantime we can not fail to deplore the rapid decline of international relations in South America, caused by the jealous and mischievous tariffs which the Argentine Republic, Brazil, Chili, etc., are erecting against one another, to depress each other's commerce. They seem to have an insane delight in doing harm to one another. Much better would it be if all nations on the South American continent were to form a Zollverein, allowing the free interchange of commodities and agreeing to impose a uniform tax of 10 or 20 per cent. on all merchandise coming from any other part of the world. The war of tariffs that is at present waged is a scandal and a source of weakness to South American nations.

It may be said that in spite of these tariffs the trade of the Argentine Republic has increased 150 per cent., which is quite true. But who will venture to say what might have been the increase but for the tariffs? Ten years ago it was predicted that as soon as the Tucuman Railway should be pushed further north all the commerce of Bolivia would flow into the Argentine Republic. The result has been just the reverse, the trade with that country having fallen 15 per cent. since 1878. Still worse is the case with Chili, the trade with that republic having declined 60 per cent. These are facts that can not escape the notice of the new Finance Minister at Buenos Ayres, who is perhaps as convinced as myself of the value of free trade and the evil consequences that are inseparable from protection.

M. G. M.

Mr. Hanna to Mr. Blaine.

No. 233.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, May 18, 1889. (Received June 22.)

SIR: Recurring again to the wholly insufficient and inefficient mail facilities between the United States and this country, I have the honor now to present some new truths in regard to the subject. The "Direct United States Mail Line," as it is miscalled, is again, and recently more than usually so, the cause of very general and bitter complaint. The commercial community, especially, seems to suffer seriously by its numerous accidents and unexpected delays. Many of its number, exasperated by losses and disappointments and discouraged by promises of betterments which never come, are seeking relief by resort to the use of European mail lines.

England, France, Germany, and Italy, all have direct and rapid lines, some of them two or three. The direct mail service of the United States and Brazil Mail Steam-ship Company, upon which such general reliance has been had for the transportation of mails from our ports to South American countries, as matters now stand, is literally a delusion and a snare, a positive detriment to traders south of Rio, as it furnishes a source of reliance to them which oftener brings disappointment and misadventure than good results. The company itself, I am confident, is not to blame. Mr. Thurber and Captain Lachlan, its experienced and able managers, have doubtless done the best possible to be done with their many embarrassments, but they have constant troubles with the port of Rio—that cess-pool of the ocean. Yellow fever prevails there about three-fourths of the year, and gives rise to constant quarantine embarrassments of which there seems to be no end.

I can think of but two remedies for the evil—a direct line of ships, or the transmission of the mails by Europe.

The United States mail due at Rio April 23 has not, so far as we know, yet left that port, twenty-five days delayed already, with the future to determine how much longer it will be continued. This, in a degree, is a frequent occurrence, and of course, paralyzes all trade relations between New York and the most valuable ports of South America. All the rest of the commercial world, except the United States, seems to have discovered the great importance of the extreme South American States, just now undoubtedly one of the most interesting commercial attractions known anywhere.

I am, etc.,

BAYLESS W. HANNA.

Mr. Hanna to Mr. Blaine.

No. 235.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, May 20, 1889. (Received July 6.)

SIR: As a number of vexatious delays and embarrassments have occurred here recently among citizens of the United States in reference to rights of marriage I have deemed it advisable, for personal information, to transmit to the Department duplicate copies of the law of matrimony which went into effect in this country April 1, 1889, together with translations of the same, also in duplicate.

By article 19 of this law, it is provided that the parties intending to contract matrimony, at the time of expressing their consent as required by Article 14 of the law, must produce before the public officer having charge of the respective civil registry the following papers:

- (1) Certificate of birth or baptism.
- (2) In case of previous marriage, certificate of death of former spouse.
- (3) A duly legalized copy of the decree annulling any previous marriage of either party.
- (4) The authentic declaration of the person whose consent is required by the law. Also, in case the original domicile of either party is not in the Argentine Republic, such party must produce a certificate of his or her civil status in that domicile.

In case of the non-existence of the certificates required by the above article 19, the facts may be shown under article 21 by other modes of proof permitted by the Argentine civil code.

I am, etc.,

BAYLESS W. HANNA.

[Inclosure No. 1 in dispatch No. 235.—Translation.]

CIVIL MARRIAGE LAW.

In fulfillment of our promise, we give the first portion of the law of civil marriage which came into force in this Republic on the first day of this month. The law was passed on November 12, 1888, and is numbered 2393.

Art. 1. The code is modified in the manner and in accordance with what is established in the following articles:

SECTION 2.—OF PERSONAL RIGHTS IN FAMILY RELATIONSHIP.

CHAPTER 1.—*Regimen of matrimony.*

Art. 2. The validity of the marriage, in the absence of the impediments established in sections 1, 2, 3, 5, and 6 of article 9, shall be decided in the Republic by the law of the place in which it was celebrated, although the contracting parties may have left their domicile in order not to be subject to the forms and laws there prevailing.

Art. 3. The personal rights and obligations of the spouses are governed by the laws of the Republic so long as they remain in it, whatever may be the country in which the marriage has been contracted.

Art. 4. The property of the husband and wife is subject to the dispositions of the nuptial contract, whatever may be the laws of the country in which the marriage was celebrated.

Art. 5. If there have been no nuptial contract nor change of matrimonial domicile, the law of the place where the marriage was celebrated applies to the movable property of the spouses wherever it may be or may have been acquired.

If there have been a change of domicile, the property acquired by the spouses prior to such a change is subject to the laws of the previous domicile, and those subsequently acquired to the laws of the new domicile.

Art. 6. Landed property is subject to the law of the place in which it is situated.

Art. 7. The dissolution in a foreign country of a marriage celebrated in the Argentine Republic, although it may be in conformity with the laws of such country, does not, unless it be in conformity with the laws of this code, enable either of the spouses to marry again.

CHAPTER 2.—*Of betrothal.*

Art. 8. The law does not admit an espousal *de futuro*. No tribunal shall admit any demand in respect thereof nor any compensation for damages which it may have caused.

CHAPTER 3.—*Of impediments.*

Art. 9. The following are impediments to marriage:

- (1) Consanguinity in the ascending or descending scale, without any limit, and whether legitimate or illegitimate.
- (2) Consanguinity in the collateral scale or of the half-blood, legitimate or illegitimate.
- (3) Affinity in a direct line in all the degrees.
- (4) The woman being under twelve years of age or the man being under fourteen.
- (5) A previous marriage still subsisting.
- (6) Having been the voluntary author or the accomplice of the homicide of one of the spouses.
- (7) Insanity.

As regards sections 1 and 2, the proof of the relationship is subject to the prescriptions of this code.

Art. 10. A woman above twelve years of age and a man above fourteen, but who are minors, and deaf-mutes who can not make themselves understood by writing, can not marry each other or any other person without the consent of their legitimate or natural father who shall have recognized the parentage, or without that of the mother in default of father, or without that of the guardian in default of both father and mother, or if there be, also, no guardian, without the consent of the judge.

Art. 11. The civil judge shall decide upon cases of dissent after a private and informal investigation of the facts.

Art. 12. The guardian and his legitimate descendants who are under his power can not contract marriage with his ward until the guardianship shall have ceased and the accounts of his administration shall have been approved. In case of breach of this prescription the guardian shall lose the remuneration assigned to him out of the ward's income, without prejudice to any penalty which he may have incurred.

Art. 13. If minors should marry without the necessary consent, they shall not have the possession or administration of their property until they attain their majority; there shall be no mode of curing the defect of the want of consent.

CHAPTER 4.—*Of consent.*

Art. 14. The consent of the contracting parties expressed before the public officer in charge of the civil register is indispensable for the existence of matrimony.

The act in which any of these requisites shall be wanting shall not produce any civil effects, even if the parties acted in good faith.

Art. 15. The consent may be expressed by proxy, with a special power in which the person with whom the donor of the power is about to contract matrimony is expressly mentioned.

Art. 16. Violence, fraud, or mistake as to identity, physically or civilly, vitiate the consent.

CHAPTER 5.—*Of the preliminaries to the celebration of the marriage.*

Art. 17. Those who intend to contract matrimony must attend before the public officer in charge of the civil register in the domicile of either of them, and shall state verbally their intention, of which a record shall be made, and shall be signed by the public officer, by the future spouses, and by two witnesses. If the future spouses can not or do not know how to write, another person shall sign the record at their request.

Art. 18. The record must express:

- (1) The Christian and surnames of those who wish to be married.
- (2) Their respective ages.
- (3) Their nationality, domicile, and place of birth.
- (4) Their profession.

(5) The Christian and surnames of their parents, with their nationality, profession, and domicile.

(6) Whether either of them has been previously married, and, in such case, the Christian and surname of the previous spouse, the place of the marriage, and the cause of its dissolution.

Art. 19. The future spouses must at the same time produce—

(1) The certificates of their birth.

(2) In case of a previous marriage of either of them, the certificate of death of the previous spouse.

(3) A copy, duly legalized, of the judgment annulling the previous marriage of either or both the future spouses, as the case may be.

(4) The authentic declaration of the persons whose consent is required by the law, if not given verbally at the time, or the permission of the judge, when required. The parents or guardians who give their consent before the public office shall sign the record referred to in article 17, and if they can not or do not know how to write, one of the witnesses shall sign it at their request.

The future spouses, whose original domicile is not in the republic, must also produce a certificate of their civil status in that domicile.

(5) Two witnesses, who, from their knowledge of the parties, shall declare that they believe them qualified to contract matrimony.

Art. 20. If the certificates mentioned in the preceding article should be found on the register of the public officer who officiates at the marriage it shall be sufficient to refer to them.

Art. 21. In case of the non-existence of the certificates, or when the inscription on the register shall have been made under false names or as of parents unknown, these facts may be proved by the other modes of proof admitted in this code.

Art. 22. The record referred to in article 17 having been duly completed the public officer shall publish it on the outer door of his office during eight days. If the future spouses have different domiciles the public officer before whom the proceedings shall be taken shall remit a copy to the public officer of the other domicile so that he may make an identical publication. If the domicile of the future spouses, or of either of them, shall have been changed during the six months next preceding the publication such publication shall also be made in the previous domicile.

Art. 23. The public officer who receives for publication records remitted from another place must, at the expiration of the term of publication, make a record of such publication, and shall remit a certificate thereof and of any notice of opposition or of there being no opposition to the public officer before whom the marriage is to be celebrated.

Art. 24. The marriage can not be celebrated until the expiration of the third day next after the last day of the publication. If, on account of the domicile of the contracting parties, the publication shall have been made in various places, the public officer can not proceed to the celebration of the marriage without having received the certificates referred to in the previous article.

Art. 25. The publication shall be considered as not having been made if the marriage should not be celebrated within one hundred days.

CHAPTER 6.—Of opposition.

Art. 26. The only grounds of opposition which can be alleged are those which are established in this code.

The opposition which is not based on the existence of any of those impediments shall be summarily rejected.

Art. 27. The right of opposing the celebration of a marriage by reason of the impediments established in Art. 9 appertains:

(1) To the husband or wife of the person who wishes to contract another marriage.

(2) To the relatives of either of the future spouses within the fourth degree of consanguinity of affinity.

(3) To the guardians or curators.

(4) To the public minister, who must oppose the marriage whenever those impediments become known to him.

Art. 28. If a widow wish to contract matrimony contrary to the dispositions of article 99 the relations in the degree of succession of the deceased husband shall be entitled to oppose the marriage.

Art. 29. The parents, guardians, or curators may also oppose the marriage on the ground of the want of their consent.

Art. 30. The parents, guardians, or curators must express the reasons of the opposition; but the parents shall be exempt from this obligation in the case of a son under eighteen years of age, or of a daughter under fifteen, except when such son or daughter is in the actual enjoyment of his or her property.

The opposition can only be founded:

(1) On the existence of one of the impediments established in article 9.
 (2) On the existence of contagious disease in the person who intends to marry the minor.

(3) On the dissipated or immoral conduct of such person.

(4) On the fact that such person has been condemned for the crime of robbery, larceny, swindling, or any other crime punishable with more than one year's imprisonment.

(5) On the want of means of subsistence and of aptitude for acquiring the same.

Art. 31. The opposition may be declared immediately after the initiation of the proceedings for the marriage and up to the time of its celebration.

Art. 33. The opposition may be declared verbally or by writing, expressing:

(1) The Christian and surname, age, civil status, profession, and domicile of the person opposing.

(2) His relationship to either of the future spouses.

(3) The impediment on which the opposition is founded.

(4) The reasons for believing in the existence of the impediment.

(5) Whether or no there are documents proving the existence of the impediment, and the references thereto.

When the opposition is declared verbally the public officer shall draw up a statement of the facts which must be signed by the opposer and by two witnesses, if he is unable to sign his name. When the opposition is declared in writing, it shall be transcribed into the minute book with the same formalities.

Art. 34. If the opposer have any documents, they must be produced at the same time; if he have none in his possession, but has had notice of them, he shall state where they are and give a list of them.

Art. 35. The opposition having been duly recorded, notice thereof shall be given to the future spouses by the public officer who is to celebrate the marriage.

If either or both of them shall admit the existence of the legal impediment, the public officer shall record that fact and shall not celebrate the marriage.

Art. 36. Should the opposition be declared before a public officer not in the place where the marriage is to be celebrated, he shall, within twenty-four hours, remit to the public officer of such place a copy of the minute of opposition together with the documents produced.

Art. 37. If the opposition should not be founded on any legal impediment, the public officer before whom it is declared shall reject it and record the fact.

Art. 38. If the future spouses shall not acknowledge the existence of the impediment, they must make a declaration to that effect to the public officer within three days next after the day of the notification and the public officer shall record the fact and remit to the civil judge an authorized copy of all the proceedings, with the documents presented, and the celebration of the marriage shall be suspended.

Art. 39. The civil tribunals shall investigate and decide summarily with fiscal citation on the opposition declared, and shall remit to the public officer a legalized copy of the judgment.

Art. 40. The public officer shall not celebrate the marriage until final judgment rejecting the opposition.

If the judgment declare the existence of the impediment on which the opposition is founded the marriage can not be celebrated; in either case the public officer shall note the disposing part of the judgment in the margin of the minute of opposition.

Art. 41. If the opposition be rejected its author, not being a relative in the ascending scale, or the public minister, shall pay to the future spouses a compensation to be fixed at the discretion of the tribunal taking cognizance of the matter.

Art. 42. Any person may denounce the existence of any of the impediments established in article 9.

Art. 43. The denunciation having been formally made, the public officer shall remit it to the civil judge, who shall submit the same to the fiscal minister, and the latter shall within three days declare opposition or state that he considers the denunciation to be unfounded.

CHAPTER 7.—*Of the celebration of the marriage.*

Art. 44. The marriage must be celebrated before the public officer in the civil register in his office, publicly, the future spouses, or their proxies in the case provided for by article 15, appearing personally, in the presence of the witnesses and with the formalities prescribed by this law.

If either of the future spouses should be unable to attend at the office, the marriage may be celebrated at his or her place of abode.

Art. 45. There must be two witnesses present if the marriage be celebrated in the office, and four if it be celebrated in the place of abode of either of the spouses.

Art. 46. When celebrating the marriage the public officer shall read to the future spouses articles 55, 56, and 58 of this law, shall receive from each of them personally

and successively the declaration that they wish to take each other as husband and wife, and shall declare in the name of the law that they are joined together in matrimony.

The public officer can not offer any opposition to the spouses, after declaring their consent before him, receiving at the same time and place a blessing on their union from a minister of their church or religion.

Art. 47. In the record of the celebration of the marriage there shall be entered:

- (1) The date of the ceremony.
- (2) The Christian and surnames, age, profession, domicile, and place of birth of the contracting parties.
- (3) The Christian and surnames, profession, domicile, and nationality of their respective parents, if they are known.
- (4) The Christian and surname of the predeceased husband or wife of either of the parties.
- (5) The consent of the parents, guardians, or curators, or the sanction of the judge when required.
- (6) The publication of the marriage and its date.
- (7) The statement whether or not there was opposition and its rejection.
- (8) The declaration of the contracting parties that they take each other for husband and wife, and that of the public officer that they are united in the name of the law.
- (9) If the contracting parties have natural children, the acknowledgment that they are legitimized by the marriage.
- (10) The Christian and surnames, age, civil status, profession, and domicile of the witnesses.
- (11) If the marriage be celebrated by proxy, the document shall be filed in the office, and its date and the name of the place where and of the notary or public officer before whom it was executed shall be mentioned in the record.

Art. 48. The record of the marriage shall be drawn up and signed immediately by all those who take part in the ceremony, or by others at the request of those who are unable to sign their names.

Art. 49. The declaration of the contracting parties that they take each other as husband and wife can not be made subject to any condition whatever.

Art. 50. The chief of the civil register office shall deliver to the spouses a legalized copy of the record of the marriage.

Art. 51. The public officer can not refuse to celebrate a marriage except for the causes established by this law, and he must not celebrate it when the documents produced show that there is any impediment to the marriage. In case of any such refusal, he shall record the reasons upon which it is founded, and shall deliver a certificate thereof to the persons interested, who may apply for relief to the civil judge if they consider the refusal unfounded.

Art. 52. The public officer shall dispense with all or any of the formalities which ought to precede the marriage and shall proceed to celebrate it, when it is shown by a medical certificate, or, in default of this, by the evidence of two witnesses, that one of the future spouses is in danger of death, which fact shall be entered on the record. When there is danger of death, the marriage *in articulo mortis* may be celebrated before any judicial functionary, and he shall draw up a record of the celebration and shall state therein the circumstances mentioned in sections 1, 2, 3, 4, 5, 8, 9, 10 and 11 of art. 47, and shall remit the record to the public officer in charge of the civil register in order that it may be protocolled.

Art. 53. In the cases provided for by the preceding article the record of the celebration of the marriage shall be published during eight days in the form established by article 22.

Art. 54. All the documents referred to in this law shall be copied into books bound and paged, without prejudice to any other formalities established by the laws of the civil register.

CHAPTER 8.—*Rights and obligations of the spouses.*

Art. 55. The spouses are obliged to be faithful to each other, but the unfaithfulness of one of them does not justify that of the other. The unfaithful spouse may be sued in an action for divorce without prejudice to the proceedings authorized by the penal code.

Art. 56. The husband must live in the same house as his wife, must provide her with all necessaries, and must exercise all the acts and actions to which she is entitled, and must pay all her necessary judicial expenses, even if she be accused criminally. Should the husband fail in any of these obligations the wife has the right to demand judicially the necessary alimony and the indispensable costs of the legal proceedings.

Art. 57. When there is no marriage settlement the husband is the legitimate

manager of his own and his wife's property, whether acquired previously or subsequently to the marriage.

Art. 58. The wife must live with her husband wherever he may choose to fix his residence. If she fail in this obligation the husband may ask for the necessary judicial measures and may refuse to maintain her. The tribunals having cognizance of the cause may exempt the wife from this obligation when its fulfillment would endanger her life.

Art. 59. The wife can not be party to a suit, either by herself or by attorney, without the special license in writing of the husband, excepting in cases in which this code presumes the authorization of the husband, or does not require it, or only requires a general or judicial authorization.

Art. 60. Nor can the wife, without the license of her husband or a power of attorney from him, enter into or cancel any contract, or acquire property or shares, whether of an onerous or lucrative character, or dispose of or charge his property, or contract any obligation, or release any obligation in his favor.

Art. 61. It is presumed that the wife is acting by her husband's authority if she exercise publicly any profession or industry, such as directress of a college, school-mistress, actress, etc., and in any such case it is understood that she has her husband's authority for all the acts or contracts relating to her profession or industry in the absence of any protest by him, announced publicly or notified judicially to the persons with whom she may have entered into a contract. The husband's authority is also presumed for the ready-money purchases made by the wife, and for the purchases on credit of articles intended for the ordinary consumption of the family.

Art. 62. The husband's authority is unnecessary in suits between him and his wife, or for defending herself if criminally accused, or for making or revoking her will or for administering the property reserved to her by the marriage settlement.

Art. 63. The wife and the husband and their heirs are the only persons who can protest the nullity of the wife's acts and engagements for want of the husband's license.

Art. 64. The authority of the judge of the domicile shall be sufficient for the wife when her husband is mad or when his place of abode is unknown, in the cases mentioned in article 135 of this code as regards the acts which unmarried minors can not execute.

Art. 65. The tribunal having cognizance of the cause may supply the authorization of the husband when he is absent or incapacitated from giving it and in the special cases provided for by this code.

Art. 66. The husband may at his own discretion revoke the authorization which he may have given to his wife, but such revocation shall not have any retroactive effect against a third party.

Art. 67. The husband may ratify generally or specially the acts of his wife which he may not have authorized. The notification may be tacit, through acts of the husband which manifest unequivocally his acquiescence.

Art. 68. The acts and contracts of the wife unauthorized by the husband, or authorized by the judge against the will of the husband, shall only bind her own property, if, in the former case, their rescission shall not have been asked for, but they shall not bind the joint property or the husband's property, except to the extent of the benefit which the husband and wife jointly or the husband alone may have derived therefrom.

CHAPTER 9. — *Of divorce.*

Art. 69. The divorce authorized by this code consists only in the personal separation of the spouses, without the dissolution of the matrimonial bond.

Art. 70. The right of asking for a divorce from a competent judge can not be renounced by the marriage settlement.

Art. 71. There is no divorce by mutual consent of the spouses. They will not be treated as divorced without a decree by a competent judge.

Art. 72. The following are the causes of divorce:

- (1) Adultery of the wife or the husband.
- (2) Attempt by one of the spouses against the life of the other, whether as principal or accomplice.
- (3) The provocation of one of the spouses by the other to commit adultery or any other crime.
- (4) Cruelty.
- (5) Serious wrongs; in estimating the gravity of the wrong, the judge must take into consideration the education, social position, and other circumstances of the case.
- (6) Bad treatment, which, though not serious, is so frequent as to make the conjugal life intolerable.
- (7) Voluntary and malicious desertion.

Art. 73. At any time after the institution of the suit for divorce or previously in cases of urgency the judge may on the application of either party decree the personal

separation of the married couple and placing of the wife in some respectable house within his jurisdiction, and he may make an order for the care of the children in accordance with the prescriptions of this code, and for alimony for the wife and for the children who do not remain in the custody of the father, and also for the wife's necessary legal expenses in the suit.

Art. 74. If either of the spouses be under age a guardian *ad litem* shall be appointed, who shall be named by the minor, or, in default thereof, by the judge.

Art. 75. Every kind of evidence shall be admitted in this suit excepting that of the husband and wife.

Art. 76. The suit for divorce shall be at an end and the effects of any decree for divorce which may have already been pronounced shall cease when the spouses become reconciled subsequently to the acts which justified the proceedings or were the ground for the divorce. The law presumes reconciliation when the husband cohabits with the wife after having left the habitation common to them. The reconciliation restores the state of things which existed previously to the institution of the suit.

CHAPTER 10.—*Effects of the divorce.*

Art. 77. The husband and wife having been separated by a decree for divorce, they may reside where they respectively think convenient, even though it be abroad, but the children in the care of either of them must not be taken out of the country without the leave of the judge of the domicile.

Art. 78. If the wife be of full age she may exercise all the acts of civil life. Either of the spouses who may be under age shall be subject to the prescriptions of this code relative to minors emancipated.

Art. 79. If during the suit the conduct of the husband should give rise to fear of the fraudulent disposal or the wasting of the matrimonial property, the wife may ask the judge of the cause to have an inventory of it made and to place it in charge of another administrator, or that the husband may give security for its value. When the decree for divorce has been pronounced, the spouses may ask for the division of the matrimonial property in accordance with the provisions contained in this code under the title of "conjugal partnership."

Art. 80. The innocent spouse who has not been the cause of the divorce may revoke the donations or advantages which he or she may have made or promised by the marriage settlement to the other spouse, whether to take effect in his or her life-time or after his or her decease.

Art. 81. The children under five years of age shall remain in charge of the mother. Those above that age shall be delivered to the spouse who, in the opinion of the judge, shall be the most eligible for educating them, unless either the husband or the wife can allege a preferential right to have them.

Art. 82. If either of the spouses shall, in consequence of a criminal accusation by the other, have been condemned to imprisonment, reclusion, or banishment, none of the children, whatever their ages may be, can go with the spouse who has to undergo such punishment, except by consent of the other spouse.

Art. 83. Both the father and the mother shall remain subject to their obligations towards their children, no matter which of them may have given cause for the divorce.

Art. 84. The husband who may have given cause for the divorce must contribute to the subsistence of his wife, if she have not sufficient means of her own. The judge shall decide on the sum to be paid and the manner of payment, according to the circumstances of the case.

Art. 85. The spouse who shall have given cause for the divorce shall, if it be absolutely necessary, have the right to have the necessary means of subsistence provided by the other who has the means of providing the same.

CHAPTER 11.—*Of the dissolution of the marriage.*

Art. 86. A valid marriage is not dissolved except on the death of one of the spouses.

Art. 87. Although a marriage can be dissolved according to the laws of the country in which it was celebrated it shall not be dissolved in the Republic except in conformity with the preceding article.

Art. 88. The presumed death of the absent or missing spouse does not enable the other to contract a new marriage. Until the death of the absent or missing spouse has been proved the marriage is not considered as dissolved.

CHAPTER 12.—*Of the nullity of the marriage.*

Art. 89. The marriage is absolutely null which has been celebrated with any of the impediments established in sections 1, 2, 3, 4, 5, and 6 of article 9, and the declaration of its nullity may be demanded by the spouse who was ignorant of the existence

of the impediment and by those who might have opposed the celebration of the marriage.

Art. 90. The marriage is nullable—

(1) When it was celebrated with the impediment established in section 4 of article 9. The nullity may be demanded by the incapable spouse and by those who on his or her behalf might have opposed the celebration of the marriage. The nullity can not be demanded after the incapable spouse or spouses shall have attained the legal age, nor whatever may be the age, when the wife shall have conceived.

(2) If the marriage was celebrated with the impediment established in section 7 of article 9, the nullity may be demanded by those who might have opposed the marriage. The nullity may be demanded by the incapable spouse upon recovering reason unless the marital life shall have continued, and by the other if he or she was ignorant of the incapacity at the time of the celebration of the marriage and shall not have continued the marital life after knowing of the incapacity.

(3) When the consent is affected by any of the vices mentioned in article 15, the nullity can be demanded only by the spouse who has suffered from the error, fraud, or violence. The right of action is extinguished if the cohabitation continued in the husband's case for three days, and in the wife's for thirty days, after acquiring knowledge of the error or fraud or after suppression of the violence.

(4) In case of the impotence, absolute and manifest, of one of the spouses, previously to the celebration of the marriage, the right of action appertains exclusively to the other spouse.

Art. 91. The action of nullity of marriage can be instituted only during the life-time of both the spouses; nevertheless, one of the spouses may at any time take proceedings against a second marriage contracted by the other spouse, and if the opposition be on the ground of nullity of the former marriage this shall be first adjudicated upon.

Art. 92. The marriage celebrated by the spouse of an absent person with presumption of death can not be impugned except by proving the existence of the absent person.

CHAPTER 13.—*Effects of nullity of marriage.*

Art. 93. If the null marriage was contracted in good faith by both spouses it shall produce up to the day on which its nullity is declared all the effects of a valid marriage, not only in relation to the persons and property of the spouses but also in relation to the children.

In such case the nullity shall have the following effects only:

(1) As regards the spouses, all the rights and obligations produced by the marriage shall cease, excepting only the reciprocal obligation of providing maintenance when necessary.

(2) As regards the property, the effects shall be the same as if one of the spouses had died, but until the death of one of them the other shall have no right to the advantages or benefits granted by the marriage settlement to the survivor.

(3) As regards the children conceived during the putative marriage, they shall be considered as legitimate, with the rights and obligations of the children of a valid marriage.

(4) As regards the natural children, conceived previously but born subsequently to the putative marriage between the father and mother, they shall be legitimized in the same cases as those in which a subsequent valid marriage produces that effect.

Art. 94. If there was good faith on the part of one of the spouses only, the marriage shall, up to the day on which the nullity is declared, also produce the effects of a valid marriage, but only as regards the spouse of good faith and the children.

The nullity in this case shall have the following effects:

(1) The spouse of bad faith can not require maintenance by the spouse of good faith.

(2) The spouse of bad faith shall have no right to any of the advantages granted to him or her by the marriage settlement.

(3) The spouse of bad faith shall not have any paternal or maternal rights over the children, but the obligations towards them shall continue.

Art. 95. If both spouses contracted the marriage in bad faith it shall not produce any civil effect whatever.

In such a case the nullity shall have the following effects:

(1) The union shall be reputed as concubinage.

(2) As regards the property, the effect shall be the same as in the case of the dissolution of a partnership *de facto*, the marriage settlement being void and of no effect.

(3) As regards the children, they shall be considered as illegitimate and in the class in which they are placed by the impediment which causes the nullity.

Art. 96. Bad faith of the spouses consists in the knowledge that they had or ought to have had, on the day of the celebration of the marriage, of the existence of the impediment which causes the nullity.

Ignorance or error of law does not constitute good faith. Nor does ignorance or error of fact, which is not excusable unless the error was occasioned by fraud.

Art. 97. The spouse of good faith may sue the spouse of bad faith, and third parties who may have provoked the error, for compensation for losses and damages.

Art. 98. In all the cases mentioned in the preceding articles, the nullity does not prejudice the rights acquired by third parties who in good faith may have entered into contracts with the supposed spouses.

CHAPTER 14.—Of second or subsequent nuptials.

Art. 99. The wife can not remarry for ten months after the dissolution or annulment of the marriage, except she was then *enceinte*, in which case she may marry at any time after the birth of her child.

Art. 100. A widow who marries in contravention of the preceding article shall lose the legacies or other benefits given to her by her deceased husband's will.

Art. 101. The widow who, having children under age in her custody, shall contract a second marriage must ask the judge to appoint a guardian for them. Should she not do so she will be held responsible to the full extent of her property for any prejudicial results to the interests of her children. The same obligation and responsibility extend to her second husband.

CHAPTER 15.—General provisions.

Arts. 102 to 104. Marriages celebrated after this law comes into operation shall be proved by the record referred to in article 47 or by a certificate thereof, but when the register has been wholly or partially destroyed or is incomplete, or when the record has been omitted by the public officer, other modes of proof are admissible.

Art. 105. A decree deciding that a record has been destroyed, lost, or omitted must be communicated immediately to the public officer to be transcribed into a supplementary register.

Art. 106. If the destruction, falsification, or loss of a record of marriage should lead to a criminal act, the decree establishing the marriage shall be inscribed in the register of civil status and shall supply the place of the record.

Art. 107. The possession of civil status can not be invoked by the spouses or by third parties as sufficient proof when it is a question of establishing the married status or of claiming the civil effects of marriage. When there is possession of status and the record required by article 47 is in existence, the non-observance of the prescribed formalities can not be alleged against its validity.

Art. 108. The jurisdiction in and decision of causes on divorce or nullity of marriages celebrated either before or after this law comes into operation belongs to the civil courts.

Art. 109. When it is a question of a marriage celebrated previously to this law, and the action of nullity shall be founded on an impediment, the provisions of this law shall apply to the case, but if the action be founded on a defect of form the canon law shall apply.

Art. 110. The action of divorce and nullity of marriage must be instituted in the domicile of the spouses. If the husband have no domicile in the Republic, the action may be instituted in the last domicile which he may have had in it, if the marriage was celebrated in the Republic.

Art. 111. Every decree on divorce or nullity of marriage shall be communicated by the judge immediately after it comes into force to the public officer in charge of the register, so that it may be noted in the margin of the record of the marriage if it was celebrated subsequently to this law, or in a special register if celebrated previously.

Art. 112. In the capital of the Republic and in the national territories the functions hereby conferred on the public officers shall be fulfilled by the persons in charge thereof, and where there is no register, by the judicial authority of the district.

Art. 113. The officer of civil status who shall not make the publication of the marriage in the prescribed form, or who shall make it without the required declaration and documents, shall incur a fine of \$50 to \$200.

Art. 114. The public officer who celebrates a marriage without the prescribed publication, except as mentioned in article 51, shall incur a fine of \$200.

Art. 115. The public officer who celebrates the marriage of a minor without the necessary consents shall be punished by imprisonment for one to three months and by the loss of his office, and he who celebrates a marriage knowing that an impediment exists which may be a cause of the nullity thereof shall be punished by imprisonment for twelve months to two years,

Art. 116. The contravention by an officer of the civil registry of any of the other provisions of this law shall be punished by a fine of \$100 to \$500.

Art. 117. The spouse who may have contracted marriage knowing of the existence of any of the impediments mentioned in article 9, and which may have produced the nullity of the marriage, shall be responsible to the other for damages and interest, without prejudice to any criminal proceedings. If the pecuniary loss can not be fixed, the judge shall estimate the moral injury at a sum of money proportioned to the circumstances.

Art. 118. The ministry, pastor, or priest of any religion or sect who shall celebrate a religious marriage without having seen the record referred to in article 47 shall be subject to the responsibilities established by article 147 of the Penal Code, and if he hold any public office he shall be dismissed therefrom.

Art. 119. The application of the penalties established in the foregoing articles shall be asked for by the public ministry from the judge having jurisdiction in the matter.

Art. 120. All the provisions of the code relative to sacrilegious children are repealed. Those who are now called sacrilegious children shall be affiliated according to the civil prescriptions remaining in force.

Art. 121. The public registries, which, according to article 80 of this code, were to be created by the municipalities, shall be created by the respective legislatures.

Art. 122. Article 263 of this code is amended as follows: Legitimate affiliation shall be proved by the inscription of the birth in the civil register, when it exists, and otherwise by the inscription in the parish register, and by the inscription of the marriage in the civil register from the time when this law comes into force and in the parish registers previously. In default of any such inscription, or when it shall have been made under false names or as of parents unknown, the legitimate affiliation may be proved by any other mode of proof.

Art. 123. The widower or widow who, having children by the previous marriage, marries again, is obliged to reserve to the children of the previous marriage, or to their legitimate descendants, the property to which they are entitled by will or intestacy, retaining only the usufruct of the property during his or her life.

Art. 124. The obligation of such reservation ceases if, on the death of the father or mother who contracted the second marriage, there do not exist any children or their legitimate descendants, even though they may leave heirs.

Mr. Vilas to Mr. Blaine.

No. 262.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, August 12, 1889. (Received September 21.)

SIR: The indirect colonization of the vacant lands of this country by means of the concession of great tracts for the formation of colonization societies under the law of 1876 not having given the satisfactory results expected, and the tide of immigration not abating, the executive power submitted to the National Congress on July 29, 1889, a project of a law for the division of 750,000 acres of government land in the territory of Chubut into small holdings of 500 to 1,000 acres each, to be sold directly to agricultural families at prices varying according to the classification of the land, and ranging from \$1 to \$3 (national money) per hectarea, equal to about $2\frac{1}{2}$ acres. It is proposed to divide the whole area of territory indicated into ten sections, one of which is to be allotted to Argentine settlers and the others respectively to the different nationalities of Europe supplying immigration to this country.

In view of the facts that the immigration of the first six months of 1889 has been 126,000 against 155,000 during the whole of 1888, and that much of the government land has passed into private hands under the above-cited law of 1876, this project will undoubtedly receive the legislative sanction.

I am, etc.,

HENRY L. VILAS.

Mr. Vilas to Mr. Blaine.

No. 278.] LEGATION OF THE UNITED STATES,
Buenos Ayres, September 18, 1889. (Received November 4.)

SIR: The financial system of this country is so complicated and the official information regarding it so contradictory that it is extremely difficult to make an exact statement of the public debt of the Argentine Republic.

I send, however, certain tables taken from the recently published report of Mr. Pedro Agote, president of the national public credit department of this Government, made by him for use in the Paris Exhibition, which furnish the most complete and reliable exposition obtainable of the origin, condition, and amount of the active public debt of this country at the end of 1888. By far the greater part thereof is payable in gold and represents foreign capital, irrespective of classification as "home" and "foreign."

From this I take the following statement of the debt on December 31, 1888:

National debt.....	\$336, 341, 442
Provincial	213, 682, 252
Municipality Buenos Ayres debt.....	24, 044, 752
Total December 31, 1888.....	574, 068, 446

A comparison of this amount with the amount of debt at the end of 1886, also taken from Mr. Agote's work, shows an increase of nearly 100 per cent. in two years as follows:

Debt December 31, 1888	\$574, 068, 446
Debt December 31, 1886	296, 821, 379
Increase	277, 247, 067

The chief factor in the growth of the indebtedness, according to the same authority, is the free banking law of November, 1887, since on this head alone the nation had issued at the end of 1888, \$137,544,782, in 4½ per cent. gold bonds, and nearly all the provincial loans since 1886 have been contracted to start so-called free banks.

Under this law the nation issues gold bonds to the amount of issue allowed each bank, 85 per cent. of the par value of which is paid in gold by the bank, and inconvertible notes are delivered by the controlling department to the bank for issue to the amount of the par value of the bonds, which bonds are deposited with and held by the public credit office as guaranty for the respective note issues; and the law further provides that all gold paid therefor by the banks shall be held by the nation for two years from January 1, 1888, then to be applied to the extinguishment of the foreign debt, especially such as bears most heavily on the treasury. Notwithstanding this last provision, in November, 1888, \$7,000,000 of this gold fund were used to take up the so called hard-dollar bonds, and during the last few months twenty-one millions more were sold through the national bank to the market, to arrest the depreciation of the forced paper currency. In view of these facts, it is evident that to the above amount of the national obligation should be added a considerable portion, at least, of the note issue remaining uncovered by public funds.

To ascertain the total indebtedness of the nation there should be considered, also: First, the obligation represented by the government guar-

anty of the mortgage bonds, or cédulas, issued by the national and provincial hypothecary banks, the issue of which is estimated at this date at \$500,000,000 paper money. Second, the railway and other government guaranties.

The above amounts have been much increased since January 1, 1889, the issue of gold bonds under the banking law since then amounting to about \$13,000,000, implying also a corresponding increase of the paper issue.

I am, etc.,

HENRY L. VILAS.

[Inclosure in No. 278.]

Amounts of inconvertible notes issued under free bank law of November, 1887, in the Argentine Republic.

Amounts inscribed:

National Bank.....	\$41,333,333
Buenos Ayres Provincial Bank.....	34,436,280
Santa Fé Provincial Bank.....	5,000,000
Cordoba Provincial Bank.....	4,000,000
Entre Rios Provincial Bank.....	3,000,000
Tucuman Provincial Bank.....	400,000
Do.....	400,000
Salta Provincial Bank.....	125,000
Santiago Estero Provincial Bank.....	2,070,000
Deutsche Uebersee Provincial Bank.....	1,000,000
Cordoba Bank.....	4,000,000
Buenos Ayres Bank.....	500,000
Mendoza Bank.....	3,000,000
La Rioja Bank.....	1,045,000
Salta Bank.....	4,813,706
Fresh issues granted:	
Buenos Ayres Provincial Bank.....	15,563,720
Entre Rios Provincial Bank.....	5,500,000
Cordoba Provincial Bank.....	6,784,935
San Juan Provincial Bank.....	1,658,000
San Luis Provincial Bank.....	602,658
Catamarca Provincial Bank.....	1,193,240
Corrientes Provincial Bank.....	2,119,000
Total.....	137,544,872

NOTE.—The above total is said to have been increased by \$13,000,000 since January 1, 1889, making about \$150,000,000 at date September 18, 1889.

Mr. Pitkin to Mr. Blaine.

No. 12.]

LEGATION OF THE UNITED STATES,

Buenos Ayres, November 20, 1889. (Received December 31.)

SIR: Referring to Minister Hanna's No. 235, May 20, 1889, reciting certain embarrassments to citizens of the United States contemplating marriage here and inclosing translation of the civil marriage law of this country of November 12, 1888, I have the honor to invite your attention to a new enactment herewith inclosed on the subject-matter, involving certain repeals and amendments whereby it will be seen that a certifi-

cate of birth or baptism, and in case of previous marriage a certificate of death, are no longer required and that a certificate of civil status is likewise dispensed with.

I am, etc.,

JOHN R. G. PITKIN.

[Inclosure in No. 12.]

The new civil marriage law.

Congress has amended the civil marriage law as follows:

Article 1. The following clauses of the original act are hereby annulled: First and second and the final paragraph of clause 4 of article 19, as also articles 20, 21, 22, 23, 24, 25, 36, 51, 113, and 114 of law No. 2393, dated November 12, 1888.

Art. 2. In clause 5 of article 19 of the said law the following words shall be interpolated after the word: "declared" "on the identity and."

Art. 3. Suppression shall be made of the reference made in articles 89 and 92 to the fourth clause of article 9.

Art. 4. Article 31 of the said law shall be modified as follows: "Opposition must be made in the presence of the employé who intervenes in the arrangements prior to the celebration of the marriage."

Art. 5. The following shall be added to article 43: "incurring all the responsibility in case of malicious denunciation."

Art. 6. Article 47 shall be modified as follows: "If, in the opinion of the employé intrusted with the civil registry, the parties to be married are in a condition to be married, the marriage shall be immediately celebrated, so that everything be set down in one document, which shall moreover contain (1) the declaration of the contracting parties that they wish to be married, and that of the employé intrusted with the civil registry that the marriage has been celebrated in the name of the law; (2) the recognition by the contracting parties of natural issue, if any, to be legitimized by the marriage; (3) the name, age, estate, profession, and residence of such of the witnesses, if others than those who declared as to the suitability of the contracting parties; (4) the mention of the power, giving date and name of notary before whom said power has been granted, in case of marriage by proxy. Said power shall be, moreover, registered in the bureau."

Art. 7. To article 47 the following shall be added: "In the case of the suitability of the contracting parties not being admitted, or of opposition or of denunciation, the public employé shall suspend the celebration of the marriage until all such obstacles shall have been removed; a statement to this effect should be made in writing and a copy given to the interested parties if they require it, so that they may be enabled to apply to the Juez Letrado de lo Civil."

Art. 8. The following, as a fresh article, shall be inserted after the preceding article: "In the case of the preceding article the statement of the celebration of the marriage shall be made separately from that of the previous arrangements, and shall, moreover set forth (1) the date of the statement; (2) the name, age, profession, residence, and birth-place of the parties appearing; (3) the name, age, profession residence, and nationality of their respective parents, if known; (4) the name of the former deceased husband or wife, in the case of a previous marriage; (5) the consent of the parents, guardians, or that of the judge when necessary; (6) the mention of opposition, if any, and, if so, how such opposition was overcome." 7, 8, 9, and 10 are a repetition of the statements mentioned in article 6, that is, article 47 amended.

Art. 9. Article 52 shall be modified, and the words "and that they should manifest the desire to recognize natural issue" shall be added after the word "death." Also, article 53, the words "according to article 22" to be changed to "by means of notices affixed to the doors of the bureau."

Art. 10. Article 54 shall be modified as follows: "All the steps taken for the celebration of the marriage, with the exception of articles 39 and 43 in that which refers to the substantiation of opposition, shall be made before the public employé, and shall be registered in bound books, without interfering with the other formalities enforced by the civil registry act. The copy referred to in article 50 shall be made on ordinary paper, which copy, as well as the copies of all matters pertaining to the celebration of the marriage, and not requiring a stamp, shall be made gratis."

Art. 11. This law shall come into force from the first day of December of the current year.

Art. 12. Let this be laid before the Executive.

The President has already promulgated this law, to understand which all interested parties must secure a copy of the original act.

AUSTRIA-HUNGARY.

Mr. Lawton to Mr. Bayard.

[Extract.]

No. 114.]

LEGATION OF THE UNITED STATES,
Vienna, February 1, 1889. (Received February 18.)

SIR: On the 30th ultimo (January) it became my duty to announce to the Department the sudden death of the Crown Prince of Austria-Hungary by a cable dispatch as follows:

Crown Prince of Austria died suddenly early this morning in bed.

As soon as the rumors regarding this important event reached this legation—about 2 o'clock p. m. of that day—I made a personal call, accompanied by the secretary of legation, at the ministry of foreign affairs. At a very early hour in the morning of the 31st of January, I received the response of the Secretary of State as follows:

Express through appropriate channel the deep sorrow of the President and people of the United States by reason of the great bereavement suffered by His Majesty and the people of Austria-Hungary in the death of the Crown Prince.

BAYARD.

This message of condolence, accompanied by a note from this legation, I handed personally to the ministry of foreign affairs at the earliest hour practicable. The message and visit were received with evident emotion and grateful recognition, both as to the tone and promptness by which they were characterized.

As the deceased Crown Prince was the only son of the Emperor, and the former left no son, the succession devolves upon Archduke Carl Ludwig, the brother of the present Emperor, and only one year or two younger, and then upon his sons.

I am, etc.,

A. R. LAWTON.

Mr. Lawton to Mr. Bayard.

No. 115.]

LEGATION OF THE UNITED STATES,
Vienna, February 5, 1889. (Received February 25.)

SIR: In my dispatch No. 114, of February 1, 1889, I had the honor to make known to the Department that on receiving the cable dispatch expressing the sorrow and condolence of the President and people of the United States at the death of the Crown Prince of Austria-Hungary I had communicated it by a note to the imperial and royal min-

istry of foreign affairs and had made a personal visit to the minister at the same time, as well to secure the more prompt delivery of the note as to give verbal expression to the feelings of this legation. I now have the honor to send herein translation of the reply of Count Kalnoky, dated February 2, 1889.

I am, etc.,

A. R. LAWSON.

[Inclosure in No. 115—Translation.]

Count Kalnoky to Mr. Lawton.

MINISTRY OF FOREIGN AFFAIRS,
Vienna, February 2, 1889.

The undersigned minister of the imperial household and of foreign affairs has the honor to acknowledge the receipt of note F. O. 54, dated January 31, 1889, in which the envoy extraordinary and minister plenipotentiary of the United States of America, General Alexander R. Lawton, had the kindness to convey the expression of sympathy which his Government by telegraph informs him it feels in our sorrow for the decease of His Imperial Highness the Crown Prince Archduke Rudolph, and to render for this communication, as well as for the expression of personal sympathy, the sincerest and warmest thanks of the Imperial and Royal Government, with the information that the imperial and royal envoy at Washington has been instructed by telegraph to express to the Secretary of State for foreign affairs at Washington our deep-felt gratitude for this valuable proof of sympathy of the American people for our beloved Emperor and for the people of this monarchy.

The undersigned avails, etc.

KALNOKY.

Mr. Lawton to Mr. Bayard.

No. 121.]

LEGATION OF THE UNITED STATES,
Vienna, March 2, 1889. (Received March 16.)

SIR: I have the honor to inclose herein correspondence had between this legation and the imperial ministry of foreign affairs in relation to the sentence of banishment of Hugo Klamer, a citizen of the United States by naturalization, but born in Austria. The letter from this legation, the reply of the ministry of foreign affairs, and the decree of the imperial police, set forth the facts of the case with sufficient clearness to make unnecessary any further statement of them. It is understood that Klamer is still here, not further disturbed by the authorities, and the appeal from the decree of the imperial police not yet disposed of. As this condition of things may last for several weeks, perhaps months, I have thought it best to inform the Department of State of the present aspect of the case.

I take leave to add, by way of further explanation, that this legation made the suggestion in letter dated January 25, 1889 to the imperial ministry, of a temporary suspension of harsh action against Klamer (without waiving any rights on either side) because it was represented by Klamer that it would be well nigh ruinous to him to depart from Austria at the time named to him by the imperial police. The hearing on the appeal has probably not been pressed by either party, and this legation awaits further action in the premises.

I am, etc.,

A. R. LAWTON.

[Inclosure 1 in No. 121.]

*Mr. Lawton to Count Kalnoky.*UNITED STATES LEGATION,
Vienna, January 25, 1889.

SIR: I beg to call your excellency's attention, and to invoke your intervention in the same, to the present condition of Hugo Klamer, a citizen of the United States, who is now temporarily in Vienna. The said Hugo Klamer was born in Vienna in 1859; emigrated to the United States in 1873, at fourteen years of age, and was there naturalized as an American citizen on August 20, 1883. He was in Vienna on a visit to his father, when the father died in December, 1887, which prolonged the stay of the son, and he remained here to attend to the settling up of his father's estate, intending to leave for the United States again in August, 1889. While he was in Vienna, February 11, 1888, Klamer obtained a renewal of his passport from this legation.

On the 15th of the present month (January) the imperial royal police director issued a decree in accordance with the provisions of the penal code of 1852 (paragraph 323), as the decree alleges, permanently expelling the said Klamer from all the kingdoms and countries represented in the Reichsrath, as will more fully appear by reference to an English translation of said decree, which I have the honor to inclose.

Klamer has been officially informed that he must depart on or before the 27th of the present month, and that his permanent expulsion has been decreed because he is considered a fugitive, who emigrated to the United States for the sole purpose of evading military duty in Austria, and who became an American citizen without having first obtained the consent of the Imperial Government of Austria.

I take leave to call your excellency's attention to the terms of the expulsion, which go beyond the ordinary exercise of the police power of a Government, and give the precise reasons for this expulsion, and show that it was intended as a punishment of the said Hugo Klamer, for an alleged offense committed at or before he was fourteen years of age. Your excellency will pardon me for calling your attention to the second article of the treaty of 1870, between Austria and the United States; and especially to the last clause of that article, which seems to negative in express terms the liability of Klamer to "trial and punishment" under these circumstances.

But for the present, without asking the imperial royal ministry of foreign affairs to waive any rights which it claims under their interpretation of the treaty, and without waiving by this legation any rights which the Government of the United States claims under its interpretation of the same, the time being so near at hand when Klamer is required by the police decree to leave the Empire of Austria, and the important business in Vienna cast upon him by the death of his father, requiring his present attention to prevent serious loss to himself and others, and in view of Klamer's declared intention to leave for America on the 1st of August next, I respectfully ask of the imperial royal minister of foreign affairs that the police order as to Hugo Klamer be suspended until the 1st of August, 1889. In the meantime this legation will be pleased to exchange views as to the questions involved with the imperial and royal ministry of foreign affairs.

I have, etc.,

A. R. LAWTON.

[Inclosure 2 in No. 121.—Translation.]

Decree.

The imperial royal police director hereby issues the following decree granting the right of appeal upon the basis of the law of July 27, 1871, R. G. B. 88, paragraphs 2 and 5:

Hugo Klamer is hereby, in accordance with provisions of the penal code of 1852 (par. 323), permanently expelled from all the kingdoms and countries represented in the Reichsrath, and this from considerations of public order and on the ground of the provisions of paragraph 2, chapter 5, of the law of July 27, 1871, R. G. B., 88.

(Signed)

KRAUSS, M. P.

VIENNA, *January 15, 1889.*

This is a correct copy.

[SEAL.]

L. WAPBER

[Inclosure 3 in No. 121.—Translation.]

Mr. Pasetti to Mr. Lawton.

VIENNA, January 27, 1889.

The imperial royal ministry of foreign affairs had the honor of receiving the esteemed note numbered F. O. 52, under date of January 25, 1889, in which the honorable envoy of the United States refers to the expulsion of Hugo Klamer, a naturalized citizen of the United States, and has placed itself immediately in communication with the competent authorities in order to effect a decision in regard to granting a postponement.

While the ministry of foreign affairs will make further communication to the honorable envoy on this matter at some later period, it can not refrain from pointing to facts which have already been learned on hasty inquiry.

Hugo Klamer had received three calls for military duty in Austria before acquiring United States citizenship, and was therefore fully aware of the obligations which he owed to his native country; he absolutely failed, however, to answer the calls made upon him. It has, furthermore, been proved that Klamer came to Vienna as early as 1855 to visit his father, and that after his father's death in December, 1857, he had his name inscribed at the register of the chamber of commerce and board of trade, a proceeding which points to an intention on his part of settling permanently in Vienna.

Nor will Klamer be punished for an offense committed by him when fourteen years old, or for non-fulfillment of military duty, which renders futile his appeal to Article II of the treaty of September 20, 1870, between the United States and Austria-Hungary.

His expulsion is decreed on the ground of public order, a right which every Government must reserve for itself.

The statement of Klamer that he is to be obliged to leave Vienna on the 27th instant, rests upon a misconception, as, having made an appeal against his expulsion, which is now under consideration before the competent tribunal, it could not be carried into execution before a decision has become known whether the appeal has been granted or refused.

Of this the consulate-general has been informed by the chief of police.

While the undersigned hopes that these intimations will not fail to make the affair appear in its true light, he avails himself, etc.

For the minister of foreign affairs.

PASETTI.

Mr. Blaine to Mr. Lawton.

No. 84.]

DEPARTMENT OF STATE,
Washington, March 22, 1889.

SIR: I have received your dispatch (No. 121) of the 2d instant, with which you inclose copies of correspondence with the ministry of foreign affairs relative to the expulsion from Austria of one Hugo Klamer, a naturalized citizen of the United States.

Your presentation of the case appears to have been discreet and proper, and is accordingly approved. You will continue with the same due discretion to look after the case and see that any rights to which Mr. Klamer may be entitled by treaty or by the law of nations are not infringed without due appeal for his protection.

I am, etc.,

JAMES G. BLAINE.

Mr. Lawton to Mr. Blaine.

No. 128.]

LEGATION OF THE UNITED STATES,
Vienna, April 13, 1889. (Received April 27.)

SIR: I have the honor to inclose copies of further correspondence with the ministry of foreign affairs relative to the banishment of Hugo Klamer from the Empire of Austria-Hungary. It will be discovered that when I received the "additional information," including action on the appeal and the grant of leave to Klamer to remain here one month longer than he had asked for, as shown by my first letter to the ministry, there was no further interference with the liberty of the citizen of the United States which presented any case for a demand at present. But it seemed to me that the correspondence should not cease, even for a limited time, without a re-assertion by this legation of the principle involved, and of the construction given by the United States Government to the treaty of 1870. Perhaps the correspondence will now be discontinued.

I am, etc.,

A. R. LAWTON.

[Inclosure 1 in No. 128.—Translation.]

Mr. Krauss to Mr. Jussen.

OFFICE OF THE CHIEF OF POLICE AT VIENNA,
March, 28, 1889.

SIR: Supplementary to my letter of January 22 (No. 5,534), and in reference to the esteemed favor of January 26 (No. 4,150), treating of the expulsion of Hugo Klamer, I have the honor to inform you that the provincial government of Lower Austria, by decree dated March 12 (No. 5,214), makes known to this department that the appeal of Hugo Klamer against decision of January 15 (No. 350) has been rejected, as the measures taken by the police appeared to be fully sanctioned by the laws.

In view of family matters deserving consideration, a respite, however, has been granted to Klamer, and the date at which the expulsion is to take place has been postponed until September 1, 1889.

Of this decision Klamer has been informed this day by letter (No. $\frac{2277}{3772}$) with the additional information that the provincial government of Lower Austria has instructed the police department to explain to Klamer that the carrying out of the provisions of paragraph 2, section 5, of the law of July 27, 1871, R. G. B. No. 88, rendered imperative in the present instance for the good of the public, is not to be regarded as a "punishment" in the legal sense of the term, and that consequently the measures which the police took were by no means rendered questionable by the treaty of September 20, 1870.

With assurance, etc.,

KRAUSS.

[Inclosure 2 in No. 128.—Translation.]

Mr. Pasetti to Mr. Lawton.

VIENNA, April, 7, 1889.

In addition to the information forwarded by the ministry of foreign affairs under date of January 27, 1889, and numbered 2304, relative to the expulsion of Hugo Klamer, the ministry now has the honor of informing the honorable envoy of the United States that this matter has undergone of late another investigation, and that the appeal made by Hugo Klamer against the decision of the director of police has been rejected, as this decision has been found to be in conformity with law, but that, in consideration of family affairs, a respite has been allowed up to September 1, 1889, of which fact Klamer has been already advised by the police.

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

PASETTI.

[Inclosure 3 in No. 128.]

*Mr. Lawton to Count Kalnoky.*LEGATION OF THE UNITED STATES,
Vienna, April 12, 1889.

The minister of the United States has the honor to acknowledge the receipt of the note of the imperial royal ministry of foreign affairs, dated April 7th, 1889, giving additional information relative to the expulsion of Hugo Klamer, and more especially that the appeal of Klamer from the decree of expulsion pronounced by the director of the imperial police had been rejected, but that in consideration of family affairs a respite had been allowed up to September 1, 1889, of which fact Klamer had then been advised by the police. The minister begs to acknowledge the courtesy shown in extending the time of Klamer's stay in Vienna beyond the period requested by this legation, pending the discussion of the principle involved in this expulsion of an American citizen under the circumstances of this case. Mr. Klamer may, for the present, give attention to the pressing private business which detains him in Vienna.

But while cheerfully acknowledging this courtesy, the minister of the United States begs leave to recall and to adhere to the views expressed in his note of January 25, 1889, in first presenting this case to the imperial royal ministry, and as the action of the director of police has been necessarily referred to by the imperial royal ministry in the correspondence which this legation has had the honor to conduct on behalf of the United States and the views of the director of police have been made known by him to the consul-general of the United States and by the consul-general officially transmitted to this legation, the minister begs leave to dissent from the views of said director that the expulsion of Klamer was not intended as "punishment," and respectfully submit that the entire proceeding and correspondence seem to show that Klamer had been expelled because it was alleged that he evaded his military duty and fled from Austria for that purpose. This being the case, the facts and suggestions contained in the letter of January 25, 1889, from this legation attempted to show that it was quite impossible for Klamer to have committed this offense at or before the age at which he left Austria for the United States, and that he was protected by the provisions of the treaty of 1870. The minister further begs leave to call in the aid of the lexicographers to show that the word "punishment" is the only one that can be properly used in connection with the action of the police authorities and of the appellate court, to wit, "pain or suffering inflicted on a person because of an offense committed, and in the enforcement or application of law."

The minister of the United States begs that this note be read in connection with his former note, No. 52, of January 25, 1889, on this subject, and avails, etc.,

A. R. LAWTON.

*Mr. Adee to Mr. Grant.*No. 21.¹DEPARTMENT OF STATE,
Washington, September 19, 1889.

SIR: I have to inclose herewith a copy of a complaint transmitted to this Department by the American consul at St. Galle on the 24th ultimo from Mr. Frank Xavier Fisher, a naturalized citizen of the United States, in relation to his arrest and imprisonment at Wolfurt, Austria.

He states that he arrived at that place on the 19th of August last. On the afternoon of the 21st of the same month he was arrested.

The officer who made the arrest asked him why he had not presented himself for the performance of military duty. Mr. Fisher replied that he was a citizen of the United States, and bore as such a passport issued by this Department. This passport he offered for examination, but such examination was declined, and he was thrown into prison until the following day, when his papers were examined and he was discharged.

Mr. Fisher alleges that at the time of his emigration he had not been conscripted, and this being so, he was not subject under the treaty of

naturalization between the United States and Austria-Hungary of September 20, 1870, to any prosecution for non-fulfillment of military duty. There would thus appear to have been no ground for the action taken against him.

You are instructed to bring the case to the attention of the Austro-Hungarian Government and ask that it be investigated. The proceedings of the authorities at Wolfurt seem to have been hasty and unwarrantable, and to have been taken without any examination into the facts of the case. Without any other ground than the mere fact that Mr. Fisher had been an Austrian subject it was not permissible to assume that because he had not performed military service he had violated the military laws. Before arresting him upon such an assumption care should have been taken to ascertain whether the suspicion had any foundation, and his imprisonment under the circumstances appears to have been unwarrantable.

I am, etc.,

ALVEY A. ADEE.

[Inclosure 1 in No. 21.]

Mr. Robertson to Mr. Wharton.

No. 51.]

UNITED STATES CONSULATE,
St. Galle, August 24, 1889.

SIR: I have the honor to herewith inclose, at his request, an affidavit of Mr. Frank Xavier Fisher, setting forth the circumstances of his arrest and imprisonment by the authorities at Wolfurt, district of Bregenz, Austria, and which will explain itself. Mr. Fisher returns to America within probably a month, and seems anxious to hear from the Department at his address as given at the foot of his statement.

I am, etc.,

W. HENRY ROBERTSON.

[Inclosure 2 in No. 21.]

ST. GALLE, SWITZERLAND, *August 24, 1889.*

I, Frank Xavier Fisher, living at San Francisco, and now temporarily in Europe, being duly sworn, do hereby depose as follows:

I was born at Wolfurt, district of Bregenz, Austria, on the 9th day of August, 1849. I resided at Wolfurt until nineteen years of age, when, on the 9th day of November, 1868, I left for the United States of America, of which I subsequently became a naturalized citizen, in proof of which fact I am now the holder of passport No. 8339, issued on the 26th day of July, 1889, and signed by James G. Blaine, now Secretary of State of the United States.

I left the United States on the 3d of August, 1889, per steamer *Gallert*, sailing from New York for Hamburg, and arrived at Wolfurt, Austria, on the 19th day of August, instant, where, on the afternoon of the 21st, I was arrested by the municipal gens d'arme and thrown into prison. I was asked by said officer why I had not presented myself for military duty at the time fixed by my conscription, which took place after my emigration from Austria, and while I was in the United States, and a knowledge of which conscription I did not have until five or six years after it was made. I replied that I was a citizen of the United States, bearing a formal passport, which I offered to show, but which the authorities declined to examine. Without further ceremony I was carried off to prison, and there kept, under circumstances of great hardship and discomfort, until the following morning, when I was brought before the authorities and my papers examined. I was then released with the permission to either leave or remain on condition of good behavior.

I do now further depose that I regard this treatment of me by the authorities of Austria as wholly unwarrantable, unjust, and unusually harsh, and as a violation of treaty obligations towards the United States and of the principles of international harmony and usage. Having emigrated from Austria before attaining the age at which I was liable for military duty, I deny my liability thereto upon my voluntary return to the country of my birth.

I did not emigrate therefrom after having been drafted at the time of conscription, and had not become enrolled as a recruit for service in the standing army, nor did I emigrate while standing in service under the flag, or during a leave of absence for a limited time, nor under a leave of absence for an unlimited time; or belonging to the reserve or to the militia, did I emigrate after having received a call into service, or after a public proclamation requiring my appearance, or after a war had broken out. I therefore hold, in accordance with existing treaties between the United States and Austria, that having transgressed none of the legal provisions on military duty referred to in Article II, clauses 1, 2, 3, of the convention of 1870, concerning naturalization, and ratified by the Governments of the United States and Austria-Hungary on July 14, 1871, and proclaimed August 1, 1871, that on my return to the latter country I could not be held subsequently to military service nor remain liable to trial and punishment for the non-fulfillment of my military duty.

In view of this arbitrary and severe treatment of myself by the authorities of Brengenz, resulting in the most serious embarrassment, discomfort, and delay to me, I would most earnestly and respectfully hereby petition the Government of the United States to effect through the proper channels a thorough investigation of the facts connected with so grave an outrage against the rights and person of myself, an American citizen, and to demand from the Government of Austria-Hungary a guaranty against the repetition of such acts in future, and a full and practical reparation for the grievous injury committed in my individual case. All of which I do honestly and truly depose under oath and respectfully submit.

FRANK XAVIER FISHER.

In care of P. N. KUSS,
409 Thirteenth street, Oakland, California.

Sworn to before me this 24th day of August, 1889, at the consulate of the United States at St. Galle, Switzerland.

[L. s.]

W. HENRY ROBERTSON,
Consul.

Mr. Blaine to Mr. Grant.

No. 25.]

DEPARTMENT OF STATE,
Washington, October 8, 1889.

SIR: I have to inclose herewith, under date of August 17, 1889, copy of a petition presented to this Department by Hugo Klammer, a naturalized citizen of the United States, born in Austria, who has lately been expelled from that country.

This case forms the subject of the dispatches of your predecessor, Nos. 121 and 128, of the 2d of March and 13th of April last, respectively.

I also inclose for your information a copy of dispatch No. 301, of the 4th of February last, from Mr. Jussen, consul-general of the United States at Vienna, in relation to the same case.

It appears that Mr. Klammer was born in Vienna on the 12th of November, 1859, and emigrated to the United States in October, 1873, being then not quite fourteen years of age. In his nineteenth year, being still a resident of the city of New York, he received a citation to appear for examination as a recruit for the Austrian army. Pursuant to this citation he presented himself at the Austrian consulate in the city of New York, when he was informed that if he intended to remain in the United States he should appear before a notary public, and in the presence of two witnesses declare his intention to become an American citizen. This Mr. Klammer did, and took the document when completed to the Austrian consulate, and there also signed a request to the Austrian Government, which was drawn up by the secretary of the

consulate, to have his name crossed off the list of Austrian subjects liable to military duty. After this Mr. Klamer heard no more of the subject of service in the Austrian army.

On August 20, 1883, being then nearly twenty-four years of age, and having resided in the United States for nearly ten years, he was naturalized as a citizen of the United States.

In 1885, in consequence of the advanced age of his father, Mr. Klamer returned to Austria and proceeded to Vienna. On the third day after his arrival in that city he was called before a police commissioner and informed that he was charged with being a fugitive from military service. This charge appears to have been discontinued. Several months afterwards Mr. Klamer was again called upon to appear before an officer of the military conscription department, but upon exhibition of his certificate of naturalization he was allowed to go. In 1887 his father died. Mr. Klamer and his brother, the only male members of the family, then undertook the settlement of the business of their deceased parent. In January, 1889, that task not having been concluded, Klamer received from the imperial royal police directory a notice of expulsion, which was to take effect on or before the 27th of that month. Upon the intervention of Mr. Jussen the execution of this decree was suspended, and the matter was brought to the attention of the legation, whose correspondence with the Austrian Government you have in your possession.

The grounds stated for the decree of expulsion are that Klamer had emigrated to the United States for the sole purpose of evading military duty as an Austrian subject, and that such conduct might give rise to public scandal; and, notwithstanding the representations of the legation, the decree of expulsion was finally executed.

This proceeding on the part of the Austrian Government appears to have been in derogation of the rights to which Mr. Klamer as a naturalized citizen of the United States of Austrian origin was entitled under the treaty of September 20, 1870. By Article I of that treaty it is provided that—

Citizens of the Austro-Hungarian Monarchy who have resided in the United States of America uninterruptedly at least five years, and during such residence have become naturalized citizens of the United States, shall be held by the Government of Austria and Hungary to be American citizens, and shall be treated as such.

The second article of the treaty provides that—

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, committed before his emigration, saving always the limitation established by the laws of his original country, and any other remission of liability to punishment.

In regard, however, to prosecutions for the evasion of military service the provisions of the article are explicit. The conditions under which a former citizen of the Austro-Hungarian Monarchy who is to be held as an American citizen under the treaty is liable to trial and punishment according to the laws of Austro-Hungary for nonfulfilment of military duty are especially stated, as follows:

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 whilst he stood in service under the flag or had a leave of absence only for a limited time.

Third. If, having 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 the service or after a public proclamation requiring his appearance, or after war has broken out. On the other hand, a former citizen of the Austro-Hungarian Monarchy, naturalized in the United States, who, by or after his emigration, has transgressed the legal pro-

visions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one, two, and three, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the nonfulfillment of his military duty.

It is evident that Mr. Klamer had violated none of the provisions of Austrian law relating to military service, as above defined, and consequently that by the terms of the treaty he was exempt from liability to such prosecution.

In view of this fact, and of all the circumstances of the case—his early emigration to the United States, his long residence here, the object of his return to Austria, and of his residence in that country—it seems to the Department that neither the ground alleged for Mr. Klamer's expulsion nor the oppressive proceedings to which he was subjected were warranted by the facts.

You are instructed to bring this subject to the attention of the imperial royal ministry for foreign affairs in the sense of this instruction.

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1 in No. 25.]

Mr. Klamer to Mr. Blaine.

39, FOURTH PLACE,
BROOKLYN, N. Y., August 17, 1889.

HONORABLE SIR: In the following lines I beg leave to bring to your notice in concise form a case of flagrant violation of the rights of an American citizen, and also a violation of the treaty between Austria and the United States of America:

Born in Vienna, Austria, on the 12th of November, 1859, I emigrated to the United States in October, 1873, landing in New York, New York State, being at the time barely fourteen years of age, having an Austrian passport of three years duration. When nineteen years of age I appeared at the Austrian consulate of New York, having been cited there by an order to be examined as to my bodily ability to be enlisted into the Austrian army.

I thereupon asked the only person present there at the time what was to be done. Mr. Meyer, the secretary of the Austrian consulate, told me I should appear before a notary public and in the presence of two witnesses declare my intention to become an American citizen. This done, I brought him the document, and after having signed a request to the Austrian Government, drawn up by Mr. Meyer, asking the aforesaid Government to cross my name off the list of citizens Austrian born, and as a consequence from the military list, he told me that he would forward the two documents to the competent Austrian authorities, and that nothing more was necessary. And while in the United States I never again was notified from the Austrian consulate to appear before it. I then passed my examination at the New York College of Pharmacy, well knowing that I could not practice pharmacy in Austria with an American diploma; but since I never intended to go back it made no difference to me.

In 1885 my father, then seventy-eight years of age, called me back, he no longer feeling able to attend to his business of a cotton goods manufacturer, a business which was the support of the family, and, feeling his end draw near, wanted to settle up his affairs, and insisted on my return to help him. In consequence I sailed in October, 1885, and really found plenty to do. On the third day after my arrival I was called before a police commissioner and was told I was wanted as a military fugitive, and on my asking was told that the Government had refused to cross me off their list as a citizen born in Austria, and therefore my name was carried forward year by year as a fugitive from my military duty. I then went to Mr. Jussen, the consul-general in Vienna at the time, and he placed me under his protection. I told this gentleman that I was able to swear that I was never notified of this refusal of the Austrian Government, or else I should certainly have undertaken the proper steps to save me the humiliation that was in store for me.

After the lapse of some months I had to appear before an officer of the military conscription department, but, after showing my citizen paper, dated the 20th of August, 1883, superior court of New York, I was again allowed to go. I intended to go back to New York in the spring of 1888, and accordingly went to the legation of the United States and procured a passport, signed A. R. Lawton and dated the 16th

of February, 1888, and to obtain this I swore that in all probability I should sail during the spring of that year.

My aged father died eighty years of age on the 17th day of December, 1887. The only male members of the family, my brother and myself, then took charge of the business under the old name of the firm, but according to Austrian law we had to register our own names, on account of the business taxes. We thought we could arrange the inheritance among ourselves, being my mother, two sisters, my brother and myself, all being of age, but it transpired that father had in his will given the part of my oldest sister to her children, and, in consequence, there were minors in the transaction, and the court took the whole affair into hand. I therefore could not leave, but had to wait until the court should have divided the inheritance. But 1888 went by, and in the spring of 1889 the court had not arranged yet. In April, 1889, I was again called before an officer of the city council of Vienna, and after taking down a protocol wherein I stated all the foregoing, I could go. But a few days after, I got notice from the president of the police of Vienna to leave the city within forty-eight hours. I thereupon went again to Mr. Jussen, who protested against the expulsion, claiming a violation of the treaty.

The grounds and reasons handed down to the police from the department of the interior upon which I was to be expelled, were:

"It being evident that the said Hugo Klamer having emigrated to the United States with the sole purpose to evade his military duty as an Austrian citizen, and furthermore, since this might give rise to public scandal, he is, therefore, for all time to come, expelled from Austria."

The order of expulsion only says that I am expelled forever, because I am found to be a person "endangering public order."

Now, I was never arrested, was highly respected by everybody, and never talked about my American citizenship, much less bragged about it. Mr. Edmund Jussen claimed that a man like myself, having so much of the most vital importance at stake, and having to conduct the business, the largest portion of the wealth and means to live for the whole bereaved family, was under the circumstances ninety-nine times out of a hundred, compelled under such a pressure, to renounce his American citizenship and become again an Austrian.

But, I think it is Article VIII of the treaty says: "That no attempt shall be made by either party to bring or force a citizen of the other part upon his return to his native country to renounce the acquired citizenship." The endeavors of Mr. Edmund Jussen, consul-general, and Mr. A. R. Lawton, minister plenipotentiary, but more particularly those of my lawyer, Mr. Johann Letschke, of Vienna, only had the effect to postpone my expulsion up to the 1st of September, 1889. So I am expelled from Austria forever like a criminal, and that for no just reason.

I hope to have convinced your honor that the reasons for my expulsion can not be called reasons at all.

I have at the present time no business interest in Austria, having sold out to my brother, and intend to live in the United States; but my mother living, I might at some time again have to look to my interests, and could not go on account of being expelled.

There are plenty of Austrians that are not citizens, doing business and making money here without ever being molested; then why should an American citizen that has been in this country since his early youth not go over to Austria on a visit, when Austrians as before said live and do business in the United States, and then go back and enjoy their gain in Austria? I am not envious of them, but why should there not be equal right on both sides?

I hope your honor will take notice of this, my appeal to you, to take the shame of being expelled like a criminal from me as an American, law-abiding, and orderly citizen, and give me the hope that I might at least have the right to go over there again when my duties by my mother or my interests demand it.

Hoping to receive your esteemed reply, I take the liberty to annex my address, and beg to remain,

Yours, very respectfully,

HUGO KLAMER.

[Inclosure 2 in No. 25.]

Mr. Jussen to Mr. Rives.

No. 301.]

UNITED STATES CONSULATE-GENERAL,
Vienna, February 4, 1889.

SIR: I have the honor to report that on the 18th day of January ultimo Mr. Hugo Klamer, a naturalized American citizen, applied to this consulate-general for protection against a decree of expulsion issued against him by the imperial royal police directory of this city.

All the facts in the case, as well as the argument upon which the official protest of this consulate-general was based, will appear sufficiently and clearly from the several inclosures herewith respectfully transmitted.

The time originally fixed for carrying the decree of expulsion into effect expired on January 27th ultimo, and no reply having been received up to the 23d of January from the imperial royal police directory by this consulate-general, I considered it my duty under the regulations to submit all the papers in the case to the United States legation for further action. Since that date I have been favored with an answer from the police directory, from which it appears that an appeal has been taken by Mr. Klamer to the municipal government, and that the original decree, together with my protest has been referred to this tribunal for final decision. Up to this date no definite action has been taken by the city authorities, but I understand that the United States legation has presented the case, together with a copy of the protest, to the imperial royal ministry of foreign affairs. To what extent and purpose the ministry of foreign affairs may influence and control the final decision of the municipal government remains to be seen. Whatever action, however, may be taken in the premises, there can be no doubt that such action will be dependent on the sanction of the ministry of foreign affairs, and a definite construction of the treaty applicable to this case will thus be obtained from the highest authority in the empire.

I trust the Department will approve of the spirit and tenor of my protest, and will concur in the view that it is highly desirable that a clear understanding should be arrived at with reference to the construction of the treaty in question, so that our Government may be fully advised as to the treatment to be expected by naturalized American citizens of Austrian descent when temporarily visiting their old home.

I have, etc.,

EDMUND JUSSEN.

[Inclosure 3 in No. 25.—Translation.]

Mr. Jussen to the imperial royal police directory.

No. 4122.]

UNITED STATES CONSULATE-GENERAL,
Vienna, January 18, 1889.

The Consulate-General of the United States of America begs leave to inform the honorable police directory that Mr. Hugo Klamer, a naturalized American citizen, has this day claimed the protection of his Government against the decree of expulsion issued against him by the honorable imperial royal police directory, a true copy of which decree is hereunto annexed.

Mr. Klamer has exhibited his American passport and his certificate of naturalization to this consulate-general, and the said documents were found to be genuine and valid in law. According to his statement, the truth of which, as I am informed, is not questioned by the honorable police directory, Hugo Klamer was born in Vienna in 1859, and emigrated in the year 1873, when he was in his fourteenth year, to the United States of America. The superior court of New York issued his certificate of naturalization on the 20th day of August, 1883, and he returned to Vienna, in the year 1885 for the purpose of visiting his father and of remaining here for a limited time.

His father died in 1887, and his death was the direct cause of the prolongation of Hugo Klamer's sojourn in Vienna. He foresaw that the settlement of his father's estate would require considerable time, and as he desired to fortify himself against all possible question as to his rights as an American citizen, he made the required application for a passport at the office of the United States legation in Vienna, and his passport was duly issued to him on the 16th day of February, 1888, after Mr. Klamer had affirmed in writing, under oath, that he intended to return to the United States of America, to fulfill his duties of an American citizen, as soon as his business in Vienna was arranged. Mr. Klamer now states with positive certainty that he expects to be able to return to the United States in the month of August of the current year.

It appears from the annexed decree of expulsion, and Mr. Klamer has been moreover officially informed, that the expulsion has been decreed in accordance with the provisions of the penal code of the year 1852 (paragraph 323), and that the imperial royal authorities regard Klamer as a fugitive, who emigrated to America for the sole purpose of avoiding military service, and who became an American citizen without first having obtained the consent of the imperial royal government.

According to the provisions of the treaty concluded between Austria-Hungary and the United States of America the reasoning upon which the expulsion is based does not seem tenable. The consent of the imperial royal government is only required in case the Austrian subject is *held to military duty at the time of his emigration*, in accordance with Article II of the treaty. But Hugo Klamer, emigrating as a boy at

the age of fourteen years, was not subject to military duty, and can, therefore, according to the express language of said Article II, not be held to punishment for non-fulfilment of that duty, not even then, if it was proven that he emigrated for the purpose of evading military service *in the future* because Article II provides that the Austrian emigrant, naturalized in the United States, can, on his return, be held liable to punishment only if at the time of his emigration he was either a recruit enrolled for service, or stood under the flag, or belonged to the reserve or the militia, after a public proclamation requiring his appearance had been issued, or after war had broken out.

Moreover, the assertion is hardly maintainable that a boy who emigrates at the age of fourteen years, who resides twelve years uninterruptedly in the United States and acquires American citizenship during his residence there, and then returns to his old home for the purpose of a visit, and is compelled by circumstances to prolong his visit, but declares under oath that he intends to return to the United States at an early day, has emigrated for the purpose of evading military service.

All the facts contradict this assertion and disprove the reasons advanced for issuing the decree of expulsion.

Nevertheless, Hugo Klamer, who has the undoubted right to be treated as an American citizen, is now to be held liable to punishment by the Imperial Royal Government because he failed to fulfill a condition which is not recognized in the treaty. He is to be expelled because he did not obtain the consent of the Government to his emigration, although such consent was not required in his case. He is to be punished because, it is alleged, he emigrated to avoid military service, although the facts prove that he emigrated to make the United States his permanent home, and although such punishment is not admissible under Article II.

As a consequence of this argument the great majority of all naturalized American citizens of Austrian descent might expect immediate expulsion on visiting their old home.

This consulate-general also respectfully begs leave to call attention to Article IV of the treaty in question, which provides:

"The emigrant from the one state who, according to Article I, is to be held as a citizen of the other state, shall not, on his return to his original country, be constrained to resume his former citizenship, yet if he shall of his own accord re-acquire it, and renounce the citizenship obtained by naturalization, such a renunciation is allowable, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country."

The return therefore of the Austrian emigrant after his naturalization in the United States seems to be provided for and his right thereto guaranteed. The inevitable and logical consequences of the privileges granted in this article are that the Austrian naturalized in the United States may return to the country of his nativity without being either directly or indirectly compelled to resume his former citizenship, and that he is entitled to a temporary sojourn in Austria.

The threat of expulsion, however, is equivalent to a compulsory measure and may make it expedient for the Austro-American citizen temporarily sojourning here for the purposes of business to resume his former citizenship as the only refuge against expulsion.

For these reasons and in view of the provisions of the treaty heretofore cited this consulate-general believes it to be its duty to protest against the expulsion of Hugo Klamer.

Aside, however, from the reasons stated, other causes exist which argue against the expediency of the enforcement of so draconic a measure by the imperial royal authorities.

In the United States and especially in the port of New York reside hundreds of Austrian subjects who have, for a long series of years, been engaged in the importation of Austrian merchandise and have never harbored the intention to acquire American citizenship. These Austrians have in course of time increased the export of Austrian manufactures to the United States to the sum of 25,000,000 florins per annum. They are very successful competitors of the American importer as well as manufacturer, and monopolize almost completely the trade in Vienna specialties. Most of these gentlemen return to their old home to enjoy their fortune after they have amassed it in the United States. These foreigners are of no particular benefit to the United States; on the contrary, they impair the business interests of the American importer and manufacturer.

In view of these facts the question arises in what manner the action of the American authorities would be judged here in Austria, in case they should suddenly expel these foreign importers from the country and thus injure the export trade of Austria and especially that of the city of Vienna. And yet such action would only be in the nature of a retaliatory measure if the proposed expulsion of Hugo Klamer is carried out.

My Government has always made the most liberal concessions to foreigners. Even

during the civil war, when a general conscription was ordered, the United States did not disturb the foreigners, although many of them, Austrians included, were transacting lucrative business, and were exempt from military duty, while the American stood in the field under arms and protected the persons remaining at home in their possessions.

An expulsion was not even thought of in those agitated times and much less carried out. How long these liberal and extremely humane views will prevail if expulsion of American citizens like the one in question is decreed here can not be predicted.

After submitting these facts and considerations, this consulate-general respectfully requests the honorable imperial royal police directory to answer this communication at its earliest convenience, and to inform the undersigned whether the honorable police directory is disposed to rescind the said decree of expulsion, or whether it affirms its decision. In the latter case the duty would devolve upon the consulate-general to submit the question, together with the correspondence relating thereto, to the United States legation at Vienna, for the purpose of obtaining a final decision on the part of the imperial royal ministry of foreign affairs, and thus giving my Government positive and final information with reference to the treatment which naturalized American citizens of Austrian descent may expect on the part of the Imperial Royal Government.

Inasmuch as the expulsion of Hugo Klamer is ordered for the 27th instant, this consulate-general begs to be favored with an answer by the 23d instant. If no answer should be received up to that date this consulate-general will be in duty bound to report the case at once to the United States legation, so that the question may be submitted to the Austro-Hungarian ministry of foreign affairs before the time fixed for expulsion expires.

With the assurance, etc.,

EDMUND JUSSSEN.

[Inclosure 4 in No. 25.—Translation.]

Decree.

The imperial royal police directory hereby issues the following decree, granting the right of appeal, upon the basis of the law of July 27, 1871, R. G. Bl. 88, paragraphs 1, 2, and 5:

Hugo Klamer is hereby, in accordance with the provisions of the penal code of the year 1852 [paragraph 323], permanently expelled from all the kingdoms and countries represented in the Diet (Reichsrath), and this from considerations of the public order, and on the ground of the provisions of paragraph 2, chapter 5, of the law of July 27, 1871, R. G. Bl. 88.

VIENNA, January 15, 1889.

KRAUSS, M. P.

This is a correct copy.

[SEAL.]

VIENNA, January 15, 1889.

L. WAHBER.

[Inclosure 5 in No. 25.—Extract.]

Mr. Jussen to Mr. Lawton.

UNITED STATES CONSULATE-GENERAL,
Vienna, January 24, 1889.

SIR: In pursuance of consular regulations I have the honor to transmit herewith a copy of the protest addressed by this consulate-general to the imperial royal police directory of Vienna *in re* Hugo Klamer, together with a translation of the same.

The facts upon which the protest is based appear, I think, sufficiently clear upon the face of the protest.

I desire to state that I am fully aware of the inherent power vested in all governments to expel foreigners from their respective domains without any cause or provocation whatever, and that I am also informed as to the exceptional extent of power granted and exercised by the police authorities of this Empire. But in the case under consideration the expulsion is based upon a penal law, and the American citizen to be expelled has been officially notified that he is regarded as a fugitive from military service and to be punished as such. Against this position, and against this untenable basis of the draconic measure proposed, I believed it my official duty to protest.

In my protest I had asked the favor of an answer by the 23d instant, because the time fixed for expulsion expires, according to official notice served on Mr. Klamer,

on the 27th instant. The honorable police directory has not seen fit to comply with my request, and having failed to obtain the desired redress from the local authorities I now beg leave to submit the whole question to you for the purpose of obtaining a final decision at the hands of the imperial royal ministry of foreign affairs. Inasmuch as it is not to be expected that the ministry of foreign affairs will render a final decision by the 27th instant, I would most respectfully suggest that a temporary stay of proceedings be applied for, in order to forestall the probability that Mr. Klamer be transported across the lines as a quasi criminal while his rights as an American citizen are held under consideration by the imperial royal minister of foreign affairs.

I am, etc.,

EDMUND JUSSSEN.

[Inclosure 6 in No. 25.]

Mr. Jussen to Mr. Lawton.

UNITED STATES CONSULATE-GENERAL,
Vienna, January 24, 1889.

SIR: In my letter of this date, inclosing my protest in the case of Hugo Klamer, I omitted to call your attention to the fact that the proposed expulsion is *permanent for all time to come*, so that, if the decree is affirmed, Mr. Klamer can never again visit his old home, no matter what the exigencies of his business or his family relations may require.

The decree could not possibly be more sweeping and cruel unless confiscation of the property inherited from his father was added to the expulsion.

I think the proceeding is unusually harsh and certainly calls for an energetic protest.

I am, etc.,

EDMUND JUSSSEN.

[Inclosure 7 in No. 25.—Translation.]

Mr. Krauss to Mr. Jussen.

VIENNA, January 22, 1889.

SIR: Referring to your esteemed communication of the 18th instant, No. 4122, in regard to the expulsion decree issued against the American citizen Hugo Klamer, under date of January 15 instant (No. 350), I beg leave to inform you that the said Klamer has, under date of January 21 instant, appealed from this decree, of which he was notified on January 18 instant.

The expulsion decree has, therefore, not as yet gone into effect, but will, together with the documents thereto appertaining, and with the motion for appeal annexed, be submitted to the honorable municipal government (*Statthalterei*) as appellate tribunal for competent decision.

The time for the eventual enforcement of the decree can, therefore, not be fixed before this decision is rendered, and the belief that the 27th of January instant was fixed for the carrying out of the decree, as stated in your esteemed communication, is based upon a misunderstanding.

I have forwarded your esteemed communication, together with the motion for appeal, to the honorable municipal government (*Statthalterei*) for further action.

With the assurance, etc.,

KRAUSS.

[Inclosure 8 in No. 25.—Translation.]

Mr. Jussen to Mr. Krauss.

UNITED STATES CONSULATE-GENERAL,
Vienna, January 26, 1889.

SIR: I have the honor to acknowledge the receipt of your esteemed communication of the 22d instant, which was, however, not delivered to me until to day, and I respectfully beg leave to inform the honorable imperial royal police directory that, in pursuance of the provisions of consular regulations, I have already transmitted a copy

of the protest entered by this consulate-general against the proposed expulsion of Hugo Klammer to the United States legation, under date of the 24th instant, because I was under the impression that the said protest had been rejected by the honorable police directory, as I had not the honor to be favored with an answer to the same by the 23d instant.

As regards the statement contained in the esteemed communication, namely, "that the belief that the 27th day of January instant was fixed for the carrying out of said decree was based upon a misunderstanding," I respectfully beg leave to say that Mr. Hugo Klammer informed this consulate-general that at the time when said expulsion decree was served upon him he was notified by the imperial royal police officer making such service that said decree would be enforced on the 27th instant.

Inasmuch as this consulate-general regarded this verbal notice as official, and as no date for the enforcement of the decree was noted upon the face of this document, this consulate-general thought it proper to be guided in its action by the verbal notice referred to.

With the assurance of my grateful appreciation of your esteemed communication and of the explanation with reference to the mode of procedure in the case under consideration,

I have, etc.,

EDMUND JUSSEN.

Mr. Grant to Mr. Blaine.

No. 37.]

LEGATION OF THE UNITED STATES,
Vienna, October 10, 1889. (Received October 26.)

SIR: Your instruction (No. 21) of the 19th ultimo, inclosing a copy of the complaint of Mr. Frank Xavier Fisher, a naturalized citizen of the United States, on account of his arrest and imprisonment at Wolfurt, Austria, was duly received, and I have now the honor to transmit herewith a copy of a note, which, in compliance with your direction, I addressed to Count Kalnoky, Imperial and Royal minister of foreign affairs, on the 5th instant, requesting that the facts in the case be thoroughly investigated.

Adding that such information as I may receive in the matter will be promptly communicated to the Department,

I am, etc.,

F. D. GRANT.

[Inclosure in No. 37.]

Mr. Grant to Count Kalnoky.

LEGATION OF THE UNITED STATES,
Vienna, October 5, 1889.

YOUR EXCELLENCY: I have been instructed by the Acting Secretary of State to bring to your excellency's attention the complaint of Mr. Frank Xavier Fisher, a naturalized citizen of the United States, in relation to his arrest and imprisonment at Wolfurt, Austria.

It appears that Mr. Fisher was born at Wolfurt, district of Bregenz, Austria, on the 9th day of August, 1849; that he resided there until he was nineteen years of age; that he emigrated to the United States on the 9th of November, 1868, and that in due course of time, and in accordance with law, he became a naturalized American citizen; that he is now the bearer of passport No. 8339, issued to him on the 26th day of July, 1889, by the Department of State at Washington; that he left the United States on the 3d of August, 1889, for Hamburg, and arrived at Wolfurt, Austria, on the 19th of August, 1889; that on the afternoon of the 21st of August he was arrested by the municipal *gens d'arme*, and asked why he had not presented himself for military duty at the time fixed for his conscription; that the conscription in question took place after his emigration from Austria, and while he was in the United States, and that he had no knowledge of the said conscription until five or

six years after it was made; that he informed the officer who arrested him that he was a citizen of the United States, bearing a formal passport which he offered to show; that an examination of the passport was declined, and that he was, without further ceremony, carried off to prison and there kept, under circumstances of great hardship and discomfort, until the following morning, when he was brought before the authorities and his papers examined; that he was then released, with permission either to leave Wolfurt, or to remain on condition of good behavior.

It is submitted to your excellency that, upon this statement (as to the truth of which the complainant has made affidavit) Mr. Fisher was not, under the convention of the 20th September, 1870, between the United States and the Austro-Hungarian Empire, liable to trial and punishment, according to the laws of the Imperial Royal Government of Austro-Hungary for the non-fulfillment of military duty.

The proceedings of the authorities at Wolfurt seem to my Government to have been hasty and unwarrantable, and to have been taken without any examination into the facts of the case. From the well-known sense of justice and friendship for the United States of the Imperial Royal Government of Austria-Hungary, it is believed that your excellency will be ready to admit that care should have been taken to ascertain whether Mr. Fisher had violated the military laws of this country before arresting him upon such an assumption, and that his imprisonment under the circumstances was arbitrary and wholly unjustifiable.

The Acting Secretary of State has accordingly directed me to express the hope that your excellency will cause the facts in this case to be thoroughly investigated.

I avail, etc.,

F. D. GRANT.

Mr. Blaine to Mr. Grant.

No. 29.]

DEPARTMENT OF STATE,
Washington, October 28, 1889.

SIR: Your dispatch (No. 37) of the 10th instant relative to the alleged illegal arrest and imprisonment of Mr. Frank Xavier Fisher has been received.

Your note to the foreign office in regard to the case is approved as in accordance with the Department's instructions.

I am, etc.,

JAMES G. BLAINE.

Mr. Grant to Mr. Blaine.

No. 44.]

LEGATION OF THE UNITED STATES,
Vienna, November 27, 1889. (Received December 14.)

SIR: I have the honor to transmit for your perusal an article which appeared in the Fremden Blatt of the 14th instant, with the translation of the same, which I have caused to be made, the article being upon the subject of the swindles which have been practiced during the present year or two upon the peasantry of Galicia and Hungary. I also take occasion to inclose two other articles upon the same subject, which I have taken from the Vienna Weekly News of the 19th and 26th instant; the latter paper being an English print of this city.

My object in forwarding these articles, Mr. Secretary, thinking that you may be interested in reading them, is to keep the Department informed, as far as I am myself, in a matter which appears to be a great fraud and swindle upon a people who were seeking homes in our country.

I am, etc.,

F. D. GRANT

[Inclosure 1 in No. 44.—Translation.—From the Fremden Blatt.]

TRADE OF EMIGRANTS TO AMERICA.

At Wadomice, a town of Galicia but little known, a trial is now taking place the interest of which extends far over the limits of this monarchy. The crime imputed to the accused, "trade of emigrants to America," was committed by the same persons at the same time in Austria-Hungary and Germany. The prosecuting attorney, Tarnowsky, referring to this "trade," says in one part of his accusation that there "existed within the limits of Austria a territory which actually was beyond the reach of the law, where, in defiance of order and personal liberty, all kinds of tricks were played upon unfortunate emigrants." Nor did the prosecuting attorney omit to name *the high officials* who not only suffered this state of things to go on, but who, in some instances, even prompted the perpetration of these crimes.

As far as the police is concerned, it must be owned with shame that it lent a willing hand for a monthly remuneration or a certain percentage, and that, instead of preventing crimes, they committed them. In mitigation, however, it must be said that they were subject to the orders of the district authorities, whose instructions, as they allege, they simply carried out.

This trial also proves again the well-known fact that criminals are a fraternity, which is international and interconfessional. Polish, German, and Hungarian criminals here go hand in hand to cheat and rob Polish, German, and Hungarian emigrants. Christians and Jews for years carried on a nefarious traffic in human beings, selected alike from the ranks of Christians and Jews. Criminals flock together everywhere; they understand each other without regard to nationality and religion.

All the accused (sixty-five in number) were divided into twenty-eight sections, and arraigned on the following charges: Violence and privation of personal liberty (paragraph 93), extortion (paragraph 98), abuse of official power (paragraphs 101 and 102), accepting bribes (paragraph 104), bribing others (seduction) to abuse official power (paragraph 105), robbery (paragraph 109), fraud (paragraph 197), false assumption of an official title (paragraph 199), concealment of deserters (paragraph 290), and inducing soldiers to desert (paragraph 222). The names of the principal offenders are: Julius Neumann, keeper of railway refreshment room at Ausschwitz, Jacob Klausner, merchant, Simon Herz, cattle dealer, Julius Löwenberg, merchant, Marcell Iwanicki, imperial royal revenue officer and chief of police, Adam Kostoeki, custom-house official, Arthur Landau, merchant, Isaac Landerer, merchant, Josef Eintracht, manufacturer of varnish, Herman Zeitinger, railway door-keeper, Ernst Edward Zopoth, cashier at the railway station at Ausschwitz, and Vincenz Zwilling, farmer.

Inquiries made by the courts of justice show that emigration to America from some of the districts of Galicia has assumed gigantic dimensions. In proportion to emigration is the sale of farms and the spread of pauperism, and if the books of the agent of the Hamburg steamship line, seized at Ausschwitz, show that from May, 1887, to July, 1888, the sum of 595,041 florins was received for passage tickets *after* deduction of agent's provision, and that the agent of the North German Lloyd took, in the course of two months, 27,313 florins, the sums are by no means all enumerated which annually find their way abroad. The reason why Ausschwitz was selected by the steam-ship lines as the main point where to establish their agencies in Galicia was because it is the only town which is in direct railway communication with the German sea-ports.

The most notorious of the agents appointed by the Hamburg line was the leaseholder of the railway refreshment rooms at Ausschwitz, Julius Neumann. His outrageous conduct at last attracted the attention of the railway company; who gave him the choice to either give up the agency or the lease of the restaurant. As the former could flourish only as long as he was at the same time leaseholder of the restaurant he made over the latter *pro forma*, in 1882, to Herz and Löwenberg, but remained as silent partner. In this way the first emigration company was started at Ausschwitz. Their immense gains soon created competition, which reached its climax when the controller of the custom-house and the commissary of police formed a partnership with the railway cashier and the door-keeper and established an agency for emigrants on the premises of the railway depot. No emigrant could escape them, because every passenger had to come in contact with one or the other of these officials. The last established agency authorized by the provincial government was that of Klausner, at Brody, who was the agent of the Cunard Steam-ship Company.

For some time the competing companies, by reducing the fares and increasing the commission of their agents, tried to monopolize the trade each for itself until, in 1886, they formed a ring, regulated the prices, and consolidated the different companies under one firm, authorized by Government and styled the "Hamburg Agency at Ausschwitz." Competition having now come to an end they could henceforth more effectually fleece the emigrants by charging arbitrary prices.

After consolidation had taken place a system was organized to hire subagents, runners, and a force of men armed and provided with clubs, who had to escort the emigrants from the railway station to the hotel owned by one of the gang, where exorbitant prices were charged them for the poorest kind of accommodation until the time had come for their departure.

We now come to the worst feature of the case. Railway officials, as well as police and revenue officers, were induced by the agents to give them aid for a monthly pay, and they not only suffered this state of things to go on, but even took an active part in it. One *Bezirkshauptmann* (chief officer of the county) named *Födrich*, received an annual salary of 1,000 florins. Not only the Austrian officials allowed themselves to be bribed, but also the Prussian frontier guards accepted money from the agents. Nothing, in fact, was left undone to turn the stream of emigration to *Ausschwitz*. Whenever emigrants refused to buy their tickets there, or had already a ticket which had been sent to them from America, then the commissary of police appeared on the scene. This unscrupulous and avaricious official came to the railway station on the arrival of every train, arrayed in full uniform, and had those emigrants pointed out to him by his agents who accompanied the train, who had bought their tickets already or were going by other lines. They were then ordered to enter the office of the police commissary to show their documents and their money; and the tickets which they had already were confiscated, the commissary ordering them in his character as imperial royal police officer to purchase tickets at the "imperial royal agency," otherwise he would be compelled to arrest them and send them home again. Those who had no money to buy a second ticket were handed over to the police constables to be sent home.

After the opening of the Bremen agency, in May, 1888, the situation of the company became more difficult. A new philanthropist made his appearance on the stage, the owner of real estate and member of numerous corporations, *Vincenz Zwilling*. He was intrusted with the management of this agency in the fall of 1887 by the agent of the North German Lloyd at Krakau. At first he did not seem to be in a hurry to establish himself; he was probably negotiating with the rival company to come to terms with him. When he found that his efforts in that direction were fruitless he mounted the high horse of patriotism and philanthropy and petitioned the provincial government, claiming to have been solicited by the gentry to take charge of the Bremen agency, because he could no longer stand quietly and see the wicked doings of the Hamburg agency. To prevent the public, however, from mistaking the Bremen agency for the Hamburg agency he demanded the closing of the latter. This request the authorities did not grant; but he was allowed to open his agency in May, 1888. The commission which the company allowed him was 3½ florins for each passenger, guarantying him, aside from this, an annual income of 6,000 florins, with no other duty to perform except to sign his name to the passage tickets. *Zwilling* thereupon commenced to organize his clerical staff. He engaged none but persons who had gained their experience at the Hamburg agency, and who knew all their secrets. The energy displayed is proven by the fact that from May 10 to July 24 *Zwilling* received for commission 1,781 florins, and *Zeitinger*, his chief clerk, 400 florins. The struggle between the two competing agencies was a most desperate one, and fights were of frequent occurrence at remote villages, at railway stations, and in the cars between the representatives of the two rival agencies. The scenes at the railway depot at *Ausschwitz*, where the armed runners of both agencies posted themselves to receive the emigrants, defy description. Blood flowed freely, each party trying to get possession of the emigrants, who thereby suffered as much as the runners themselves by being knocked about. After the fight was over each party drove its victims to its own agency, *Landerer* and *Landau* heading the "Hamburger," and *Zeitinger* the "Bremer."

The office of the Hamburg agency was divided off in the center by a railing, in front of which stood crowded together the emigrants, while behind it strutted *Löwenberg*, attired in a fancy uniform, trying to make believe that he was an imperial official, while his clerks addressed him as "*Herr Bezirkshauptmann*." A picture of the Emperor, in life size, adorned the wall, for the purpose of giving the room the air of an Imperial office. Outside the door were posted several runners with orders to let nobody in or out during proceedings. The emigrants were then told to hand over their documents and their cash, which they usually did without any remonstrance. Arbitrary prices were demanded for tickets; in case of refusal, the commissary of police was sent for, who appeared in full uniform and threatened arrest and transportation home. If threats had no effect, he would slap their faces and threaten to hand them over to the military authorities for evading military duty. This would invariably have the desired result. If an emigrant was short of money, the agent would telegraph, in the emigrant's name, to the relatives to send some. Nor did the robbery end here; one of the clerks, *Halatek*, conceived the idea of bringing an alarm clock to the office, when emigrants were told that a telegram had to be sent to Hamburg to find out whether there was still a vacant

berth. The alarm clock was set in motion, and after a while an answer came back for which the emigrant, as a matter of course, had to pay. Telegrams were also sent to the American "Emperor," to find out whether he would permit the landing of a certain emigrant. All these telegrams had to be paid for by the emigrant. Another trick to extort money was, for one of the clerks to put on a fancy uniform and pretend to be a surgeon to examine the emigrants and find out whether they were fit to go to America. This examination also had to be paid for. Sometimes an emigrant was pronounced to be unfit, and he was given to understand that by offering ten florins to the surgeon he would be passed, which was frequently done. Passports for America were also issued and charged for with ten to twenty florins.

At the Hotel de Zator, kept by one of the gang, the emigrants had to pay exorbitant prices for the poorest kind of accommodation. What was left to them in Austria was finally taken away from them when they reached Hamburg.

From May, 1887, to July, 1888, 5,799 persons, aged from twenty to thirty-two years, and liable therefore to military duty, were taken from the population.

Finally, however, the catastrophe came. A week before the closing of both agencies the agents threatened each other with criminal proceedings and the publication of each other's doings. At the beginning of July, 1888, the governor of the province of Galicia and the president of the police at Krakau instructed a police officer to proceed to Auschwitz and make a full report. On his arrival there a last attempt was made to avert the impending ruin by Landerer, who tried to bribe the officer by offering him fifty florins and a valuable ring. The officer accepted both, and after depositing them reported everything to his superiors, who, after investigation, arrested the whole gang. Three hundred and seventy-seven witnesses will give testimony at the main trial, during which no less than four hundred and thirty-nine letters and other communications will be read, among the latter two communications from the ministry of public defense; depositions of the Austro-Hungarian consulates in Bremen, Hamburg, and New York; statements made by the minister of war, and a letter of the ministry of the interior of the German Empire.

[Inclosure 2 in No. 44.—From the Vienna Weekly News of November 19, 1889.]

EMIGRATION SWINDLE IN GALICIA.

Of an unusually sensational and revolting nature are the revelations which have come to light in Galicia relative to the wholesale impositions which have of late years been practiced on emigrants by the agents of an emigration company known as the "Hamburger Agentie, in Oswiecin." The agents in question seem not only to have had it all their own way and to have been the undisputed masters of the situation, but also inveigled by means of bribery some of the municipal and police officials. Their power, in fact, was little short of autocratic, and in innumerable instances they seem to have ruled the peasantry of the country with an iron hand. The trial before the law court at Wadowice, which commenced on the 14th instant, of no fewer than sixty-five prisoners, the majority of whom are Polish Jews, is of no ordinary interest, a careful perusal of the facts of the case supplying a graphic portrait of the social state of the country in the more remote districts, and of the universal corruption in vogue among the more intelligent portions of the community. It is scarcely to be credited that a state of affairs so shocking as that revealed before the law court at Wadowice could have been endured for so long a time in a so-called civilized country under a civilized administration. The sensational facts of the case are too voluminous to allow of illustration in detail, but a passing glimpse will suffice to give our readers a correct idea of the state of social life in Galicia.

The object of the company was the transfer of emigrants from Galicia and Hungary to America, and, in order to make hay while the sun shone, the emigrants on falling into the clutches of the agents were cheated and robbed without mercy, and on offering remonstrance were subject to corporal punishment. So gross, indeed, is the ignorance of the Galician rustic that it was generally believed among the peasantry that the Austrian Government not only countenanced but aided the emigration agents.

That the company prospered may be judged from the following figures: From May 1, 1887, to July 24, 1888, 12,406 emigrants were dispatched by the agents to America, and the passage money paid by them, exclusive of exorbitant sundries, from Hamburg to America was 595,641 florins.

The company's offices were so arranged as to give the idea of their being Government offices, and the presiding deities, two Jews named Herz and Löwenberg, with the assistance of the police commissioner, Iwanicki, received in this sanctum the emigrants and sold to them the tickets for their passage out. The emigrants mostly came in shoals from the distant villages, where they had fallen a prey to the hirelings,

who were paid a high commission by the heads of the enterprise, and who, on entrapping the unfortunate wretches, treated them like herds of cattle and drove them to headquarters, often lashing the refractory with their whips. The emigrants who attempted to escape were recaptured by the gendarmes and threatened with imprisonment. On reaching Oswiecim they were as a rule housed at Hotel de Zator, where they were under lock and key to prevent their escape, and where they were charged high prices for food and accommodation.

At the office of the company the proceedings were on a level with the deceptions in force on all sides. Such of the emigrants who were leaving the country to escape military service, and who had more money than would pay for their passage out, were examined by the medical adviser of the company, no other than one of the partners in disguise, and were informed that they were physically unfit for emigration. They were then given to understand by a third party that by offering the pseudo physician a bribe of ten florins the latter would throw no impediment in their way and that they might then go to America. Another no less artful means of extracting money was by means of an alarm-clock. This clock answered the purpose of a telegraphic machine. The emigrant was told that the company would have to telegraph to Hamburg to inquire whether there was room for him on the ship that was about to sail. The alarm was set going and after a while it was put again into motion to signify that the reply had arrived. For all of this the emigrant had to pay dearly. Another deception was that of informing the emigrant that the "Emperor of America" must be petitioned for permission to enter his dominions, and a telegram was dispatched by the alarm-clock, which was duly answered by his transatlantic majesty.

[Inclosure 3 in No. 44—From the Vienna Weekly News of November 26, 1889.]

EMIGRATION SWINDLE IN GALICIA.

Concerning the emigration swindle in Galicia, the discovery of which is causing so much sensational excitement in all parts of the Austrian Empire, there is much more to tell than what was contained in our comparatively brief account last week. The cupidity of the Galician peasantry has naturally provided the newspaper-reading public with material of a stirring kind and the sternest of cynics and most charitable of philanthropists combined can not fail to discover many a phase of an essentially facetious nature in the disclosures the law court of Wadowice has brought to light. At the same time it goes against the grain in this enlightened age of neighborly good-will to hold in derision what is at bottom fraught with so much corruption and has been productive of an almost unlimited amount of misery. Restricting ourselves to that portion of legal proceedings relating to the social position of the prisoners we are at once confronted by phases of life and society, the existence of which were to most of us entirely unknown and the narration of which reads like the well remembered fables of our childhood.

The Galician peasant, owning in the majority of cases "three acres and one cow," was systematically done out of the three acres and the cow by the wolf in the clothing of the sheep. The emigration agents are in the pay of the companies running steamers between Europe and the United States of America, and are entitled by the companies to so much a head on every emigrant they contrived by fair means or by foul to secure. To talk the credulous rustic over by representing to him the countless advantages emigration has to offer was a comparatively easy task, always provided the agent was sufficiently qualified in the matter of lying and in the practice of duplicity in every conceivable shape to win the confidence of his victim. In a word the agent was a consummate scoundrel and a heartless villain. The agents of the various companies wore badges and colors to distinguish them from one another. It very often happened that an emigrant won over by the agent of one color or company fell subsequently into the hands of a rival agent and was fleeced a second time and subject to additional insults and impositions. When rival agents met, quarrels, which terminated in fights, not infrequently ensued. The trade tariffs in human merchandise fluctuated according to the prosperity of the business. In some cases the agents were entitled to eight florins a head on every emigrant, in others a higher or lower sum was offered. The object of the agent was not to lose sight of his victims. The emigrants had strict orders on starting on their long journey on no account to enter into conversation with any person they might meet on the way but on reaching a junction station, such as Vienna, to be on the look out for the agent who had orders to meet them there, and whom they would recognize by the color of the badge on his hat or coat, which color corresponded with the one worn by them. By this means the sub-agent at the junction station had no difficulty in singling out his prey and in keeping strict watch over him until he continued his journey. The agent lying in wait at the railway station provided the emigrant with food and then kept him under lock and key to prevent all chance of his escape.

The excitement of the populace in the district of Wadowice during the trial, which is now going on, is so great that the authorities feared the breaking out of a riot and the military had to be summoned to maintain order. Twelve of the accused, who are railway conductors and who have been discharged for having aided the agents in the transfer of their human freight, have petitioned the magistrates to be imprisoned during the trial, as they are destitute and unable to provide for themselves. The law court decided to allow them the sum of forty kreutzers a day for their support, and a similar arrangement was made in the case of seven others of the accused. Another distressing instance demanding special notice is that of a juror named Miedzibrodzki. The man, the father of seven children, is so destitute that he was obliged to sleep with some of the accused on straw in a shed. The scandal was so great that the Minister of Justice gave the telegraphic order to pay each juror three florins per day during the trial.

CORRESPONDENCE WITH THE LEGATION OF AUSTRIA-HUNGARY AT WASHINGTON.

Mr. Bayard to the Chevalier de Tavera.

DEPARTMENT OF STATE,
Washington, January 30, 1889.

SIR: It is my sad office to inform you that upon the receipt of telegraphic dispatch, dated this day, from our minister at Vienna, announcing the sudden death early this morning of His Imperial Highness the Archduke Rudolph, Crown Prince of Austria, I at once sent a cable instruction,* a copy of which I inclose, to the United States minister at Vienna, instructing him to express the condolence of the President and people of the United States in this sudden bereavement of His Majesty the Emperor and the nation of Austria-Hungary.

I hasten to reiterate to you, as their representative, the official and personal sympathy which is felt here for the imperial family in this sudden and severe loss of the heir to the throne, whose many noble qualities of mind and heart gave promise of so brilliant a future, and who will long be lamented.

Accept, etc.,

T. F. BAYARD.

The Chevalier de Tavera to Mr. Bayard.

AUSTRO-HUNGARIAN LEGATION,
Washington, January 30, 1889. (Received January 31.)

SIR. Anticipating to have to address you a further communication in the name of my Government, I hasten to express you herewith my sincerest thanks for the expression of your sympathy for the imperial family on the occasion of the lamentable death of His Imperial and Royal Highness the Archduke Rudolph.

The affliction caused by this sad occurrence will be a profound one for all the subjects of the Austro-Hungarian Empire, who have to bewail the loss of a Prince who had already well acquired a claim to their love and gratitude by the conscientious devotion with which he dedicated his brilliant and numerous talents to all the duties entrusted to him by his Imperial and Royal Majesty, my most gracious sovereign.

Accept, etc.,

TAVERA.

* For inclosure see dispatch No. 114 from United States minister at Vienna.

Count de Crenneville to Mr. Bayard.

AUSTRO-HUNGARIAN LEGATION,
Washington, February 2, 1889. (Received February 4.)

SIR: I have herewith the honor to transmit to you a copy of a telegraphic dispatch, by which I am instructed to tender to the President of the United States the sentiments of the deepest gratitude of his Imperial and Royal Majesty, my most gracious sovereign, his Government, and the Austro-Hungarian people for the condolence expressed through your minister at Vienna by reason of the death of his Imperial and Royal Highness the Crown Prince.

Requesting you, sir, to forward the expression of this feeling to its high destination, accept, etc.,

For the minister of Austria-Hungary,

C. CRENNVILLE.

[Inclosure.—Translation.]

Count Kalnoky to Count de Crenneville.

You will please tender to the President of the United States, in the name of His Majesty, of the Government, and of the people of Austria-Hungary, the warmest thanks for the telegram of condolence presented through Minister Lawton, which was received here with the highest appreciation.

KALKNOKY.

Mr. Bayard to the Chevalier de Tavera.

DEPARTMENT OF STATE,
Washington, February 4, 1889.

SIR: I have the honor to acknowledge the receipt of the copy of Count Kalnoky's telegram in relation to the death of the Crown Prince which accompanied your note of the 2d instant, and to inform you that the same has been placed in the hands of the President.

Accept, etc.,

T. F. BAYARD.

Count de Crenneville to Mr. Wharton.

AUSTRO-HUNGARIAN LEGATION,
Washington, August 10, 1889. (Received August 12.)

SIR: I have the honor to transmit to you a letter addressed to the Austro-Hungarian consul in Milwaukee, by Mr. Bradley G. Schley, relative to the Emerich Hasziel, who, on arriving with his family in New York, was re-embarked on the steam-ship *Trave* for Bremen by the collector of the port.

The two affidavits here inclosed show that Emerich Hasziel is not at all a contract laborer, and that George Hasziel, his brother, who resides in Milwaukee since a year and who is still an Austrian subject and a poor man, has paid the amount of \$124.50 for the tickets. This sum should be, under the circumstances, repaid to him. I have therefore the honor to call your attention, sir, to this matter, and begging you to inform me of the decision which your Government will take, I renew, etc.,

C. CRENNVILLE.

[Inclosure 1.]

Mr. Schley to Mr. Von Baumbach.

MILWAUKEE, August 2, 1889.

DEAR SIR: I hand you herewith passports of George Hasziel, now a resident of this city, but still an Austrian subject, also original and supplemental affidavits of said George Hasziel and Emerich Kusick. Emerich Hasziel and family, on arrival at the port of New York, were detained as contract-laborers and were, on July 24, 1889, per order of the collector of the port of New York, and against the protest of the Lloyd Line, returned to Europe on the same steamer that brought them over, viz, steamer *Trave*, and will arrive to-day or to-morrow at Bremen. On their arrival at Castle Garden, Emerich Hasziel telegraphed his brother in this city that he was detained. We immediately telegraphed that we would furnish affidavits showing that the detained parties were not contract-laborers, and we immediately forwarded affidavits, but they did not arrive in time and the parties were sent back. The facts set forth in the inclosed affidavits seem to me to bring the case clearly within the proviso of the fifth section, chapter 164, Laws of Congress, for the year 1885, which is as follows:

"Provided, That nothing in this act shall be construed as prohibiting any individual from assisting any member of his family or any relative or personal friend to migrate from any foreign country to the United States for the purpose of settling here."

George Hasziel is a poor man. The \$124.50 that he paid for the tickets is the result of his own hard work. If, and it seems to me clear that the collector of the port did exercise authority without warrant of law in sending these people back, then the Government should either make good the money expended by Hasziel or revoke its order and bring his relatives back to this country free of charge to him.

If there are any other facts and circumstances which you desire I will endeavor to furnish them.

Trusting you will use your best efforts towards obtaining a speedy revocation of the order of the collector, and to secure indemnity for this man,

I have, etc.,

BRADLEY G. SCHLEY.

[Inclosure 2.]

Affidavit of Emerich Kusick.

STATE OF WISCONSIN,
Milwaukee County, ss :

Emerich Kusick, being duly sworn, deposes and says that he lives at the city of Milwaukee, No. 424 Poplar street; that he is a tinner by trade and peddles his own wares, and is in partnership with one George Hasziel; that said George Hasziel is a brother of Emerich Hasziel, who is now detained at Castle Garden in the city of New York, on the claim that said Emerich Hasziel is a contract laborer; that in March last said George Hasziel desiring to purchase tickets and bring his brother said Emerich Hasziel to this country, and not having sufficient money so to do, deponent advanced him \$60 to purchase tickets to bring said Emerich Hasziel and certain relatives to this country. That said Emerich Hasziel is not a contract laborer; that deponent engages no laborers, and simply advanced the money aforesaid to his partner as an ordinary loan; that there is no contract between deponent and said Emerich Hasziel to repay said money, but said Kusick looks exclusively to said George Hasziel for the same; that said Emerich Hasziel, as deponent is informed and believes, contemplates making tin-ware and peddling the same as this deponent does.

EMERICH (his x mark) KUSICK.

Subscribed and sworn to before me this 22d day of July, 1889.

BRADLEY G. SCHLEY,
Notary Public, Wisconsin.

[Inclosure 3.]

*Affidavit of George Hasziel.*STATE OF WISCONSIN,
Milwaukee County, ss :

George Hasziel, being duly sworn, says that he lives with said Emerich Kusick, who makes the annexed affidavit, at the same house; that he is a brother of said Emerich Hasziel, mentioned in annexed affidavit detained at Castle Garden; that in March last, desiring to bring his brother and certain relatives to this country and not having sufficient ready money so to do, he borrowed from Emerich Kusick \$60 to make up the amount necessary to purchase tickets to bring his brother and said relatives across; that he went to the office of E. Silverman and purchased tickets in the name of said Emerich Kusick, the reason for doing so that said Kusick was to forward the tickets, and did cause them to be forwarded to his (said Kusick's) wife, who resides at Rovne, Austria-Hungary; that said Emerich Hasziel is in no sense a contract laborer, but comes as any other immigrant to take up a home and make a living; that said Emerich Hasziel contemplates making tin-ware and peddling the same as this deponent does.

Subscribed and sworn before me this 22d day of July, 1889.

GEORGE HASZIEL.

BRADLEY G. SCHLEY,
Notary Public, Wisconsin.

[Inclosure 4.]

*Affidavit of George Hasziel.*STATE OF WISCONSIN,
Milwaukee County, ss :

George Hasziel, being duly sworn, deposes and says that he makes this affidavit in addition to the affidavit made by him the 22d day of July, 1889; that he bought said tickets April 6, 1889; that the \$60 which he borrowed from his partner, Emerich Kusick, has been repaid by him; that the tickets cost \$124.50; that said tickets were sent to said Emerich Hasziel in care of Mrs. Kusick, wife of said Emerich Kusick; that deponent is an Austrian subject, never having taken out any papers of naturalization in this country.

Deponent further states that he made no contract whatsoever with his brother for the repayment of the money which he sent over to him; that he expected his brother and family to come here and settle here; that Emerich Kusick and this deponent are both practical tanners—make tin-ware and peddle the same; that deponent's brother, Emerich Hasziel, is also a practical tinner, and deponent expected that he would enter into the same line of business, making his own tin-ware and peddling, as said Kusick and deponent did.

GEORGE HASZIEL.

Subscribed and sworn to before me this 2d day of August, 1889.

BRADLEY G. SCHLEY,
Notary Public, Wisconsin.

[Inclosure 5.]

*Affidavit of Emerich Kusick.*STATE OF WISCONSIN,
Milwaukee County, ss :

Emerich Kusick, being duly sworn, deposes and says that he makes this affidavit in addition to the affidavit made by him the 22d day of July, 1889; that he is an Austrian subject; that he employs no laborers, but he does his own work, making his own tinware, and peddling it himself; that said money advanced by him to said George Hasziel has been repaid by said George Hasziel to deponent; that said Emerich Hasziel and family were coming here to take up a settlement; and that to the best information and knowledge of deponent there was no contract or agreement whereby said Emerich Hasziel was to work out the money sent to him by his brother George. Deponent is a tinner by trade.

EMERICH (his x mark) KUSICK.

Subscribed and sworn to before me this 2d day of August, 1889.

BRADLEY G. SCHLEY,
Notary Public, Wisconsin.

Mr. Wharton to Count de Orenneville.

DEPARTMENT OF STATE,
Washington, August 14, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant concerning the case of Mr. Emerich Hasziel, who was not allowed to land at the port of New York on the ground that he was a contract laborer; also to inform you that the matter has been referred to the Secretary of the Treasury.

Accept, etc.,

WILLIAM F. WHARTON.

BELGIUM.

Mr. Rives to Mr. Tree.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 20, 1888.

Upon application authorities State of New York, you are instructed to request detention Adolph Sambolino, now under arrest at Antwerp, pending arrival extradition papers charging forgery.

RIVES.

Mr. Rives to Mr. Tree.

No. 146.]

DEPARTMENT OF STATE,
Washington, October 24, 1888.

SIR: The following telegram was sent you to-day, viz:

WASHINGTON, *October 24, 1888.*

TREE, *Minister, Brussels:*
Sambolino papers forwarded.

RIVES.

You are instructed to make formal application for the surrender of Adolph Sambolino, charged with forgery in the State of New York, and a fugitive from the justice of the United States, to Mr. Charles Heidelberg, or such other person as may be duly authorized to receive him as the agent of this Government.

The warrant and an authenticated copy of the papers in the case, will be sent from New York to-morrow, the 25th instant, to Antwerp to Mr. Charles Heidelberg, the agent of the Government.

I am, etc.,

RIVES.

Mr. Tree to Mr. Bayard.

No. 406.]

LEGATION OF THE UNITED STATES,
Brussels, October 31, 1888. (Received November 13.)

SIR: I have the honor to inform you that on the 20th instant, at 10 o'clock in the evening, I received the following cablegram:

Upon application authorities State of New York, you are instructed to request detention Adolph Sambolino, now under arrest at Antwerp, pending arrival extradition papers charging forgery.

RIVES.

The same evening, and immediately after the receipt of the cablegram, I addressed a note to the minister of foreign affairs, requesting the Government of His Majesty, the King, to cause the proper authorities at Antwerp to be instructed to detain Sambolino pending the arrival of the extradition papers. A copy of my note is herewith inclosed.

The next day being Sunday, the Foreign Office was closed, but on Monday morning, the 22d instant, I called there personally, and saw the director-general of the department, Mr. Leopold Orban, to whom I repeated orally the request, showing him at the same time the cablegram. He said the request would be complied with, and that my note of the 20th instant, on the subject, had been already sent to the Department of Justice. At the same time he remarked it was going further than the stipulations of the extradition treaty between the United States and Belgium, though in 1886 Count d'Arsehot, then *chargé d'affaires ad interim* of Belgium, had in accordance with instructions from the Belgian minister of foreign affairs, proposed to our Government, the addition of a clause to the treaty providing for temporary arrests on information by telegraph received through the diplomatic representative pending the arrival of the necessary documents, but that the negotiations were not successful by reason of objections on the part of our Government.

He said, also, that all other treaties concluded by Belgium contained such a clause.

I expressed the desire to know the precise points on which the negotiations with our Government had turned, and also the language of the clause which he said was contained in other extradition treaties concluded by Belgium. He said he would give me the information in a few days in writing and, accordingly, on the 27th instant, I received from the minister of foreign affairs the note which I herewith inclose.

Although the conversation took place which I have detailed, there was not the slightest hesitation manifested in granting my request for the detention of Sambolino, who, I understand, has been under arrest at Antwerp since the 19th instant.

I have also the honor to acknowledge the receipt of cablegram of the 24th instant, reading as follows:

Sambolino papers forwarded.

RIVES.

I am, etc.,

LAMBERT TREE.

[Inclosure 1 in No. 406.]

Mr. Tree to the Prince de Chimay.

LEGATION OF THE UNITED STATES,
Brussels, October 20, 1888—10 p. m.

YOUR EXCELLENCY: I have the honor to inform your excellency that I have just this moment received a cable from my Government directing me, on the application of the authorities of the State of New York, to request the Government of His Majesty the King to cause the detention of one Adolph Sambolino, now under arrest at Antwerp, pending the arrival of extradition papers charging said Sambolino with the crime of forgery.

I will therefore be extremely thankful if your excellency will cause the proper authorities of the Government at Antwerp to be instructed as soon as possible to this effect.

I avail, etc.,

LAMBERT TREE.

[Inclosure 2 in No. 406.—Translation.]

*Prince de Chimay to Mr. Tree.*MINISTRY OF FOREIGN AFFAIRS,
Brussels, October 27, 1888.

MR. MINISTER: The consul of the United States at Antwerp has himself solicited the temporary arrest of the man Adolph Sambolino on the subject of which your excellency has done me the honor to write to me the 20th of this month.

This individual has been detained at Antwerp since the 19th instant.

Without doubt it will not have escaped your excellency that the convention of the 30th of June, 1882, does not contain any stipulation determining the conditions under which a temporary arrest may be claimed from the Belgian Government and reciprocally from the Government of the United States.

Until now no demand for temporary arrest or extradition had been formulated by the cabinet of Washington, but it is not the same on our side.

Until in 1886 all our requests for arrest formulated by way of the telegraph had been welcomed by the Secretary of State at Washington and the American judicial authorities.

A change took place then. The Belgian Government having solicited the temporary arrest of the men, Mandelius and Edelhausen, Mr. Bayard informed the legation of the King at Washington, on the 2d of August, 1886, that in spite of the fact that the Department of State had in some preceding cases issued a warrant with a view of arresting fugitive criminals without waiting for the presentation of the necessary papers to corroborate the accusation, this manner of proceeding would not be followed henceforth *unless they were expressly specified in the stipulations of the treaties.*

Mr. Bayard added, however:

"The clauses of the article 5270 of the Revised Statutes of the United States are sufficient (in the absence of similar special stipulations of the treaty between the United States and Belgium) to cover the case which we are considering."

The judge at New York decided otherwise about it.

It was under these conditions that on the 16th of September, 1886, the Count d'Arsechott, then *chargé d'affaires ad interim*, of Belgium, proposed, conformably to my instructions, to regulate the question of temporary arrest by a clause thus conceived:

"On information by telegraph received through a diplomatic source that a warrant has been issued by a competent authority for the arrest of a criminal fugitive charged with one of the crimes, misdemeanors, provided in article 2 of the convention of the 13th of June, 1882, and to the article * * * of present additional convention, and on the assurance coming from the same source, that a demand for the extradition of the fugitive is on the point of being made conformably to the stipulations of these conventions each Government will make efforts to procure the temporary arrest of the individual, and shall hold him during a reasonable time, which may not exceed two months, to await the production of the documents on which the request of extradition is founded."

The 30th of December, 1886, Mr. Bayard, by a letter of which I have the honor to transmit herewith a copy to your excellency, expressed to the minister of His Majesty at Washington the desire to suspend the negotiations.

Since then the situation has not changed. I am pleased to hope that the preceding explanation responds to the expectation of your excellency, who has kindly sought to obtain oral information in the offices of my department on the rules which regulate temporarily arrest between Belgium and the United States.

I will add that all other treaties concluded by Belgium contain a clause touching the temporary arrest, and provide a delay varying from fifteen days to three months during which the detention may be maintained while awaiting the demand of extradition, transmitted through the diplomatic source.

"In case of urgency," Article 6 of the convention of the 15th of August, 1874, between Belgium and France, provides that "temporary arrest will be effected on notice transmitted by mail or telegraph of the existence of a warrant of arrest, on the condition, however, that this notice shall be regularly given through diplomatic source to the minister of foreign affairs of the country where the culprit has taken refuge. The arrest of the foreigner will take place under the forms and following the established rules of law of the Government upon which the demand has been made."

Article 7 adds "that the foreigner temporarily arrested will be discharged if within a delay of fifteen days after his arrest he does not receive notification of one of the documents mentioned in article 5 of the convention."

Accept, etc.,

PRINCE DE CHIMAY.

[Inclosure 3 in No. 406.]

Mr. Bayard to Mr. de Bounder de Melsbroeck.

[Extract.]

DEPARTMENT OF STATE,
Washington, December 30, 1886.

SIR: Referring to the note of the Count d'Arshot of the 16th of September last, proposing certain additional articles to the convention of extradition between the United States and Belgium, I now have the honor to inform you of the opinion of the Department upon the modifications and additions suggested.

The first proposal in the note referred to was the substitution for Article VII of the present treaty of a provision for the arrest of alleged fugitives on a telegraphic requisition. The proposed substitute, as you have doubtless observed, is substantially identical with Article VI of the recently proclaimed extradition treaty with Japan, with the exception that the article proposed in the note of Count d'Arshot binds each Government, without any qualifications, to endeavor, upon the receipt of a requisition by telegraph, to cause the preliminary arrest of the alleged fugitive, while the treaty with Japan requires this to be done by each Government "so far as it lawfully may."

In the United States as well as in Belgium, procedure in extradition is in great part regulated by statute. At present there is no provision in the statutory law of the United States for the arrest of alleged fugitives on telegraphic requisitions; and in view of this fact, it is not deemed advisable to make, for that purpose, unqualified conventional engagements whose execution might be attended with inconvenience and uncertainty. For the present, therefore, it may be expedient to postpone consideration of the proposed substitute for Article VII of the existing convention.

Accept, etc.,

T. F. BAYARD

Mr. Tree to Mr. Bayard.

No. 409.]

LEGATION OF THE UNITED STATES,
Brussels, November 10, 1888. (Received November 26.)

SIR: I have the honor to inform you that your instruction (No. 146) of the 24th ultimo, on the subject of the extradition of Adolph Sambolino, reached me on the 5th instant, and the same evening about 6 o'clock Mr. Charles Heidelberg, the agent of the Government, called at the legation with the necessary papers. As Mr. Heidelberg was anxious to return by the steamer of Saturday from Antwerp, I forthwith remitted the papers to the minister of foreign affairs with a note urging speedy action in the case, a copy of which is herewith inclosed. Although I have not yet received formal notice from the foreign office of Sambolino's surrender to Heidelberg, I have every reason to believe that it has been done and that he sailed to-day accompanied by his prisoner.

I am, etc.,

LAMBERT TREE.

[Inclosure in No. 409.]

*Mr. Tree to the Prince de Chimay.*LEGATION OF THE UNITED STATES,
Brussels, November 5, 1888.

YOUR EXCELLENCY: Referring to my letter of the 20th ultimo on the subject of the detention of Adolph Sambolino, a fugitive from justice, I have now the honor to transmit herewith to your excellency the warrant and other authenticated copies of the papers in the case, and, under instructions from my Government, to request the Government of His Majesty the King to kindly issue the usual warrant for the delivery of the fugitive into the custody of the agent of the Government of the United States, in pursuance of the treaty stipulations existing between the two countries.

Mr. Charles Heidelberg, who is now at Antwerp, has been designated by the President as the agent of the Government to conduct the said Sambolino to the United States. The original instrument conferring this authority upon him is also inclosed herewith.

I profit by the occasion to say to your excellency that Mr. Heidelberg informs me that Sambolino is willing and anxious to return to the United States with Heidelberg in the shortest possible time—the exactness of which statement may be easily ascertained by questioning him, the prisoner—and as the regular steamer sails from Antwerp for New York next Saturday, Mr. Heidelberg is anxious to go on that day if possible.

Thanking your excellency and the Government of His Majesty for the courtesies already shown to my Government in this case,

I avail, etc.,

LAMBERT TREE.

Mr. Tree to Mr. Bayard.

[Extract.]

No. 417.]

LEGATION OF THE UNITED STATES.

Brussels, November 23, 1888. (Received December 3.)

SIR: I have the honor to inclose herewith a copy of a letter addressed to me by the minister of foreign affairs, giving me formal notice of the surrender of the man Sambolino into the hands of Mr. Heidelberg on board the steamer *Westernland* on the 10th instant.

I am, etc.,

LAMBERT TREE.

[Inclosure in No. 417.—Translation.]

The Prince de Chimay to Mr. Tree.

MINISTRY OF FOREIGN AFFAIRS,

Brussels, November 19, 1888.

MR. MINISTER: Referring to your letter of the 6th of this month, I have the honor to inform your excellency that the man Sambolino, Adolph, was conducted on board of the steamer *Westernland*, Saturday, the 10th of November, and surrendered into the hands of Mr. Heidelberg.

Accept, etc.,

PRINCE DE CHIMAY.

Mr. Bayard to Mr. Parkhurst.

No. 18.]

DEPARTMENT OF STATE,

Washington, January 28, 1889.

SIR: I have to acknowledge the receipt of Mr. Tree's dispatch (No. 406), of the 31st of October last, in which he informed the Department of the provisional arrest and detention by the Belgian authorities, upon the request of this Government, through its Legation at Brussels, of one Sambolino, who has since been extradited to the United States.

With his dispatch Mr. Tree inclosed a copy and translation of a note of his excellency the Prince de Chimay, Belgian minister of foreign affairs, bearing date the 27th of October, and responding to Mr. Tree's request for Sambolino's provisional detention. His excellency states that the consul of the United States at Antwerp had solicited the temporary arrest of the fugitive, who had, accordingly, been detained at Antwerp since the 19th of October. His excellency then observes that

the convention between the United States and Belgium of the 30th of June, 1882, does not contain any stipulation determining the conditions under which provisional arrest may be claimed from the Belgian Government and reciprocally from the Government of the United States. His excellency further states that until 1886 the telegraphic requests of the Belgian Government for such arrest had been welcomed by the Secretary of State of the United States and the judicial authorities in this country; but that a change then took place. The Belgian Government, he states, having solicited the temporary arrest of two fugitives, named Mandelius and Edelhausen, the Secretary of State informed his Belgian majesty's representative at Washington, on the 2d of August, 1886, that, although the Department of State had in some preceding cases issued a warrant with a view to the arrest of fugitive criminals without waiting for the presentation of formal evidence of the offense charged, such a proceeding would not be followed thereafter unless expressly authorized by treaty stipulation. It is remarked, however, that in the note conveying this decision the Secretary of State observed that the provisions of section 5270 of the Revised Statutes of the United States were sufficient, in the absence of treaty stipulations, to cover the case then under consideration. But the minister of foreign affairs states that the judge at New York decided differently, and that subsequently the Belgian chargé d'affaires at Washington unsuccessfully endeavored to secure an additional provision in the treaty to secure arrest on telegraphic information.

It does not appear by our records in what form the question above stated came before a judicial magistrate in New York; whether he gave his opinion in a case actually before him, or merely by way of advice in advance of a case arising. But in the view the Department takes of the subject these considerations are not material.

At or near the time when this Department, in 1886, notified the Minister of Belgium, in the case of Mandelius and Edelhausen, that the issuance of preliminary certificates to obtain the provisional arrest of fugitives had been discontinued, save in cases of explicit treaty requirement, applications for such papers were made by other governments than that of Belgium and refused. It is well known that the issuance of these so-called warrants of arrest was not required by any statute of the United States, but was begun many years ago and practiced, from time to time, in consequence of the opinion expressed by some of our judges that our judicial magistrates possessed no jurisdiction to entertain proceedings for the apprehension and committal of alleged fugitive criminals without a previous requisition from the Government of the country in which the offense was committed upon the President of the United States, and the obtainment of his authority for such proceedings.

In recent years, however, there had been a decided preponderance of opinion to the effect that the intervention of the President was not essential, under our laws, to secure the arrest and detention of fugitives from justice in this country, and in consequence of this, and as no such intervention was expressly authorized, the Department, in 1886, came to the conclusion to abstain from issuing preliminary certificates or warrants, except in cases of express conventional obligation.

Since that time the question has been brought before the Supreme Court of the United States and the position of the Department sustained. I refer to the case of George Benson, alias M. R. Mayer, whose extradition from the United States was demanded by the Government of Mexico in 1886.

On the 4th of December of that year the Mexican minister at this Capital informed the Department that he had been instructed by his Government, by telegraph, to apply to that of the United States for the extradition of the fugitive in question, who had been guilty of a swindling operation in the City of Mexico, having falsely represented himself to be the agent of Madame Adelina Patti for the sale of tickets for an operatic performance, and thus fraudulently obtained upwards of \$20,000, with which he had absconded and was believed to have fled to the United States. The minister requested the Secretary of State to cause orders to be issued for the fugitive's arrest.

To this communication the Department replied on the 8th of December, 1886, saying that, in its opinion, the provisions of section 5270 of the Revised Statutes of the United States were sufficient for the purpose of obtaining the fugitive's arrest, but at the same time calling attention to the fact that the minister's note contained no specification of any of the offenses enumerated in the extradition treaty between the United States and Mexico, of December 11, 1861.

On the 8th of December the Mexican minister replied that he deemed the offense with which the fugitive was charged to be comprised in that of forgery, mentioned in the third article of the treaty; and referred to the request contained in his note of the 4th of December in respect to the fugitive's arrest.

On the 15th of December the Department replied, still declining to act, and on the same day the minister, being convinced of the correctness of the Department's position, withdrew his requests. Copies of this correspondence are herewith inclosed.

Having arrived in the city of New York, Benson was arrested on a warrant issued by Samuel H. Lyman, esq., commissioner of the circuit court of the United States for the southern district of New York, without the intervention of this Department in the matter, upon a complaint made before him by the consul-general of Mexico at the city of New York, charging the fugitive with having committed the crime of forgery in Mexico. The proceedings before the commissioner resulted in the commitment of the fugitive for surrender on that charge.

A writ of *habeas corpus* was then, upon proper application, allowed by Justice Blatchford, of the Supreme Court of the United States, to bring the prisoner before the circuit court of the United States for the southern district of New York. Upon the hearing in the circuit court the writ was discharged, and the prisoner remanded to the custody of the United States marshal. From this judgment an appeal was taken to the Supreme Court of the United States.

In the course of its unanimous judgment, which was delivered by Mr. Justice Miller, that tribunal said:

This proceeding was instituted before the commissioner, under Title LXVI of the Revised Statutes of the United States, concerning extradition. The first section reads as follows:

"SEC. 5270. Whenever there is a treaty or convention for extradition between the Government of the United States and any foreign government, any justice of the Supreme Court, circuit judge, district judge, commissioner, authorized to do so by any of the courts of the United States, or judge of a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within the limits of any State, district, or Territory, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, or commissioner, to the end that the evidence of criminality may be heard and considered. If, on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant

may issue upon the requisition of the proper authorities of such foreign government for the surrender of such person, according to the stipulations of the treaty or convention; and he shall issue his warrant for the commitment of the person so charged to the proper jail, there to remain until such surrender shall be made.

There is no evidence in this record, at least there is no copy of any demand or requisition made by the Mexican authorities upon our Government for the extradition of this prisoner. The proceedings, therefore, up to this time rest upon the initiative authorized by the statutes upon that subject, the Mexican Government, however, being represented by counsel, and the correspondence with its officers which was introduced into the record showing their interest in the matter and their purpose to have this prisoner brought to that country for trial.

The treaty under which this right to arrest the prisoner and detain him for extradition is asserted was concluded at Mexico, December 11, 1861, and proclaimed by the President of the United States June 20, 1862 (12 Stat. L., 1199). It has the usual provisions, that the contracting parties shall, on requisitions made in their name, deliver up to justice persons who, being accused of the crimes enumerated in Article 3, committed within the jurisdiction of the requiring party, shall seek an asylum, or shall be found within the territories of the other. * * *

As the case appears before us, on the transcript of the evidence produced before Commissioner Lyman, and before the circuit court on the writ of habeas corpus, it is considerably confused, but very full and elaborate. Several questions in regard to the introduction of evidence, which were raised before the commissioner, some of them concerning the sufficiency of the authentication of papers and depositions taken in Mexico, and as to the testimony of persons supposed to be expert in the law of that country regarding the subject, are found in the record, which we do not think require notice here. The writ of habeas corpus, directed to the marshal of the southern district of New York, does not operate as a writ of error, and many of the orders and decisions made by the commissioner at the hearing which took place before him become unimportant in the examination of the sufficiency of the proceedings under which he ordered the prisoner into custody. The main question to be considered upon such a writ of habeas corpus must be: Had the commissioner jurisdiction to hear and decide upon the complaint made by the Mexican consul; and also, was there sufficient legal ground for his action in committing the prisoner to await the requisition of the Mexican authorities?

In regard to the jurisdiction of the commissioner to hear the complaint no doubt can be entertained.

And after a full examination of the case the judgment of the supreme court was concluded as follows:

We are of opinion that the decision of Commissioner Lyman, committing the prisoner to the custody of the marshal to await the requisition of the Mexican Government, was justified, and the judgment of the circuit court dismissing the writ of *habeas corpus* is accordingly affirmed.

This judgment settles the point that under section 5270 of the Revised Statutes of the United States a fugitive from the justice of a government with which the Government of the United States has a treaty or convention of extradition may be arrested in this country and held for examination on the charge of having committed in the foreign country an offense specified in such treaty or convention, without any previous intervention on the part of the President or proof that a requisition has been made. Under this statute it is believed that there exists in the United States a very liberal system of provisional arrest and detention of fugitives from foreign justice, under which, upon oaths made on information and belief (a requirement which the preliminary mandate formerly issued by the Executive did not dispense with), such fugitives are constantly arrested and held without interference on the part of the executive branch of the Government of the United States to await examination before our judicial magistrates in accordance with our laws. No time is specified during which a fugitive may be so held; but the judicial officer decides in each case what term is reasonable under all the circumstances for the detention of the fugitive pending the reception of the formal proofs of his culpability and their examination. Save in cases in which the question of the necessity of executive interference was formally raised, this Department has received no complaints

of the refusal of judicial magistrates to grant proper facilities. On the contrary it is believed that such magistrates have generally construed their powers with as much liberality as is consistent with the security which all persons, both citizens and foreigners, should enjoy against unfounded arrest and detention.

It is hoped that this statement will prove satisfactory to the Belgian Government in respect to the subject of provisional arrest in the United States, and you are at liberty to communicate a copy of this paper to his excellency the minister of foreign affairs.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 18.—Translation.]

Mr. Romero to Mr. Bayard.

LEGATION OF MEXICO,
Washington, December 4, 1886.

MR. SECRETARY: I have the honor to inform you that I have received instructions from my Government, by telegraph, to apply to that of the United States for the extradition of a German named M. R. Mayer, who has been guilty of a swindling operation in the City of Mexico, having represented himself to be Mr. Abbey's agent for the sale of season tickets for the opera of Madame Adelina Patti's company, and having absconded from that city after fraudulently securing upwards of \$20,000. To-day's papers have published the particulars of this swindle.

Mayer appears to have gone in the direction of El Paso, Texas, on his way to this country. He is a short and stout man, of light complexion, with black hair, heavy moustache, and about forty years of age.

Pending the receipt of the necessary documents from the Mexican authorities, making application for his extradition, I will thank you, Mr. Secretary, if you have no objections, to cause orders to be issued for Mayer's arrest, so that the ends of justice may not be defeated by his escape.

Be pleased, etc.,

M. ROMERO.

[Inclosure 2 in No. 18.]

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, December 8, 1886.

SIR: Referring to your note of the 4th instant, stating that a German, named M. R. Mayer, who has been guilty of a swindling operation in the City of Mexico, having fraudulently obtained upwards of \$20,000 by representing himself to be the agent of Mr. Abbey for the sale of season tickets for an operatic performance by the company of Madame Adelina Patti, is believed to have fled to the United States, and requesting this Department to cause orders to be issued for Mayer's arrest, so that the ends of justice may not be defeated by his escape, I have the honor to inform you that, in the opinion of the Department, the provisions of section 5270 of the Revised Statutes of the United States are sufficient for the purpose of obtaining the fugitive's arrest, and that the Department is not authorized to take any action in the present stage of the case. It may not, however, be improper to observe that there is no specification in your note of any of the extraditable offenses enumerated in the treaty of December 11, 1861, which regulates the subject of extradition between the United States and Mexico.

Accept, etc.,

T. F. BAYARD.

[Inclosure 3 in No. 18.—Translation.]

*Mr. Romero to Mr. Bayard.*MEXICAN LEGATION,
Washington, December 8, 1886.

MR. SECRETARY: I have had the honor to receive your note of this date, wherein, referring to my note of the 4th instant, in which I asked the arrest of an individual who assumed in the City of Mexico the name of Marcus R. Mayer, agent of Mr. Henry E. Abbey, and who, according to reports published by the papers of New York, appears to be really named Charles Bourton, and who in that city fraudulently obtained a considerable sum of money through the sale of tickets for the operatic performances of Signora Adelina Patti, you were pleased to state to me that, in the opinion of your Department, the provisions of section 5270 of the Revised Statutes of the United States are sufficient for the purpose of obtaining the arrest of the fugitive, at the same time remarking that my note did not express any offense enumerated in the treaty of December 11, 1861, between Mexico and the United States, as having been committed by the person in question.

Although, because sufficient time therefor has not supervened, the data to enable a judgment to be formed of the precise nature of the offense have not yet been received, I deem it to be comprised in that of forgery mentioned in the third article of the convention of December 11, 1861, since Bourton assumed in Mexico the name of Marcus R. Mayer, who is the real agent of Mr. Abbey, and under that name issued tickets and gave receipts for the money which was paid to him.

I have already given instructions to the Mexican consuls at El Paso and Laredo, Texas, and in the cities of New York and New Orleans, to go before the judges of the respective districts for the purpose of procuring the arrest of Bourton, in compliance with the provisions of section 5270 of the Revised Statutes of the United States; but these instructions will be insufficient if the aforesaid consuls be not aided by the police of the respective localities, since as the guilty fugitive comes in disguise it will be very difficult for the consuls mentioned to know when he arrives in or passes through the cities named, and only the vigilance of the police can discover this. For this reason the recommendation which I made in my note of the 4th instant had also for its object that the police should be advised, that they might exert their vigilance in order to be able to apprehend the fugitive, if the Department should deem itself authorized to do so.

Be pleased, etc.,

M. ROMERO.

[Inclosure 4 in No. 18.]

*Mr. Bayard to Mr. Romero.*DEPARTMENT OF STATE,
Washington, December 15, 1886.

SIR: Referring to your note of the 8th instant, relative to the case of Marcus R. Mayer, alias Charles Bourton, charged with obtaining money in the City of Mexico by the fraudulent sale of tickets for the operatic performances of the company of Madame Adelina Patti, I have the honor to inform you that this Department, while desirous of aiding in every proper way the execution of the treaty of the 11th of December, 1861, is not, in my judgment, authorized to advise or instruct the police in the various localities named in your note to exert vigilance in the apprehension of the fugitive.

As has already been pointed out, the provisions of section 5270 of the Revised Statutes are deemed sufficient for the purpose of obtaining the fugitive's arrest, and unless some other way is prescribed by treaty those provisions contain the only method prescribed by the laws of the United States for the institution of proceedings in extradition. Under that law extradition proceedings are initiated, like any other criminal prosecution, by the issuance of a warrant of arrest by a competent magistrate upon evidence required by statute of the commission of the offense charged.

The arrest of the fugitive upon this warrant is the duty of local police authorities, over whom this Department exercises no supervision, and whom it is not competent to advise or instruct.

Accept, etc.,

T. F. BAYARD.

FOREIGN RELATIONS.

[Inclosure 5 in No. 18.—Translation.]

*Mr. Romero to Mr. Bayard.*MEXICAN LEGATION,
Washington, December 15, 1886.

MR. SECRETARY: I have had the honor to receive your note of to-day, in which, acknowledging that from this legation of the 8th instant, concerning the case of Marcus B. Mayer alias Charles Bourton, accused of fraudulently obtaining money in the city of Mexico by means of the sale of counterfeit tickets for the concerts of Madame Adelina Patti, you were pleased to inform me that it was not in the power of your Department either to advise or instruct the police authorities in the places at which it seemed likely that Bourton would cross from Mexico into the United States, and that the only method of obtaining his arrest, in the absence of a special provision prescribed by treaty, was contained in section 5270, Revised Statutes of the United States.

I am convinced that the Department of State has no power to intervene in this matter, conformably with the laws of this country, and consequently I withdraw the requests I made of you in my notes of the 4th and 8th instant concerning this affair.

I have instructed the Mexican consuls at the points mentioned in the second of my notes above referred to, to supply the place of, the case arising and in so far as they may be able, the intervention of your Department requested in my two notes.

Be pleased, etc.,

M. ROMERO.

Mr. Bayard to Mr. Parkhurst.

No. 22.]

DEPARTMENT OF STATE,
Washington, February 12, 1889.

SIR: Referring to previous correspondence concerning the Sambolino extradition case, I inclose herewith for your information a copy of a letter from the district attorney at New York reporting that Sambolino has been convicted of the crime of forgery and sentenced to imprisonment at hard labor for ten years.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 22.]

*Mr. Fellows to Mr. Bayard.*DISTRICT ATTORNEY'S OFFICE,
CITY AND COUNTY OF NEW YORK,
February 2, 1889.*In the matter of Adolph Sambolino, a fugitive from justice of this State.*

SIR: The above named fugitive, who was extradited from Belgium pursuant to a request made by the Department of State in October last, and was brought to this State by Charles Heidelberg of the municipal police, by virtue of the President's warrant authorizing the delivery of the said Sambolino to him, was on the 29th day of January ultimo, at a term of the court of general sessions of the peace of the city and county of New York, before the Hon. Frederick Smyth, recorder of the said city of New York and justice of the said court, in due form of law, convicted by the verdict of the jury of the foregoing, upon which his extradition was granted, upon an indictment for that offense found by the grand jury of this county, and afterwards, and on the 1st day of February instant, was sentenced by the said court to imprisonment in the State prison at hard labor for the term of ten years.

I am, etc.,

JOHN R. FELLOWS.

B R A Z I L .

Mr. Armstrong to Mr. Bayard.

No. 164.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 22, 1888. (Received January 9, 1889.)

SIR: On the 20th of this month the Brazilian Parliament (after being twice prorogued) terminated its labors, the session being closed by His Majesty, the Emperor, with a speech from the throne. A copy and translation of the same I have the honor to inclose herewith. As will be seen, he makes grateful acknowledgments to the Brazilian people for their unwavering love of him, congratulates the country upon the peaceful manner in which slavery was abolished, etc. The demonstrations to which allusion is made in the speech, were those welcoming him on his return from Europe, which were spontaneous and on a grand scale, never equalled before in the history of the country. Prince José, to whose death he so feelingly alludes, was the third son of his second and youngest daughter (now dead) who married the Duke of Saxe-Coburg, Germany. Presuming the Department would be interested by the speech, I have therefore made the translation and forwarded it.

I have, etc.,

H. CLAY ARMSTRONG.

[Inclosure in No. 164.—Translation.]

Speech of the Emperor.

August and most worthy representatives of the nation:

My gratification on appearing in this hall is to-day the more intense from the fact that I have been able to return to my country and can continue to serve it.

Bound to the Brazilian nation by birth, by the glorious deeds of my august father, by the tender care which I received when left an orphan in my childhood, by the attention paid to my education, and finally by the unwavering love of the Brazilian people, I was much moved by the demonstrations on the 22d of August. Were any new incentive required to stimulate me to conscientious zeal in the performance of my duties, I would find it in the cordiality with which I was welcomed by the whole people of Brazil.

I shall never forget the sympathetic hospitality I received in all the places visited during the trip which I made to Europe for my health. While rejoicing over the favorable condition of the Empire confided for the third time to the regency of my beloved daughter, the Princess Imperial, I received the sad news of the death in Vienna of my grandson, Prince José, whom God called to himself on the 12th of August.

Our relations with foreign powers continue unaltered, and the never-failing justice of our conduct will contribute to their remaining so.

Public tranquillity and order have been maintained, and the guaranties of individual liberty respected. I tender you my thanks and commendation for the authorization which you have granted to the Government to provide for the further security of the population of the capital of the Empire by re-organizing and increasing the police force.

We may well be proud of the peaceful manner in which the system of labor is undergoing transformation in virtue of the law of May 13, the decreeing of which alleviated my physical sufferings and comforted me in the midst of the regrets caused by absence, and of my yearning for home. By this act Brazil has once more demonstrated its aptitude for moral progress of every kind.

The public revenues are increasing and give promise of still greater development; commerce extends its transactions; projects abound for enterprises in the various branches of industry; and, notwithstanding foreseen but inevitable local embarrassments, there is an increase of labor of natives and foreigners.

Let us be confident that the activity of our fellow-citizens, disposing of so many and such great resources, will amply compensate for our present sacrifices.

The Government on its part, making use of the authorizations and means which you have voted, will hasten the settlement of our lands, promote transportation facilities, and bestow solicitous care on the other necessities of agriculture.

Among the measures which you have decreed the law on banks of emission deserves special attention. This law is intended to limit the circulation of Government paper currency and to give to credit an elasticity in proportion to industrial activity.

At the next session we will, I trust, deliberate upon the bills already presented in regard to the banks for lending money on real estate; judicial reform; and repression of idleness; and will adopt the improvements required for giving to local institutions better practical development.

Public instruction in general and technical education adapted to present circumstances, require legislative action on which our progress greatly depends. I trust you will continue to give this subject the attention which you have bestowed on agricultural instruction and on the organization of the naval school.

Public health, and especially sanitary measures in benefit of the capital of the Empire, demand your care. Although the sanitary state of the interior of the country continues to be excellent, and that of the sea-board much improved, it is necessary to persevere in the task of eradicating the causes of disease as far as this may be done by hygienic measures.

August and most worthy Representatives of the Nation!

To your patriotic labors during the present session will correspond, I trust, your beneficial influence during the legislative interval, so that our country may fructify more and more the powerful elements of prosperity with which God has blessed it.

The session is closed.

DOM PEDRO II.

Constitutional Emperor and Perpetual Defender of Brazil.

Mr. Adams to Mr. Blaine.

No. 2.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, July 23, 1889. (Received August 17.)

SIR: I herewith acknowledge receipt of cablegram dated Washington, July 19:

ADAMS, *Minister, Rio:*

Convey to minister for foreign affairs congratulations of the President to the Emperor on his escape from the assassin's bullet.

WHARTON.

In pursuance of above instructions, I called personally on the morning of 22d instant on the minister and secretary for foreign affairs, and in his absence left a note, a copy of which is herein inclosed. I would state that I should have previously called, with the other ministers, to offer congratulations, but I had not at the time presented my credentials.

I am, etc.,

ROBERT ADAMS, JR.

[Inclosure 1 in No. 2.]

*Mr. Adams to Mr. Diana.*LEGATION OF THE UNITED STATES,
Rio de Janeiro, July 22, 1889.

SIR: I am instructed by cable by my Government to convey through your excellency to His Majesty the Emperor the warm congratulations of the President of the United States on the escape of His Majesty from the assassin's bullet.

I avail, etc.,

ROBERT ADAMS, JR.

Mr. Adams to Mr. Blaine.

[Extract.]

No. 4.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, August 8, 1889. (Received August 31.)

SIR: I herewith inclose a copy—translation—of the reply to my letter of July 22 to the minister and secretary of foreign affairs, conveying the congratulations of the President to His Majesty Dom Pedro II on his escape from assassination.

I am, etc.,

ROBERT ADAMS, JR.

[Inclosure in No. 4.—Translation.]

*Mr. Diana to Mr. Adams.*DEPARTMENT OF FOREIGN AFFAIRS,
Rio de Janeiro, July 24, 1889.

SIR: I have had the honor of receiving the note which Mr. Robert Adams, jr., envoy extraordinary and minister plenipotentiary of the United States of America, was pleased to address me on the 22d instant, informing me of a telegram in which His Excellency the President of the said States congratulates His Majesty the Emperor on his escape from the attempt on his life on the 15th instant. As soon as His Majesty returns from Minas, I shall hasten to apprise him of this congratulation.

I avail, etc.,

J. FRANCISCA DIANA.

Mr. Adams to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 16, 1889.

Revolution by army and navy yesterday. Ministry deposed. Prime minister imprisoned. Minister marine wounded. Emperor prisoner in palace. Provisional government issued proclamation. Imperial dynasty deposed. Council state abolished. Parliament dissolved. Republic declared. Principal provinces acquiesce. Order maintained. Opinion republic successful. Await instructions.

ADAMS.

Mr. Adams to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 17, 1889.

Imperial family sailed to-day. Government *de facto*, with ministry, established. Perfect order maintained. Important we acknowledge Republic first.

ADAMS.

Mr. Adams to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 19, 1889.

Letter foreign minister announcing formation government. Treaties intact. Requesting relations continue. Await instructions.

ADAMS.

Mr. Adams to Mr. Blaine.

No. 20.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 19, 1889. (Received December 16.)

SIR: I have the honor to report on the revolution which has just taken place in this country, the most remarkable ever reported in history. Entirely unexpected by the Government or people, the overthrow of the empire has been accomplished without bloodshed, without riotous proceedings, or interruption to the usual avocations of life.

I will endeavor to give a succinct account of the events which led to this result.

In my No. 9, of September 9, I intimated to the Department that the republicans had not accepted the result of the elections of August 31, although the liberal candidates were elected almost universally. With the liberal ministry so strongly entrenched, the Emperor began to take measures to secure the succession to the Princess Isabel, as his health is much impaired. Being distrustful of the army, a national guard was formed, and the regular troops were being gradually transferred to the interior. The idea was to rely on the national guard to maintain order in Rio and protect the succession against any opposition from the people. On Friday, November 15, another battalion was ordered from Rio, but on that morning all the garrison marched to the great square called "Campo da Acclamação," joined also by the officers and sailors of the navy, the city police, and firemen, all of whom are armed, where they declared for a republic, arrested and deposed the ministry. Baron Ladario, minister of marine, resisted arrest, drew a pistol on the officers, which missed fire, when he was immediately shot down, wounded in four places. He served in the United States Navy during the rebellion, and was the only one in the city who made any resistance.

I am happy to state he will probably recover. Marechal Deodoro formed a provisional government, which issued a proclamation, a copy of which is inclosed.

The Emperor was summoned from Petropolis, and naturally could hardly realize the situation. The ministry having resigned, at midnight he attempted to form a new one, whereupon he was made a prisoner in the palace, all communication denied, and the Imperial family ordered to leave Brazil in twenty-four hours.

The steam-ship *Alagóas* was placed at their service, with the iron frigate *Riachuelo* to escort them. At this stage I telegraphed the Department, simply stating existing facts for its information and asking instructions.

As a censorship has been placed over the telegraphic office I send open cables. From midnight Saturday till midday on Sunday all communication by cable was prohibited. On Sunday a constitution was promulgated and a complete ministry formed.

The Imperial family sailed at 3 o'clock that afternoon, at which time I telegraphed the Department of that fact, also of the existence of a *de facto* government, and urged the recognition of the "United States of Brazil."

In my opinion the republican form of Government is securely established, even though the present ministry should fall. Our constitution and flag have been copied, and, looking to future relations, I desire our country to be first to acknowledge the Republic.

I mail copies of "Diario Oficial" of November 16, 17, and 18, containing all official decrees, etc., of provisional government. Decree No. 2 confers a settlement in money on the late Emperor, his acceptance of which is considered an abdication.

I am, etc.,

ROBERT ADAMS, JR.

[Inclosure 1 in No. 20.—Translation.]

PROCLAMATION.

FELLOW-CITIZENS: The people, the army, and the navy, in perfect harmony of sentiment with our fellow-citizens resident in the provinces, have just decreed the dethronement of the Imperial dynasty, and consequently the extinction of the representative monarchical system of government.

As an immediate result of this national revolution, of a character wholly patriotic, a provisional government has just been instituted, whose principal mission is to guarantee by public order the liberty and the rights of citizens.

To compose this Government until the sovereign nation by means of competent organs shall proceed to the choice of a definitive Government, the undersigned citizens have been chosen by the chief of the executive power.

Fellow-citizens: The provisional government, simply a temporary agent of the national sovereignty, is the government of peace, of liberty, of fraternity, and of order.

In the use of the extraordinary attributions and faculties with which it is invested for the defense of the integrity of the nation and for the security of public order, the provisional government, by all the means in their reach, promise and guaranty to all the inhabitants of Brazil, native or foreign, security of life and property, respect for all rights, individual and political, except as to the latter the limitations required by the safety of the country and defense of the Government proclaimed by the people, by the army, and by the navy.

Fellow-citizens: The functions of ordinary justice, as well as of civil and military administration, will continue to be exercised by the officials hitherto employed in relation to all acts, in the fullness of their effects; in relation to persons, the advantages and rights acquired by each functionary will be respected; but the life-term of the senate is hereby abolished, and also the council of state. The chamber of deputies is dissolved.

Fellow-citizens: The provisional government recognizes and will respect all national obligations contracted during the previous regimen, treaties subsisting with foreign powers, the public debt, external and internal, existing contracts, and further obligations legally contracted.

MARSHAL MANOEL DEODORO DA FONSECA,

Chief of the Provisional Government.

ARISTIDES DA SILVEIRA LOBO, *Minister of the Interior.*

RUY BARBOSA, *Minister of Finance and pro tem. of Justice.*

Lieutenant-Colonel BENJAMIN CONSTANT, *Botelho Magathoes,*

Minister of War.

EDWARD WANDENKOLK, *Chief of Squadron, Minister of Marine.*

QUINTINO BOCAUYVA,

Minister of Foreign Affairs and pro tem. of Agriculture, Commerce, and Public Works.

[Inclosure 2 in No. 20.—Translation.]

Decree No. 1.—Dated November 15, 1889.

The provisional government of the United States of Brazil decree:

ART. 1. The form of government of the Brazilian nation proclaimed and decreed is a federative republic.

ART. 2. The provinces of Brazil, joined together in the bonds of federation, constitute the United States of Brazil.

ART. 3. Each one of these States, in the exercise of its legitimate sovereignty, will decree in due time its definitive constitution, electing legislative assemblies and local governments.

ART. 4. Until elections are held in a regular way for members to constitute a constitutional congress, and for legislative assemblies in each of the States, the Brazilian nation will be governed by the provisional government of the Republic; and the new States by the governors that may be proclaimed, or in default of these, by governors delegated by the provisional government.

ART. 5. The respective governments of the federated States will adopt with urgency all necessary providences in order that order be maintained and public security preserved, and that the rights and liberty of citizens, whether Brazilians or foreigners, be guaranteed.

ART. 6. Wherever public order may be disturbed, in any of the States, and wherever the local government shall not possess the means of repressing disorders and securing peace and tranquillity, the provisional government will enforce, by means of the public force, the free exercise of the rights of citizens and the unconstrained action of the constituted authorities.

ART. 7. The federative Brazilian Republic being the form of government proclaimed, the provisional government does not recognize, nor will it recognize, any local government contrary to a republican form, awaiting, as in duty bound, the final sentence of popular suffrage, as expressed by the free vote of the nation.

ART. 8. The regular army and navy, and public forces of the three arms of which there are garrisons or detachments in the different provinces, will continue subordinated to and exclusively dependent on the provisional government of the Republic, the local government being, however, empowered to decree the organization of a civil guard for the policing of the territory contained in their respective States.

ART. 9. All civil and military departments hitherto subject to the control of the central government of the Brazilian nation will remain under the direct control of the provisional government of the Republic.

ART. 10. The territory embraced within the municipality neuter will remain for the time being under the immediate jurisdiction and control of the provisional government of the Republic, and the city of Rio de Janeiro will continue to be the seat of the federal power.

ART. 11. The secretaries of state in the different departments or bureaus of the actual provisional government will be encharged with the execution of this decree in the part relative to each.

MARSHAL MANUEL DEODORO DA FONSECA,

Chief of the Provisional Government.

S. LOBO.

RUY BARBOSA.

Q. BOCAUYVA.

BENJAMIN CONSTANT.

WANDENKOLK.

RIO DE JANEIRO, November 15, 1889.

Mr. Blaine to Mr. Adams.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 19, 1889.

You will maintain diplomatic relations with the provisional government of Brazil.

BLAINE.

Mr. Adams to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, November 25, 1889.

Argentine, Chili, and Uruguay have recognized.

ADAMS.

Mr. Adams to Mr. Blaine.

[Extract.]

No. 21.]

LEGATION OF THE UNITED STATES,
Petropolis, November 27, 1889. (Received December 23.)

SIR: I have the honor to continue my report on the recent revolution. Before the departure of the ex-Emperor, the continuance of his present income from the state was guaranteed to him by the provisional government, at least until the meeting of the new assembly, and further in consideration of his immediate and peaceful departure, \$500,000 was offered to him, and upon its acceptance, the grant was confirmed by decree No. 2, a translation of which is inclosed.

It is proper to state that on the morning of the 16th my colleagues proposed that the diplomatic corps should make a demonstration on behalf of the Emperor, by going in a body to the palace and demanding to see him. This proposition was politely but firmly declined by me, in which position I was sustained by the French chargé d'affaires. Later we both separately called at the palace but were refused admittance by the guards, although I stated my official position and requested my card to be sent to the Emperor.

On Monday, 18th instant, Rio resumed its usual avocations. The military patrol was withdrawn. The provisional government was completed as follows: "Chefe," Marechal Deodoro da Fonseca; minister of interior, Aristides da Silva Lobo; war, Lieutenant-Colonel Benjamin Constant; finance, Ruy Barbosa; navy, Eduardo Wandenkolk; foreign affairs, Quintino Bocayuva; agriculture, José de Miranda Ribeiro; justice, Manoel Ferros de Campos Salles.

On November 19 the several legations received from the foreign office a circular (translation inclosed) whereupon I immediately cabled the Department for instructions. On the 20th instant the Department's

cable, dated November 19, was received. The mail and train for the day having left Petropolis, a telegram was sent to the minister of exterior relations as follows:

I am instructed by my Government, by cable, you will maintain diplomatic relations with the provisional government of Brazil.

ROBERT ADAMS, JR.,
United States Minister.

To which an acknowledgment was received same day by telegraph. On the same day a letter was addressed to the foreign office conveying the same intelligence.

A letter was addressed to the consul-general communicating the instructions of the Department and requesting him to inform the several consuls thereof by telegraph.

A copy of the translation of decree No. 4, relating to the adoption of the new national colors, is inclosed. This completes the record to date.

The provisional government continues to perfect its organization, and so far perfect order reigns in the provinces. The former presidents of the provinces have all been removed and new ones appointed with absolute powers, chosen chiefly from the military class. The provincial assemblies have also been abolished and no word is heard of an election for a national congress to adopt a constitution. Many of the men formerly prominent in public affairs, both Imperialists and Liberals, while accepting the present order of things, stand aloof and seem to be waiting. The future is not assured, and no one can predict for this country of the unexpected.

In conclusion, allow me to express my appreciation of the confidence the Department reposed in my judgment and its prompt action on my suggestions. Fully conscious of the responsible position, I have endeavored to act most conservatively, and have reported nothing but verified facts to the Department. Of course the air was charged with rumors. On the 17th instant, when the ex-Emperor had accepted the payment of money, thereby acknowledging the new government, and sailed away, I felt justified in advising the Government to recognize the Republic, fully assured it would redound to our future advantage. The frequent allusions in all demonstrations here to our country, and the numerous telegrams and congratulations received at this legation, tend to confirm this opinion.

All of which I trust will meet with the approbation of the President and the Department.

I am, etc.,

ROBERT ADAMS, JR.

[Inclosure 1 in No. 21.—Translation.]

The Emperor's abdication.

In view of the representation which was delivered to me to-day at 3 o'clock in the afternoon, I resolve, yielding to the power of circumstances, to depart with all my family for Europe to-morrow, leaving this country, beloved by us all, and for which I have exerted myself to give constant proofs of deeply seated love, and dedication for almost half a century, during which I filled the position of chief of the state. In departing, therefore I with all the persons of my family, shall always retain the most tender remembrances of Brazil in offering ardent prayer for its greatness and prosperity.

D. PEDRO DE ALCANTARA.

RIO DE JANEIRO, November 16, 1889.

[Inclosure 2 in No. 21.—Translation.]

Mr. Bocayuva to Mr. Adams.

CIRCULAR.]

MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, November 18, 1889.

It has been impossible up to the present date to send the necessary communication regarding the political events of the three days just passed to Robert Adams, jr., envoy extraordinary and minister plenipotentiary of the United States of America. These in short are as follows: The army, the navy, and the people have decreed the deposition of the imperial dynasty and consequently the extinction of the representative monarchical system; a provisional government has been established, which has already entered upon the exercise of its functions and will continue to exercise them until the sovereign people shall choose definitely, by means of competent organs; this Government has manifested to Senhor D. Pedro de Alcantara the hope that he would make the sacrifice of leaving Brazil, together with his family, and this intimation has been attended to; a federative republic has been provisionally proclaimed and decreed as the form of government of the Brazilian nation, the former provinces constituting the United States of Brazil.

The Provisional Government, as declared in its proclamation of the 15th current month, recognizes and will respect all national compromises and obligations contracted during the rule of previous governments, treaties subsisting with foreign powers, the public debt, whether external or internal, contracts in vigor, and all other obligations legally contracted.

In the Provisional Government, whose chief is Marshal Manoel Deodoro da Fonseca, I am charged with the portfolio of foreign affairs, and it is for this reason that I have the honor to address Mr. Adams, jr., assuring him, in conclusion, that the provisional government is ardently desirous of maintaining the relations of friendship which have hitherto existed between the United States of America and Brazil.

I take advantage, etc.

Q. BOCAUYVA.

[Inclosure 3 in No. 21.]

*Mr. Adams to Mr. Bocayuva.*LEGATION OF THE UNITED STATES,
Petropolis, November 20, 1889.

I have the great honor and happy satisfaction to inform your excellency that I am instructed by my Government by cable, "You will maintain diplomatic relations with the provisional government of Brazil."

In transmitting this information allow me to express the hope that the cordial relations which have hitherto existed between my country and Brazil may be augmented by her adoption of a republican form of government.

If your excellency will be pleased to name a day and hour, I shall be happy to call upon and pay my respects to you, and also be presented to His Excellency Manoel Deodoro da Fonseca, chefe do Governo Provisorio.

I avail, etc.,

ROBERT ADAMS, JR.

[Inclosure 4 in No. 21.—Translation.]

Decree relative to the flag and escutcheon of Brazil.

The Provisional Government of the Republic of the United States of Brazil:

Whereas the colors of our former flag remind us of glorious struggles and victories both of the army and of the navy in the defense of the fatherland;

Whereas those colors, independent of the form of government, symbolize the perpetuity and integrity of our country among nations; it is hereby decreed:

ARTICLE I. The banner adopted by the Republic shall continue the tradition of the former national colors, green and yellow, in the following manner: A *yellow* lozenge on a *green* field, having in the center a *sky-blue* spheroid, crossed by a *white* circular zone running obliquely, and falling from the left towards the right, bearing the legend, "order and progress," with twenty-one stars, amongst them those of the "Southern Cross," all placed in their proper astronomical position as to distance and

relative size, representing the twenty States of the Republic and federal district. (See annexed Drawings No. 1.)*

ARTICLE II. The National Arms (escutcheon) will be according to Drawing No. 2.*

ARTICLE III. The seal (stamps and insignia) of the Republic will be the heavenly sphere symbolically represented on the center of the flag, having the words "Republic of the United States of Brazil" around it.

ARTICLE IV. All provisions to the contrary are hereby revoked.

Done in the hall of the sessions of the Provisional Government of the Republic of the United States of Brazil this 19th day of November, 1889.

MANOEL DEODORO DA FONSECA.

ARISTIDES DA SILVEIRA LOBO.

RUY BARBOSA.

QUINTINO BOCAUYVA.

MANOEL FERROS DE CAMPOS SALLES.

BENJAMIN CONSTANT BOTELHO DE MAGATHOES.

EDUARDO WANDENKOLK.

[Inclosure No. 5 in No. 21.—Translation.]

Decree No. 2 of November 16, 1889.

The Provisional Government of the Republic of the United States of Brazil, desirous of providing for the proper maintenance of the position of the family that has just occupied the throne of the country, and for the requirements of its establishment in a foreign land, resolves:

ARTICLE I. The sum of 5,000 contos of reis is hereby granted to the imperial family.

ARTICLE II. This grant in nowise destroys any of the advantages secured to the chief of the deposed dynasty and his family in the message of the Provisional Government of even date.

ARTICLE III. Contrary provisions revoked.

By the President of the Republic:

ARISTIDES DA SILVEIRA LOBO.

RUY BARBOSA.

Q. BOCAUYVA.

BENJAMIN CONSTANT.

EDUARDO WANDENKOLK.

Mr. Blaine to Mr. Adams.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 30, 1889.

Mr. Adams was instructed that so soon as a majority of the people of Brazil should have signified their assent to the establishment and maintenance of the Republic he was to give it, on behalf of the United States, a formal and cordial recognition.

Mr. Adams to Mr. Blaine.

No. 23.]

LEGATION OF THE UNITED STATES,

Rio de Janeiro, December 6, 1889. (Received January 2, 1890.)

SIR: I have the honor to continue my report on the progress of events relating to the change of Government.

On November 25 I cabled the Department a list of the Governments which had recognized the Provisional Government to that date. Later

* Not printed herewith.

Switzerland, France, and the Pope recognized also. On the 9th the European powers unofficially resumed diplomatic relations, excepting Austria, who gave in her adherence to-day.

On November 25, seeing a statement that the Government proposed abolishing the requirement of passports for foreigners, I addressed a letter to the secretary of exterior relations, a copy of which is inclosed.

On November 26 a reply was received to my letter of the 20th, transmitting the instructions of the Department by cable to maintain diplomatic relations. A translation of reply is inclosed. In pursuance thereof I had the honor to call at the hour appointed on the secretary of exterior relations. A most agreeable and cordial interview ensued, in which he expressed the profound appreciation of the friendly attitude of the United States towards the effort to establish a republican form of government in Brazil.

On December 1, I received Department's cable of November 30. As soon as opportunity offers, the instructions thereof will be cheerfully carried out. I inclose a translation of decree No. 7, which will give some idea of the measures adopted. In a recent decree, a commission of four was established to draught a constitution. No word of an election is heard for delegates to an assembly.

On Wednesday, November 23, the United States frigate *Richmond* arrived in port. I had been requested by the English minister and by some excited American citizens to request the presence of a war ship. But as there was no necessity and the fever had already shown itself in Rio I saw no reason to do so. The *Richmond* sailed for Bahia on the 5th instant.

I am, etc.

ROBERT ADAMS, Jr.

[Inclosure 1 in No. 23.]

Mr. Adams to Mr. Bocayura.

LEGATION OF THE UNITED STATES,
Petropolis, November 25, 1889.

SIR: I see it stated that the Provisional Government contemplates dispensing with the requirement that foreigners must procure passports before leaving Brazil. Allow me to express the hope to your excellency that the Government may accomplish this proposed measure of relief. I know of nothing that would tend to facilitate more the trade of the ports of Brazil than this free entrance and exit of the merchants of other countries, many of whom now are often harassed by the delay caused in procuring passports and the necessary visé; sometimes to the extent of missing their steamers.

The extension of this liberty to foreigners would be in harmony with the spirit of freedom that has so recently overspread your beautiful country.

With expressions, etc.,

ROBERT ADAMS, Jr.

[Inclosure 2 in No. 23.—Translation.]

Decree.

The Provisional Government of the Republic of the United States of Brazil decrees:

ARTICLE I. All provisional assemblies, created by law of 12th October, 1832, and 12th August, 1834, are hereby dissolved.

ART. II. Until the adoption of a definite constitution by the United States of Brazil, the following attributions shall belong to the governors of states:

Section 1. To establish the civil, judicial, and ecclesiastical divisions of their respective states and order the removal of the capital to the most convenient place.

Sec. 2. To provide for the public instruction, houses of public instruction, and in general promote instruction in all its grades.

Sec. 3. To determine the cases and regulate the form of disappropriation of private property condemned for the use of the state, in the states wherein the subject may not be already regulated by law.

Sec. 4. To fix the public expense of the state and lay and collect the taxes that may be necessary, which must not, however, prejudice in any way the general imposts of the United States of Brazil.

Sec. 5. To fiscalize the employment of the public revenues of the state and the accounts of the same.

Sec. 6. To create public offices, appoint officials and establish their salaries.

Sec. 7. To decree public works and provide roads and navigation in the interior of the state, the construction of prisons, labor, discipline, and regulation of the same, houses of public aid as well as any political or religious societies.

Sec. 8. To create the police force that may [be] absolutely necessary, and provide for their enlistment, organization, and discipline, in accordance with the Federal Government.

Sec. 9. To nominate, suspend, and dismiss public employes of the respective states, excepting only life magistrates, who may be suspended in order to be duly tried and punished, having recourse to the General Government.

Sec. 10. To contract loans and regulate the payment of interest and their amortization dependent upon the approval of the General Government.

Sec. 11. To regulate the administration of state property and authorize the sale of such as is to be sold.

Sec. 12. To promote the organization of the statistics of the state, instruction and civilization of the Indians, and to establish colonies.

Sec. 13. To make representations to the Federal Government against the laws, resolutions, and acts of the other states that may be injurious to their respective states.

ART. III. The Provisional Federal Government reserves to itself the right to restrict, amplify, and suppress any of the attributions that may be conferred on the provisional governors of states, or to change them, as may be most convenient, in the actual period of national reconstruction for the public good and for the peace and right of the people.

Hall of the sessions of the Provisional Government of the Republic of the United States of Brazil, November 20, 1889.

MARECHAL MANOEL DEODORO DA FONSECA,
Chief of the Provisional Government.
ARISTIDES DA SILVEIRA LOBO.

[Inclosure 3 in No. 23.—Translation.]

Mr. Bocayuva to Mr. Adams.

MINISTRY OF FOREIGN RELATIONS,
Rio de Janeiro, November 26, 1889.

I received in due time the note that Mr. Robert Adams, jr., envoy extraordinary and minister plenipotentiary of the United States of America was pleased to address me on the 20th current month, informing me that his Government had ordered him by telegraph to maintain diplomatic relations with the Provisional Government of the United States of Brazil. This Government received so important a communication with the greatest pleasure, and believes with your excellency that the circumstance of this country having adopted the republican form of government will certainly contribute to the strengthening, if possible, of the already cordial relations existing between this country and the United States of America.

I beg your excellency to excuse the delay of this reply which I could not give without telling you when the chief of the Provisional Government would have the satisfaction of receiving your excellency.

Unfortunately, the state of his health will not permit this for the present.

I shall be happy to inform you when this may be possible.

As to myself, Mr. Adams will find me at his orders in this secretary's office of state, on Thursday, the 28th of the current month, at 1 o'clock p. m.

With pleasure I take advantage, etc.

Q. BOCAYUVA.

CORRESPONDENCE WITH THE LEGATION OF BRAZIL AT WASHINGTON.

*Mr. Da Costa to Mr. Blaine.*WHITE SULPHUR SPRINGS, W. VA., *July 18, 1889.*
Received July 19.

DEAR MR. SECRETARY OF STATE: I am very sorry to have to apprise your excellency that I just received an official cablegram couched on the following terms:

In the evening of the 15th to the 16th, after the imperial family left one of the theaters on their way home, a Portuguese shot at the carriage in which was the Emperor, who fortunately was not attained. The Portuguese was arrested.

I thought my duty to make your excellency acquainted with this painful case, that your excellency may inform the President about it.

The circumstance of being a foreigner, the person who perpetrated the terrible attempt, is a consolation for me in this most distressing event, as such a stain will not be attached to the Brazilian nation, which has an unlimited love and veneration for her glorious sovereign.

I have, etc.,

J. AUG. DA COSTA.

*Mr. Wharton to Mr. Da Costa.*DEPARTMENT OF STATE,
Washington, July 20, 1889.

My DEAR MR. DA COSTA: I have received your note of the 18th instant, addressed to the Secretary of State, informing him of the cablegram received by you from Rio de Janeiro, announcing the attempt made on the Emperor's life, and requesting him to apprise the President of the information you had received.

I yesterday addressed a telegram to our minister at Rio de Janeiro, directing him to convey, through the foreign office, the President's congratulations to the Emperor upon His Majesty's happy escape.

Expressing my personal sympathy with you in this unfortunate occurrence, and my congratulations that it has not been attended by any serious result,

I remain, etc.,

WILLIAM F. WHARTON.

Mr. Valente to Mr. Blaine.

[Translation.]

LEGATION OF BRAZIL,
Washington, November 23, 1889. (Received November 26.)

MR. SECRETARY: Confirming the verbal statements I had the honor to convey to your excellency, I am now in a position to give you further information on the political conditions of my country.

The nation has been constituted in a republic under the denomination of the United States of Brazil and the Provisional Government,

having as its chief Marshal Deodoro da Fonseca, is formed thus: minister of the interior, Mr. Aristides Lobo; minister of finance, Mr. Ruy Barbosa; minister of war, Mr. Lieutenant-Colonel Benjamin Constant Botelho de Magathoes; minister of marine, Rear-Admiral Eduardo Wandenkolk; minister of foreign affairs, Mr. Quintino Bocayuva; minister of agriculture, Mr. Demetrio Ribeiro; minister of justice, Mr. Manuel Ferros Campos Salles.

The Provisional Government will meet all engagements entered upon and contracts made by the State, and undertakes the new work of organization under conditions of peace and general satisfaction, all the provinces having already adhered to the new political situation.

I beg further to notify your excellency that the new Government has confirmed the powers previously conferred on me as envoy extraordinary and minister plenipotentiary on ordinary and special mission, and delegate to the International American Congress, and also the powers of Messrs. Lafayette and Mendonça, as envoys extraordinary and ministers plenipotentiary on special mission and delegates to the named Congress.

I have the honor to transmit to your excellency herein copy of the telegrams giving me the information I have been conveying to you in this note.

I must inform your excellency that Mr. Lafayette has not accepted the renewal of his powers.

The powers of the Captains T. A. Cordovil Mauritz and Luis Felipe Saldanta da Gama as delegates of Brazil to the Maritime Conference have been also renewed.

I take, etc.

J. G. DO AMARAL VALENTE.

[Inclosure No. 1—Telegram—Translation.]

Mr. Bocayuva to Mr. Valente.

Republic proclaimed. Provisional Government constituted by the army, navy, and people enter upon its duties. Chief of the Government, Marshall Deodoro da Fonseca; minister of interior, Aristides Silveira Lobo; finance, Ruy Barbosa; war, Lieutenant-Colonel Benjamin Constant Botelho Magathoes; navy, Rear-Admiral Eduardo Wandenkolk; foreign affairs, Quintino Bocayuva; justice, Manuel Ferros Campos Salles; agriculture, Demetrio Ribeiro.

QUINTINO BOCAUYVA,
Minister of Foreign Affairs.

[Inclosure No. 2—Telegram—Translation.]

Mr. Barbosa to Mr. Valente.

Government is constituted in Republic of the United States of Brazil. Monarchy deposed; imperial family left the country; provinces adhere; tranquillity and general satisfaction; executive power intrusted to Provisional Government, whose chief is Marshal Deodoro da Fonseca, and myself the minister of finance; Republic respects strictly all engagements and contracts entered upon by the State.

RUY BARBOSA,
Minister of Finance.

[Inclosure No. 3—Telegram—Translation.]

Mr. Bocayuva to Mr. Valente.

NOVEMBER 21.

Provisional Government confirms powers given to you and Messrs. Lafayette and Mendonça.

BOCAYUVA.

Mr. Valente to Mr. Blaine.

BRAZILIAN LEGATION,

Washington, November 24, 1889. (Received December 9.)

MY DEAR MR. SECRETARY: I have just received a cablegram from our minister of finance stating:

RIO DE JANEIRO, *November 24.*

I inform you that all the provinces have signified their adherence to the Republic and Provisional Government without any resistance or protest. The Government of each State is rapidly being organized. A decree of the Provisional Government has extended the right of vote to all the citizens, except only those unable to read or write. The archbishop, head of the church in Brazil, has conferred to-day his solemn benediction upon the Government and the Republic.

Believe me, etc.,

VALENTE.

CHINA.

Mr. Denby to Mr. Bayard.

No. 713]

LEGATION OF THE UNITED STATES,
Peking, October 1, 1888. (Received November 16.)

SIR: I have the honor to transmit herewith a copy of a communication which I addressed to the Tsung-li Yamên on the 27th ultimo, having relation to the Chi-nan-fu case, which has formed the subject of previous dispatches from the legation to the Department.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 713.]

Mr. Denby to the Tsung-li Yamên.

LEGATION OF THE UNITED STATES,
Peking, September 27, 1888.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I am compelled again by urgent requests from my compatriots at Chi-nan-fu, to trouble you with another statement of the pending difficulties and to ask your assistance in their settlement.

It is more than eight months since this matter was first called to the attention of your highness and your excellencies, yet nothing has been done towards arranging it.

No steps have been taken to investigate the circumstances of the riot in any judicial proceeding and none of the rioters have been arrested or punished, though their names are well known to the authorities and to this legation. We have patiently waited until the examinations are over and now there seems to be no reason for further delay.

April 6, 1888, your highness and your excellencies addressed to me this language:

"If the said missionary wishes to find at another place a suitable house for a hospital he can at any time with the local officials discover the action to be taken. The Yamên will also address the governor of Shan-tung to render assistance in devising a plan of action, but if property can not be acquired at once the missionaries then will only have to be forbearing and wait, and not show a hasty temper."

July 3, 1888, your highness and your excellencies had the kindness to write me the following:

"The Yamên, now besides having communicated the foregoing to the governor, urging the official of said province to properly manage the case, as in duty bound sends this note, etc."

As the result of these orders issued by your highness and your excellencies an interview took place between the missionaries and the taotai, but nothing came of it.

The taotai does not seem to regard that any responsibility rests on him, notwithstanding the orders of your highness and your excellencies.

I have the honor to request that the governor be directed to grant Rev. Gilbert Reid an interview, because we have no consul at Chi-nan-fu, and an oral discussion might lead to a settlement.

The clear idea was expressed by your highness and your excellencies that an exchange of property might be made. The missionaries are still willing for an exchange. The officials excuse themselves by saying that they can find no property, and the people are intimidated from selling or renting to the missionaries directly. I recognize the difficulty of purchasing houses in the city, but I am advised that there

would be no difficulty in purchasing open land in the east, south, or west suburbs. It is only necessary that a guaranty be given of protection and that there will be no maltreatment or imprisonment of a vendor, and that the people become assured that the officials are really willing that they may sell to the foreign religious and charitable association.

If an equitable and just exchange can not be made whereby the original landlord and vendor would lose nothing on account of his trade, then the best plan would be to confirm the missionaries in the possession of the original tract purchased.

Your highness and your excellencies are in possession of all the facts attending the original purchase. And it would seem that when one man is willing to sell, and others want to buy, and the transaction was at least tolerated by the authorities, and promises were made to seal the deeds, that the transaction ought to be completed in spite of the opposition of a few of the gentry. I am informed that the landlord has been compelled to make a deed disposing of the property to the ringleaders of the riot. I believe that this is contrary to Chinese law as long as the deed of the first sale is in the hands of the missionaries and the money has been actually transferred. It seems to me that no attention whatever has been paid to the orders of your highness and your excellencies.

I would be glad if additional strict orders were issued by your highness and your excellencies for a just and equitable and satisfactory management of all the points and a speedy termination of this troublesome case. The matter creates scandal, greatly retards the work of the missionaries and is injurious to their well-being and health and tends to produce public disorders.

On all accounts it ought to be speedily settled.

I respectfully request that the taotai be directed to grant the missionaries an interview and to hear their petitions.

I beg leave to suggest that in settling this case it would be better to issue specific orders either to grant an exchange of sites or to confirm the original purchase. General instructions to "manage" seem to produce little results.

Trusting that your highness and your excellencies will favorably consider the foregoing requests,

I avail, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 721.]

LEGATION OF THE UNITED STATES,
Peking, October 4, 1888. (Received November 16.)

SIR: I have the honor to inclose herewith a copy of the triennial calendar of the Tung Wen College. This institution has heretofore received the commendation of the ministers of the United States, in which I heartily join.

It is under the superintendence of H. I. H. Prince Ching and the ministers for foreign affairs, with Sir Robert Hart as inspector *ex officio*.

The president, as you well know, is our fellow-citizen, Dr. W. A. P. Martin. There are professors of chemistry and natural history, mathematics, medicine and physiology, astronomy and meteorology, English, French, German, Russian, and physics. Chinese is taught by three professors and several tutors.

The students are classified as follows: In the English course, 32; in French, 30; in Russian, 17; in German, 16; in astronomy, 5; in physics, 4; in mathematics, 20; in international law, 9; in chemistry, 20; and in medicine, 9.

I had the pleasure of examining the students in French and found them very well advanced and instructed. At the triennial examination successful competitors received marks of official distinction, and conspicuous merit secures the first step in the nine degrees of official rank. Promotion in the public service ensues.

Students are much engaged on interpretorial duties and aid in the translation of foreign books. They are often sent abroad to the various embassies. Twenty-one are now serving in this capacity.

The full course covers eight years. During the first year the amount allowed to each student by the Government is 3 taels per month. This amount is increased in proportion to the length of service and capacity. A student sent abroad receives 100 taels per month, which sum for student interpreters is increased to 150 taels.

Candidates to a competition in mathematics are hereafter to be admitted to the general governmental examinations.

It is proper to mention in this connection that Dr. J. Edkins has completed the translation of sixteen volumes of science primers. Copies have been presented to the Emperor, who is supposed to be engaged in the study thereof.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 723.]

LEGATION OF THE UNITED STATES,

Peking, October 6, 1888. (Received November 16.)

SIR: I have the honor to inclose herewith a translation of the reply of the Yamèn to my communication which was sent to you in my dispatch No. 713 of October 1, relating to the Chi-nan-fu troubles.

The Yamèn give an abstract of a note from the governor of Shan-tung.

The Yamèn still professes a willingness to aid the missionaries, but it does not agree to issue the positive orders which I demanded. It repeats its advice that "Rev. Gilbert Reid be easy and complaisant, wait quietly, and not show a hasty temper."

I have communicated to Mr. Reid the substance of this dispatch, but I have little hope that he will take kindly these appeals to his patience.

I infer that there is not much probability of settling this controversy by securing for the missionaries the land which they desire for hospital purposes within any short period of time. Possibly a general settlement of the various questions pending between the two countries may include this troublesome affair. The only other plan which occurs to me is to go myself, accompanied by the interpreter of the legation, to Chi-nan-fu, or to send him or the second secretary to confer personally with the local authorities. Should you direct this mode of action, I ask authority to draw on you for the expenses of the trip.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 723.]

The Tsung-li Yamèn to Mr. Denby.

PEKING, October 4, 1888.

YOUR EXCELLENCY: The prince and ministers have the honor to state in reply that in the case of the missionaries purchasing property at Chi-nau-fu on the 27th of September ultimo they received a communication from your excellency having relation to it and have read all the points submitted therein. The Yamèn at the same time also received a note from the governor of Shan-tung to the following effect:

"Since the return of the American missionary to Chi-nan-fu the governor has repeatedly instructed the taotai, prefect, and magistrate without delay to assist the missionaries in managing the matter. But there is no help for it, the city of Chi-nan-fu and suburbs are narrow in extent and the people crowded together; in addition to this, owing to the Yellow River famine during the past succeeding years, the people of the neighboring districts have migrated hither in confused numbers, so that still farther there is no vacant place in the city and suburbs.

"During the years when the provincial examinations are held the students assemble in crowds (and we must) consider that this still more makes house accommodation less with a full population.

"Again, when the people are in numbers there is talk of all sorts, and it is no difficult matter for troubles or disturbances to occur: to act in a hurry is not an easy task."

In regard to this case the Yamèn has repeatedly sent instructions to the said province urging that assistance be rendered to bring about a satisfactory management thereof. The prince and ministers have now received the governor's reply giving all the circumstances.

At the said place there is a difficulty in taking action in the premises, but it is not that the officials have the intention of evading the performance of their duty.

In a word, there are numbers of Chinese scholars and people who have no faith or belief in the western doctrine of Christianity, and they are unable to regard the missionaries from western countries in the same light or manner as foreign merchants engaged in trade. Trouble frequently happens and the local authorities have difficulty in showing them the right way.

In this matter it is necessary to be indulgent for a while and wait until a suitable opportunity comes to take satisfactory action.

The Yamèn will again address the governor of Shan-tung to adopt a plan of action in the hope that the matter may be settled.

The prince and ministers hope that your excellency will instruct the Rev. Gilbert Reid to be easy and complaisant, to wait quietly, and not show a hasty temper.

A necessary communication, etc.

Mr. Denby to Mr. Bayard.

No. 737.]

LEGATION OF THE UNITED STATES,
Peking, October 19, 1888. (Received November 30.)

SIR: I have the honor to report that the question of the issuing of marriage certificates by diplomatic officers abroad has finally reached China.

The Department has always most correctly recognized questions relating to the validity of marriages as being of grave importance. I therefore report for your information the latest phase of this question which has arisen here.

Mr. J. B. Thompson is a missionary of the American board, located in Shensi. He is a subject of Great Britain, born in Newfoundland. He made a contract of marriage with Miss Vetter, who is a citizen of the United States, having her home in the State of Missouri. She is a missionary of the same society. Some weeks ago Mr. Thompson arrived here from Shensi. Miss Vetter also arrived a few days ago from the United States. The parties desire to return to their station before the winter sets in. They are anxious for an immediate marriage.

Under the British statutes a delay of thirty days' residence in China is necessary. Banns are also to be published twenty-one days before the marriage can be solemnized by a consul. Some officials contend that the time may run concurrently. My opinion is that the thirty days must expire before publication of the banns. For the reasons stated the parties wish to escape the delay.

Under the direction of her British Majesty's minister a marriage under certain circumstances can take place at the British legation without delay.

Mr. Thompson consulted me. I represented to him that for the tranquillity and safety of the lady the marriage should take place at the British legation. Under the statutes of Great Britain a marriage solemnized at a legation of that country is valid everywhere in the Queen's dominions.

I did not myself doubt that such a marriage would be held valid in the United States; but I did doubt whether the marriage of a male British subject to an American woman at the United States consulate would be held valid in Great Britain.

At all events, in a matter of such grave importance I desired to be on the safe side, and would therefore in no manner intervene to assist the parties to be married by or before the American consul unless the marriage were to be followed by another marriage between the same parties at the British legation and according to British law.

I advised him to apply to Sir John Walsham for permission to be married at the British legation. Sir John promptly replied verbally that he would direct the marriage to be solemnized at the British chapel if I, as minister of the United States, would certify that the mixed marriage which it is proposed to celebrate at the British legation, will, of itself and without any preliminary or other ceremony be recognized as legal and binding in the United States.

In an interview with Sir John, in which the whole matter was discussed, I showed him your circular (No. 699, F. R., 1887, p. 1133). This satisfied him that I had no authority to issue such a certificate. But I suggested to him that if his Government insisted on a certificate from me and my Government ordered me not to issue such a certificate, the marriage was evidently blocked and prevented, and we should pursue our investigations further, in the hope that we could find a solution of the difficulty.

I proposed to him that the parties should first be married before the American consul, and afterwards at his legation, if that were possible. After further consideration an agreement was arrived at.

It appears that a circular had been issued from the British foreign office, July 31, 1886, to the effect that two cases of mixed marriages between British and Swiss citizens, duly celebrated at Her Britannic Majesty's embassy at Paris, wherein the customary procedure had been followed to the letter, were declared null and void in Switzerland.

The procedure hitherto followed was to obtain, from the representative of the foreigner's country, a certificate that the marriage at the British embassy should be deemed valid by the laws of his nation.

The ground on which the said marriages were declared null and void was that the validity of mixed marriages celebrated at the British embassy at Paris was not recognized by French law. To meet this objection, before authorizing any mixed marriage at any legation, the minister is to require that a previous marriage shall take place according to the *lex loci*, and that a certificate, under the hand of the representative of the foreigner's nation, shall be obtained, that such a marriage is recognized as legal and binding by the laws of his country.

In a circular of the British foreign office, dated July 14, 1887, the stipulation that a marriage according to the *lex loci* shall previously be celebrated, is modified for a form of marriage that is recognized as legal and binding by the law of the nation to which the foreigner belongs.

If, however, the minister is satisfied that such previous marriage is impracticable, he may, at discretion, dispense with it, on being furnished with a certificate, under the hand of the representative of the foreigner's nation, that the mixed marriage, which it is proposed to celebrate at the British Legation, will, of itself, and without any preliminary or other ceremony, be recognized as legal and binding by the laws of such nation.

A fair construction of these instructions is that the British Minister may allow a mixed marriage to be solemnized at the legation, if a form of marriage, that is recognized as legal and binding by the law of the nation to which the foreigner belongs has previously taken place. In that event the certificate is dispensed with, and "a recognition" of the validity of the previous marriage by the officials of the foreigner's nation is all that is required.

If the American consul shall perform the marriage ceremony between those persons I shall certainly "recognize" the validity of the marriage. The marriage at the English legation will follow, and I am entirely certain that the double marriage will be firm and effectual in the United States and Great Britain, and I believe everywhere in all the world.

This understanding between Sir John Walsham and myself makes this marriage possible, and does not, in my opinion, in anywise controvert the principles enunciated in the circular cited.

There is a vast difference between "recognizing" the validity of a marriage had before an American consul and giving the certificate which is prohibited in Foreign Relations, 1887, page 1133. The prohibited certificate goes to the validity of the marriage which is solemnized in a foreign jurisdiction, and not to the validity of marriages solemnized before our own consuls. I give no certificate whatever. The consul furnishes the usual marriage certificate, form No. 87, Consular Regulations, 1888. On the faith of that certificate and of my verbal statement, recognizing the validity of the consular marriage only, the second marriage ceremony will be performed in the British legation according to British law.

I trust that this solution of a grave difficulty, which has made two lovers happy, will be approved by both the governments which are interested therein.

It may not be inappropriate to submit a few observations on the general subject as affecting China.

You have repeatedly enunciated the general doctrine to be that the *lex loci* governs questions involving the validity of marriage. You have, however, in your memorandum attached to your dispatch to me, No. 343, of August 18, 1888, limited this principle to the laws of those countries which recognize monogamous marriages, and not polygamous marriages. It is apparent, therefore, that the *lex loci* in China can not have any controlling effect, because polygamous marriages are recognized as valid here.

The doctrine of ex-territoriality under which, except as to real estate, the laws of each nationality accompany its citizens or subjects in China, also tends to do away with the effect of the local law marriage laws, as far as foreigners are concerned.

For reasons, therefore, more influential in China than in Europe, it is proper to substitute for a marriage governed by a "*lex loci*, a form of

marriage recognized as binding in the United States. It is to be remarked further that, as far at least as I can find, there is nothing in the Consular Regulations relating to mixed marriages. Under section 383, Consular Regulations, 1888, marriages between persons domiciled in the Territories or the District of Columbia, are authorized. Under section 386 persons domiciled in any State may be married by the consul, if the State laws are complied with.

Compliance in China with bare legal forms, as required by State laws, is clearly impossible. Licenses can not be procured; banns can not be published. There is little difficulty in holding that the penalties imposed for failure to comply with these statutory requisites do not affect the validity of marriages in China. Nor is there any trouble in holding that a consul who may lawfully unite in marriage two Americans, may also lawfully unite in marriage one American and one foreigner. The American is bound by the laws of his country, the foreigner by his voluntary submission to the laws then and there complied with, and by his civil contract. I do not doubt that, generally, in the States of the Union, this conclusion of law would be arrived at. But it can not be claimed that the binding force of such marriages would be universally sustained in other countries.

It seems to be important that, so far as possible, these questions should be set at rest by instructions to representatives of the government abroad. A regulation defining the power of consuls to solemnize marriage, where the contracting parties are an American and a foreigner, would greatly simplify the subject. Until some such regulation is formulated I shall, out of abundance of caution, in cases of mixed marriages, adhere to the decision herein reported,—unless disapproved by you,—that two marriage ceremonies be performed—one before the American and one before the foreign consul.

Should, in this particular case, there be other delays or obstacles, I will report them.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 738.]

LEGATION OF THE UNITED STATES,
Peking, October 20, 1888. (Received November 30.)

SIR: I inclose herewith an estimate of the population of China, prepared by the imperial maritime customs. It is based on the census of 1879 and 1882.

Official censuses in China are not entirely accurate.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 738.]

Estimate of the population of China.

Districts.	Year.	Population.	Districts.	Year.	Population.
Manchuria	1872	6,000,000	Chekiang	1882	12,000,000
Chihli	1879	18,000,000	Shensi	1882	8,000,000
Shantung	1882	36,000,000	Fuh-kien	1879	52,000,000
Shansi	1882	12,000,000	Kwantung	1882	30,000,000
Honau	1882	22,000,000	Hunan	1882	21,000,000
Sz chuan	1882	68,000,000	Kiangsi	1882	24,000,000
Yunnan	1879	11,000,000	Kwangs	1879	5,000,000
Hupeh	1882	33,000,000	Kansuh	1879	5,000,000
Kiangsu	1882	21,000,000	Total		413,000,000
Huohow	1879	8,000,000			
Anhwei	1879	21,000,000			

Mr. Denby to Mr. Bayard.

No. 741.]

LEGATION OF THE UNITED STATES,
Peking, October 23, 1888. (Received December 8.)

SIR: The present month has witnessed a ceremony entirely novel in China and one full of interest for those concerned in the country's material progress.

The railway at Tientsin, the inception, progress, and completion of which have been reported to you, step by step, by this legation, was on the 9th instant formally inspected by his excellency the Viceroy Li, under orders to report thereon to the Throne. This duty was performed with considerable ceremony, and seems to have been so auspiciously accomplished as to bode well for the future of the railway cause. The line was in excellent working order, and was traversed by the Viceroy and suite, unimpeded by any of those delays or accidents which, on such occasions, so easily occur, and which, if serious, might, in this instance, have exercised an unfavorable influence on railroad extension. To people ever ready, for their own ends, to see the "will of heaven" in others' misfortunes, a railroad accident on this trip of inspection would have furnished a powerful weapon of opposition.

The Chinese Times of the 13th instant records the day's proceedings in full. At 7.30 in the morning the Viceroy went from his residence to the railroad wharf, on the bank of the Peiho River. There he was met by several Chinese directors of the railroad and the foreign engineers. The party then proceeded to the railroad depot, a short distance away, where other Chinese dignitaries awaited them. No foreign officials were asked to participate, a circumstance explained by the character of the occasion. Troops, both foreign-drilled infantry and irregular cavalry, as well as a battery of artillery, were present at the station, the train moving out amid salutes from the latter.

The imperfect ballasting of the first few miles of the track, which were, in fact, the last to be built, necessitated a low rate of speed, which was later, however, increased to 30, 40, 45, and even 50 miles per hour. Various stops at the towns along the route were made, at each of which troops were drawn up and the local civil and military officials presented themselves to pay their respects to the Viceroy. At Lutai, a city about half way between Taku and Kaiping, the Viceroy attended a magnificent banquet provided by General Li, whose guest he was.

Amongst the troops present at this point the Times mentioned "a company of 'Lutai tigers,' men dressed in yellow cotton with black streaks. These men were armed with bows and arrows and each warrior bore a wicker shield on which were painted hideous faces of ogres, frightful enough to scare a regiment of Prince Bismarck's typical Pomeranian grenadiers;" an anachronism in military arms and uniforms emphasized with singular force by the occasion, and which can not long survive the presence of that great factor in progress whose introduction these soldiers were there to celebrate.

At Tong-Shan, near the end of the line, the party was received by Mr. Tong King Sing, chief director of the colliery, and said to have been the founder of the mines at this point, of the railroad itself, and of the China Merchants' Navigation Company. The Viceroy inspected the mines, pumps, workshops, and other foreign machinery, while his son descended the shaft, which is about 600 feet deep.

The party remained here over night, and starting at 8 the next morning reached Tientsin at 11.30 without incident, thus completing in three and one-half hours a journey of 81 miles, a distance which under the most favorable circumstances would have required three days by any means of conveyance previously existing. This fact must have been sufficiently impressive to the Chinese officials, some of whom have made the same journey under other conditions.

The Chinese Times gives the distances of the route as follows: Tientsin to Tongku, a town opposite Taku, on the north side of the river, 27 miles; Tongku to Lutai, northwest of Taku, 25 miles, this piece of road being at right angles to the last; Lutai to Tong-Shan, 29 miles. Tong-Shan is not far from Kaiping, to which point the road will be extended. It is confidently stated, also, by parties in Tientsin that the opposition to the extension of the line towards Peking has been overcome and that stock is actually being issued for a line to be built to Tungchou, a city on the river Peiho to the east of Peking.

The time is even now hopefully looked forward to when an express train will make the journey from Tientsin to Tungchou in one and a half hours, a journey at present of from two to five days.

The road, as far as completed, was designed and constructed by Mr. C. W. Kinder, C. E., a gentleman who is said to have had large experience in England, the United States, and Russia. The management of the company has been in the hands of Mr. Ng Choy, a barrister of the English bar, who has shown much skill and patience in its organization.

The company possesses four powerful passenger locomotives, of 70 tons each, said to be a modification of British-built engines by the introduction of certain American features rendered available by local conditions. One of these engines is described by the Times as follows:

It was built by Dubs & Co., of Glasgow. The boiler is of steel; 17 by 24-inch cylinders; four 6-foot drivers; four 36-inch bogie wheels; iron pilot (or cow-catcher); American head-light; heating surface, 1,012 feet; 212 tubes; 18 feet grate area. The tender is on two bogies with 36-inch wheels, and carries 2,300 gallons of water and 2 tons of coal.

The performance of these engines, considering the unskilled labor necessarily employed in building the line and handling the train, must, as the Times justly remarks, be considered remarkably good.

In addition to the above there are seven double-ender tank engines and three smaller engines. Of these but one came from America, being from Grant & Co.

The equipment of the road as to cars, both passenger and freight, seems ample, comprising large numbers of coal, construction, and other cars.

Among the most noticeable adaptations of American improvements are the "bogge trucks" and the "Janney" couplers and buffers, together with a complete set of Westinghouse automatic brakes, presented by the patentees to the railroad company. The wheels and axles, which are being constructed at the company's shops at Su-ko-chwang, also came chiefly from America. The bridges along the line represent a variety of systems. Among them an American bridge, 120 feet span and costing 7,000 taels, is spoken of as a fine example of bridge work.

The work of the road throughout is of the most excellent standard, carried out also with a view to economy. With stone ballast, steel rails of 45, 60, and 70 pounds, sleepers of hard Japanese wood or steel, and permanent work in iron, steel, and masonry, instead of wood, rendered necessary by the extremes of heat and cold, the road seems thoroughly equal to the traffic hereafter to be developed on it.

The annual floods along the route have been provided against by raising the road-bed and by the construction of numerous flood openings.

The cost of this line, so far, has been one and one-half million taels, an exceedingly small sum, should experience prove the work as well done as it is claimed to be.

Thus, in spite of years of opposition and after unsuccessful struggles on the part of syndicates of many nations, the railroad age, inaugurated by the Chinese themselves, begins in China. The viceroy, aided and encouraged in no small degree by many advanced and educated men of his own nation as well as by foreigners, has commenced a work destined to be of the greatest importance and benefit in the future of this Empire.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 757.]

LEGATION OF THE UNITED STATES,
Peking, November 12, 1888. (Received December 29.)

SIR: I inclose herewith a translation of the decrees whereby the Emperor has selected the Empress of China and two secondary wives.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 757.]

Edict of the Empress Dowager, published in the Peking Gazette of Friday, November 9, 1888.

The Emperor having reverently succeeded to his exalted inheritance, and increasing day by day in maturity, it is becoming that he should select a virtuous consort to assist in the administration of the palace, to control the members of his household, and to encourage the Emperor himself in upright conduct. Let, therefore, Yeh-ho-na-la, a daughter of the Deputy Lieutenant-General Kuei Hsiang, whom we have selected for her dignified and virtuous character, become the Empress.

FURTHER EDICT, SAME DATE.

[A special edict.]

Let Ta-ta-la, aged fifteen years, a daughter of Chang Hsii, formerly vice-president of a board, become the secondary consort of the first rank, and let Ta-ta-la, aged thirteen, also daughter of Chang Hsii, formerly vice-president of a board, become imperial concubine of the second rank.

Respect this.

Mr. Denby to Mr. Bayard.

No. 766.]

LEGATION OF THE UNITED STATES,

Peking, November 26, 1888. (Received January 12, 1889.)

SIR: I have the honor to inform you that Monsieur Thevenet, chief of the French syndicate in China, has presented to Prince Chun six railway carriages, built in France, on which the arts of French construction and decoration have been expended, for his majesty, the Emperor.

Three of the carriages are very handsomely fitted in yellow, green, and blue satin, with all the necessary sleeping and toilet arrangements, which are intended for the private use of the Emperor, Empress, and high officials of court; the others are for their majesties' attendants, guards, etc. These carriages, it is estimated, cost about 150,000 francs. They have reached Tung-chou, about 14 miles from here, having been conveyed there by water, from whence they will be brought here by portable rails. They will be taken first to the imperial city and be drawn by eunuchs over a small line to be laid down there for the benefit of the Emperor and Empress. This will enable their majesties to realize, in a measure, the comfort of traveling over the iron road.

A small line will afterwards be built in the imperial pleasure grounds, about 2 miles in length, when all the carriages will be employed and propelled by a small engine constructed for the purpose.

I have, etc.,

CHARLES DENBY.

Mr. Bayard to Mr. Denby.

No. 375.]

DEPARTMENT OF STATE,

Washington, December 5, 1888.

SIR: I have to acknowledge the receipt of your dispatch No. 737, of October 19, 1888, which has been considered with the care and interest which its importance and the ability shown in it call for. In it you state that a marriage being in contemplation in China between Mr. J. B. Thompson, a subject of Great Britain, and Miss Vetter, a citizen of the United States, both missionaries of the American board of commissioners of foreign missions, and it appearing desirable that the marriage should be celebrated at the chapel of the British legation at Peking, you were informed by the British minister that in order, in case of a mixed marriage, to enable the ceremony to be there performed, it would be requisite for you, as minister of the United States, to certify that the mixed marriage in question so proposed to be celebrated at the British legation "will of itself, and without any preliminary or other

ceremony, be recognized as legal and binding in the United States." This certificate you inform me, you declined to give. Your action in this respect was proper and is approved.

You proceed in your dispatch to refer to recent instructions from the British foreign office, a fair construction of which you state to be, that "the British minister may allow a mixed marriage to be solemnized at the legation, if a form of marriage that is recognized as legal and binding by the law of the nation to which the foreigner belongs has previously taken place; in which event the certificate above referred to is dispensed with, and a 'recognition' of the validity of the previous marriage by the officials of the foreigner's nation is all that is required."

You then state that "if the American consul shall perform the marriage ceremony between these persons I shall certainly 'recognize' the validity of the marriage."

I am at a loss to understand why you should use the term "perform the ceremony" in connection with the consul. The act of Congress of June 22, 1860, refers only to marriages in the presence of a consul; and it affects, as you have already been instructed, only persons domicited in the District of Columbia or the Territories. If, however, you should "recognize" as valid consensual marriages in China, such marriages being exclusive sexual unions for life, you would be acting in conformity with the great body of juridical authority in the United States. This, I presume, is what you virtually proposed to do.

The marriage to which you refer was to be unquestionably of the class stated, and while to make it valid it is not necessary that the ceremony should be performed by the consul, yet the fact that the consul is able to attest the fact that the marriage took place will add to the solemnity of the proof by which it is hereafter to be sustained. If the consul's "officiating" at the ceremony tends to relieve any difficulties as to the future British solemnization, there is no reason why he should not so officiate; and though neither under the act of Congress nor by the principles of international law is his officiating essential, yet you would be right as a matter of abundant caution to approve of his taking this course.

You are entirely correct in saying that it is the position of this Department that the rule of the ubiquity of the *lex loci celebrationis* in marriage applies only to countries in which marriages are by law monogamous. But great difficulties lie in the way of compliance with your suggestion that instructions should be issued by this Department "defining the power of consuls to solemnize marriage where the contracting parties are an American and a foreigner." To this I have to reply that the marriage of citizens of particular States being, under the Constitution of the United States, exclusively under the control of the States in which they are domiciled, no act of Congress and, *a fortiori*, no instruction of this Department can operate to effect such marriage. That the British foreign office has taken the ground that legislation of this character, even when it rests on the alleged extraterritoriality of embassies in which such marriages are solemnized, has not necessarily any effect on the subjects of foreign states, you correctly state; and the cases to which you refer in which in France and Switzerland the ubiquitous validity of such ceremonies had been denied have been already brought to the notice of this Department. The attitude assumed in France and Switzerland towards British legislation of this character bears equally on similar legislation or diplomatic regulation coming from the United States. For the Department to advise marriages which

might thus be declared invalid would be to expose citizens of the United States to peril in the most sacred as well as the most important relations.

You will remember, also, that the difficulties which beset questions of this class do not relate merely to the marriage ceremonial. They involve the question of matrimonial capacity; as, for instance, whether to the validity of a marriage family consent is essential. On this topic there is a conflict between local jurisprudences which it is not within the province of this Department to determine. By the common law of Christendom, brought with them to this country by its European settlers, want of family consent did not by itself invalidate a marriage, however much it might expose the parties concerned in the marriage to ecclesiastical censure. But since the time when this common law was thus accepted in this country as the basis of our system several leading European Governments have made family consent essential to the validity of the marriage of minors; and by these Governments this disability is held to adhere to their minor subjects wherever they may travel. As to the disability attached to a prior marriage alleged to have been dissolved by divorce, the diversity of legislation is even greater, and the permanency of disabilities of this class has been maintained with peculiar rigor by those sovereigns by whom it is imposed. Nor, to revert to the disability caused by the want of permission of home local authorities, can we forget that statutes of this class are imposed by several European States as matters of high domestic polity, and that the position taken by them is that this polity would be overridden if their subjects, by crossing a boundary line, could bind themselves and their country by marriages solemnized in evasion of its laws. We may deplore this conflict of jurisprudences in a matter of so great importance and interest as marriage. But it exists; and no instructions issued by this Department can validate, in a European country, marriages in China by domiciled subjects of such European country when such marriages are by its municipal law invalid.

I am far from retracting the opinion expressed by me in the personal instructions issued shortly after I assumed my present duties that to the general rule that the *lex loci* prevails in determining the form of marriage, marriages in barbarous or semi-barbarous or Mohammedan lands form an exception, and that consensual marriages in the last-named countries by citizens of the United States, or by Europeans will, if duly authenticated, be regarded as everywhere valid. But to this opinion two important qualifications are to be attached. The first is that these views are expressed as a matter of executive advice and not of judicial decision. The second is that the question of form of marriage is to be separated from that of capacity to marry, as to which the prevalent view is that the *lex domicilii* prevails. It is not for me to predict what may be the future judicial rulings on this difficult question of the law regulating matrimonial capacity in cases of mixed marriages in China or in Mohammedan countries. My duty is to point to the questions arising as to such marriages, and to instruct our diplomatic and consular representatives to advise Americans who desire to contract such marriages to take such precautions as may secure the marriage from impeachment in the country in which is domiciled the party whom such American proposes to marry.

I am, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Denby.

No. 376.]

DEPARTMENT OF STATE,
Washington, December 10, 1888.

SIR: I have to acknowledge the receipt of your Nos. 713 and 723, of the 1st and 6th of October last, respectively, relative to claims of citizens of the United States against China.

The Department regards with favor your suggestion that it would be advisable to obtain from the Chinese Government a comprehensive adjustment of the claims against it, and you are instructed to endeavor to secure such a settlement.

It is thought that the Chinese Government should be disposed to act in a spirit of comity and liberality on the subject, not only because it is desirable that the complaints now pending should be satisfied but also because of the attention paid by this Government to the claims of Chinese subjects in the United States.

Under the act of Congress of the 24th of February, 1887, this Government has paid to the Chinese minister at this capital the sum of \$147,748.74 in settlement of losses sustained by Chinese subjects at Rock Springs, in the Territory of Wyoming. In addition to this there was appropriated at the last session of Congress the sum of \$276,619.75 as full indemnity for all other losses and injuries sustained by Chinese subjects within the United States at the hands of residents thereof. The latter sum was the amount agreed upon for that purpose by the Chinese minister and myself and inserted in the recent treaty which the Chinese Government for certain causes wholly foreign to the question of indemnity failed to ratify. This money has not yet been paid, but the Chinese minister is expecting authority from his government to receive it.

In view of these facts it is hoped that the Chinese Government will now be ready to settle American claims.

I am, etc.,

T. F. BAYARD.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 771]

LEGATION OF THE UNITED STATES,
Peking, December 12, 1888. (Received February 1, 1889.)

SIR: On the 9th instant the Catholic Cathedral of North Peking was consecrated with great pomp and ceremony. The foreign ministers and their staffs, the members of the Tsung-li Yamên, other high Chinese officials, and the foreign residents generally attended the religious services and were afterwards entertained at a dejeuner. The occasion is of sufficient political importance to warrant my offering some observations thereon.

There are four great Catholic churches at Peking. It is estimated that the number of adherents of this religion in China is 1,200,000. I have been informed that 60,000 natives went to the confessional last Christmas in this province alone.

The date of the arrival at Peking of the first Catholic missionary is fixed by Williams as the year 1292. Corvino went in that year to

Peking. He was kindly received by Kublai Khan, and built a church at Cambaluc (Peking). He was appointed archbishop by Clement V in 1307, and seven suffragan bishops were sent to him as assistants.

Matteo Ricci was one of the most distinguished of the early missionaries. He reached Peking January 4, 1601. He acquired great influence and made many converts.

A German Jesuit, named Schaal, during the years 1630 to 1660, resided in Peking and was high in the favor of the Emperor.

He was appointed president of the astronomical board and built and furnished the observatory.

The careers of the missionaries were checkered with success and persecution until in 1723 all efforts to propagate "the religion of the Lord of Heaven" were prohibited by imperial decree. Since that time and up to 1858 Catholics on the whole decreased in number and influence.

They have flourished under the treaties.

In 1881 we learn from official reports that there were in China 41 bishops, 664 European priests, 1,092,818 converts, 34 colleges, 34 convents. These figures have somewhat increased, but the latest reports are not accessible to me.

Missionary work in China is distributed among the Lazarists, the Franciscans, the Jesuits, the Dominicans, the Gallic Church, the Italians, and the Belgians. In these orders there are men of all European nationalities, but I have not seen among them a single American man and but one American woman.

This province of Chihli is occupied by the Lazarists, who occupy also the provinces Kiangsi and Chihkiang.

The exclusive labors of the missionaries in Peking cover a period of two hundred and fifty years. The works prepared by them comprise essays, translations, histories, travels, scientific and educational treatises, and cover every branch of learning.

The consecration of the new cathedral puts a final and happy end to a vexed and troublesome question. When the allied forces took Peking in 1860, the French insisted on a restitution to the Catholic Church of all the sites for buildings which it had formerly occupied. Among these was the old Pei T'ang, which had stood on an eminence overlooking the imperial palace grounds for a hundred years. The Chinese are peculiarly jealous of lofty buildings, because they believe that their height injuriously affects the Fung-Shui, or geomantic influence. Last year, after considerable negotiations between Rome, France, and China, it was agreed that the old site should be surrendered to the Emperor, who, in lieu thereof, gave 400,000 taels and a fine tract of ground inside of the imperial city but on the plain.

In this favored location the Lazarists have now erected the splendid cathedral which has just been consecrated, together with many buildings for residence, hospitals, schools, a college, and a convent.

The settlement of the vexed question of the occupation of the Pei T'ang is eminently favorable to all religious associations. It establishes friendly relations between the Imperial Government and the leading Christian society in China, and under the favored nation clause in all the treaties the rights accorded to the Catholics in so marked a manner, of building and sustaining a church and a mission, will indirectly inure to the benefit of the professors of all cults.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 772.]

LEGATION OF THE UNITED STATES,

Peking, December 18, 1888. (Received February 20, 1889).

SIR: A brief description of the new Pei T'ang Cathedral mentioned in my last dispatch may not be unacceptable.

The exact measurements are the following:

	Feet.
Total interior length.....	248
Breadth of transept.....	108
Breadth of nave.....	52
Height under beams.....	50
Height arched roof.....	60

The old site given by the Emperor Kang Hsi measured 75 mou (1 mou = 6,600 square feet English). The new site measures 116 mou. The facade rests on a terrace of thick walls of gray granite raised about 5 feet above the ground. A beautiful *basso-relievo*, representing the good Shepherd and his sheep, is cut on a plaque which is 12 feet long by 5 feet wide. The sculptor was a Christian Pekingese named Liu, who gave his work gratis.

The cathedral is cruciform.

The church walls and the lines of pillars are laid upon broad belts of hydraulic concrete 6 feet thick. Upon this foundation a layer of dressed granite 2 feet high is laid, and upon this there is a ring of Peking limestone 2 feet high, and then follows the brick wall. The bricks were made at the imperial factory.

The basilica is Gothic. The pillars supporting the groined and vaulted ceiling are 49 feet 9 inches long. These pillars are each composed of one solid piece of Oregon pine.

All the wood in the church and all the other buildings came from Oregon.

There are twelve twin windows, lattice-shaped, 32 feet high. The stained glass was made in Paris. The windows portray the Christ in glory, the Holy Virgin, the Apostles, St. Joseph, St. Anna, St. Joachim. There are ten altars, all carved in Peking by Chinese workmen.

There is a chapel, called the Chapel of the Holy Sacrament, 50 feet long.

The organ was built by Cavailhé-Coll, of Paris. It is the largest instrument in China, having twenty-four stops, each connected with fifty-four pipes.

The ornamentation is elaborate. Four hundred large dray-loads of marble were used.

An army of workmen was employed in the construction of this edifice.

The cost was as follows:

	Tael.
Wood.....	30,000
Brick.....	30,000
Iron work.....	3,000
Marble.....	8,000
Glass.....	4,500
Organ.....	8,000

Or, in all, with labor, 100,000 taels.

In the compound are numerous buildings used for residences, libraries, museums, a college, schools, a convent, etc.

These buildings cost 240,000 taels.

On the front of the church are two grand stiles (Che-pei), in marble, on which are inscribed in Manchu and Chinese the terms of the con-

vention under which the old site was relinquished in exchange for the new one.

There is a scientific museum for astronomy and physics, which is provided with all necessary instruments and apparatus. There are also a complete printing and engraving office and a great clock in the compound.

I conclude with an extract from the Chinese Times of the 15th instant.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 772.]

The bishop's banquet.

After the ceremony was over the visitors were entertained in four different refectories. A banquet was given to the high Chinese, also to their attendants. The bishop entertained sixty or eighty foreign guests in very handsome style. At the close of the refectation, in a few well-chosen words, he welcomed the representatives of the Imperial Court and Government, and then addressed himself to H. E. Mon. Lemaire, minister of France, who briefly replied in terms of self-gratulation upon the visible union of France, China, and Rome. H. E. Shun then rose, and in clear tonés said he was there by order of the Emperor and Empress, to return acknowledgment for the speed with which the removal had been effected, to express satisfaction with all that had been done, and to give assurances of Imperial good-will.

H. E. Mr. von Brandt then made a brief and happy speech, and was followed by Colonel Denby, minister of the United States, who, in excellent and fluent French, with full and well-modulated voice and genuine oratorical power, then proposed the health of "our dear Abbe Favier," the Vitruvius and Palladio of Peking, a most pious and zealous missionary to boot, whose noble works we all saw.

Mr. Denby to Mr. Bayard.

No. 778.]

LEGATION OF THE UNITED STATES,

Peking, December 29, 1889. (Received February 20, 1889.)

SIR: I have the honor to call attention to some features of taxation in Peking, and incidentally in other parts of China, which present a contrast to systems elsewhere prevalent. The method of securing funds for the needs of the Government has been brought to its present form through many centuries, but it is probable that improvement in means of intercommunication will, in the near future, render necessary some fundamental changes.

The city of Peking is situated in the prefecture of Shun T'ien Fu, *i. e.*, the region enclosing the imperial capital. It is divided into two *hsien* or districts, viz, Wan Ping Hsien and Ta Hsing Hsien, comprising roughly the western and eastern portions of the city, respectively.

These two districts within the city, together with twenty-two districts and departments outside of Peking, including Tungchou, Ch'angping-chou, Pa-chou, San-ho-hsien, Wu-ching-hsien, etc., make up the above-mentioned *fu* or prefecture.

All of these places pay, through their respective district or department magistrates, a land tax on arable land only, which tax goes not to the provincial treasury at Pao Ting Fu (the capitol of this province), but

to the imperial board of revenues at Peking. This tax varies when the land is held from the Emperor from that levied when within the domain allotted to a prince for his support, being larger in the latter case. Taxes vary also with the crop producing quality of the soil from 10 cents to \$1.50 an acre, the land in each district being returned by officers designated for the purpose, as good or bad, high or low.

Inside the city of Peking there is no tax on land, houses, or personal property. Goods brought through the city gates pay a lekin tax, but are exempt from taxation afterwards. The only tax on land and houses in Peking is the tax on the transfer of real estate, amounting to about 10 per cent. of the price paid. This tax is exacted on sale of property, whether in or out of the city, whenever the change of title is registered by the parties in the registry at the magistrate's yamèn, and a red deed is given.* This exaction is said, however, not to be uniform. Transfer may be made by white deed without paying this tax, and, as the title still remains recorded in the original owner's name, this transaction resembles more mortgage with transfer of the property than sale.

In the city there is a tax on shops resembling license fees. A pawnshop pays 50 taels *per annum*; manufacturers of wine, 48; other shops less, the sum varying according to the size of the establishments. Peddlers and others having no fixed place of business pay nothing. Carters, donkey-drivers, etc., pay a charge of one cash (one-fifth of 1 cent) for each passenger they carry, which sum goes to the police for the repair and lighting of streets.

Outside of Peking, Chinese subjects (not bannermen) are liable to be called on to perform military duty, such as repairing roads, conveying chairs, etc., on the Emperor's visits to the eastern tombs or other places. This may be commuted by payment of a small tax for each person and each horse. In other parts of China this duty takes the form of devoting a certain number of days to assisting in the shipment of tribute rice, salt, etc. The requisition for men for these purposes is usually met by each locality furnishing its quota of men, who are paid by all liable to serve.

All moneys spent on public account in Peking come from the imperial treasury, and this expenditure is not limited to funds raised by taxation from the city itself.

This résumé of taxation in Peking shows that the bulk of the people pay no taxes whatever. The man who owns his house and lot, his implements of labor, enjoys his earnings without toll or deduction. In China the chief tax is on land. There is no tax on personalty. The land tax, the salt monopoly, lekin, foreign and native customs duties, and the proceeds of sales of honors and offices make up the revenue of the state.

To the absence of taxation of the body of the people may well be ascribed the permanence of the Government and the tranquillity and contentment of the Chinese race.

I have, etc.,

CHARLES DENBY.

* Deeds of this character are always written on red paper, the following on white paper; hence the names "red" and "white" deeds.

Mr. Denby to Mr. Bayard.

No. 789.]

LEGATION OF THE UNITED STATES,
Peking, January 9, 1889. (Received March 12.)

SIR: I have the honor to send the following slight account of the three great religions of China.

An intimation from you that essays on subjects disconnected with diplomatic questions are not desired will put an end to this species of writing; but if some account of the laws, customs, and religions of China does no appreciable good, at least it can do no harm.

The subjects treated would require the writing of books; I can only generalize a little and supplement my reading by my own personal observation.

The three great religions of China are Confucianism, Buddhism, and Taoism. Of these the adherents of Buddhism are the most numerous. There are singular resemblances between the miraculous occurrences which signalized the birth of Christ and the births of Confucius and Buddha. The Christian explains this similarity by the statement that some of the apostles of Christ traveled into Asia and there spread an account of the birth of Christ, which was afterwards incorporated into the biographies of the other two founders of religions. Confucius was born B. C. 551. His father was Llangho, an old man, a great soldier, a descendant of the Shang Dynasty. His mother was a daughter of the Yen family. At his birth ten dragons appeared above the cottage. Five sages came from afar. Music and heavenly voices were heard. A unicorn came and presented a tablet on which was inscribed, "The son of the essence of water shall succeed to the withering Chow and be a throneless king."

Buddha was born 624 B. C., in Kapilavaster, a city in Benares. It is curious that Buddhism barely exists in the country of its origin. Buddha was the son of King Saddhodana and Queen Maya. The heavenly Buddha came riding on a white elephant and entered her side, which became transparent. The child came forth from his mother's side beneath a Palassa tree, with the four regents of the skies present as assistants.

The usual phenomena appeared—the illumination of the heavens, a rainbow, singing in the air, showers of roses, and nine dragons came and spouted water. A chariot from heaven conveys the babe to the court, and gods, men, and maidens walk in the procession.

In spite of the supernatural events which signalized the births of the two founders of these religions, they are not accounted gods, but men. Herein lies a great difference between these creeds and Christianity. Confucianism is the creed of the literati. Tested by the articles which form the creeds of modern religions, it is scarcely a religion. It has no scriptures but the classics. It deifies no creator. It has no system of theology. It sets no day apart for worship.

The Chinese holidays are about two weeks at New Year and an occasional feast day. The world admits that the moral code of Confucius is nearly perfect. Christ says, Do unto others what you would that they should do unto you. Confucius says, do not do unto others what you would not that they should do unto you. I have heard learned arguments to the effect that the Christian maxim is positive and the Confucian negative. But plainly the sense is identical. One would not wish that another should neglect him, maltreat him, or pass him by in distress. He is therefore commanded not to do these wrongful things, and the effect is the same as if he were commanded to do acts of kindness or charity.

Confucianism is the religion of the State.

Letters and religion are so combined that scholarship and Confucianism are identical. I have inquired of several educated Chinese what the religion of China is. The only definite answer is the worship of ancestors. All classes, from the Emperor in the Temple of Heaven to the peasant in his hut, worship their ancestors. But the educated Chinaman does not admit that he worships his ancestors in the sense that deities are worshiped. He regards the sentiment as the extension of filial piety after death. Confucius canonized the love and reverence of children for their parents and made filial piety the fundamental duty of men.

He adopted this cult irrespective of the question whether the dead have knowledge of the observances of the living.

I find ancestral worship and fung-shuy or geomantic superstition the two principles that all Chinese profess to revere and believe in. A notable example of the influence in the government of ancestral worship occurred in 1874. The Emperor Tungchi died at the age of nineteen, leaving no child. There were princes of the blood, brothers of Hienlung, the father of Tungchi. But the imperial successor must worship his ancestors, and to do this he must come from a later generation than the princes. So the present Emperor, Kuang Hsü, then three years old, was selected as the emperor.

During his life Confucius was simply a teacher. After his death temples were erected to him. His grave at Kewfoo is the most sacred place in China. All classes make pilgrimages to it. Sacrifices of beasts are offered on his altars. Yet in popular belief he is not divine but holy only. But the respect and honors shown to his memory are scarcely to be distinguished from worship and adoration. The Confucian gods are very numerous. Their list would be a reproduction of the gods of ancient mythology. There are gods of literature, war, the household, the door, agriculture, tides, classics, writing, etc.

At the age of thirty Buddha abandoned the court and pleasure and betook himself to the wilderness. For six years he did the severest penance. He is surrounded by temptations. He is attacked by legions of devils. I have seen some monuments on which the spears of the devils as they are about to touch Buddha change into roses at their tips.

At the end of the six years of seclusion he started out to save suffering creatures, to teach men not to live for self. His system comprehended the emancipation from sorrow not only of men but of animals. Broader than our own declaration of independence Buddha declared "all the animal kingdom are born free and equal." Buddhism does not acknowledge a creator. It has innumerable gods but no one being by whose fiat the universe was made. Its system of creation is one of evolution. The Buddhist temples abound in moral precepts displayed on boards and hung on the walls. Self-denial and asceticism are inculcated. One of its tenets is transmigration, and therefore meat can not be eaten. Men are sinners all and redemption comes by good works. Salvation is received by meritorious conduct. Sometimes the Buddhist keeps a debtor and credit account of transgressions and good deeds.

The symbol of Buddhism is the wheel. As it revolves it carries all sentient creatures with it and changes them from insect to bird, from animal to man, and the reverse.

The Chinese believe in metempsychosis.

The Buddhist heaven is called Nirvana. It is a place of absolute repose. The temples and priests of Buddha are very numerous. The

priests shave their heads and wear yellow robes. Their ceremonies are ordinarily few and simple. At dawn and dark they beat a gong and wooden drum. The priest makes a few genuflections in front of the altar, on which tapers are burning, and repeats some prayers, fingering his rosary. The temples contain many images of Buddha, of all ages and colors. These images are made of clay and are painted or gilded.

On great occasions the temples are crowded with worshipers and with priests who walk around in a circle shouting in a monotonous voice. Incense is offered, gongs are sounded, and paper money is burnt. The Buddhist priests undergo great physical suffering to secure charitable donations. They confine themselves many days in cages filled with projecting nails which are bought and removed by the pious. Censers are fastened through the flesh and borne in processions.

There are gods for all conceivable natural objects, earth, sun, moon, stars, thunder, lightning. Some of the temples have a thousand images of gods in one vast hall. All over China, on the wayside, in the gates in country and in towns, are idols. Many are in decay. One often sees a deserted shrine with its row of gods falling to pieces.

The tendency of Buddhism is to elevate woman. One of the greatest deities is Kwanyin, the Goddess of Mercy.

The Buddhists, like some Christian religions, use pictures, candles, and incense. At the great temple, Pie-en-sur, ten miles from Peking, can be seen a faithful representation in wood and clay of the Buddhist hell. There are seen the instruments and the modes of torture, the mill, the chopping knife, the mortar, the operation of pulling out the tongue and sawing the body asunder, the lake of blood, the caldron of oil, the hell of knives, the burning cylinder, the gallows entwined with snakes, the bridge from which men are falling to be devoured by wild dogs, with demons pursuing culprits with knives and pitch-forks. There is a mirror in which men see their transmigration into dogs, reptiles, asses, and cows. There are figures of men carrying their heads in one hand and dragging with their other a cruel mandarin to punishment. Every species of torture is here portrayed.

The Buddhist heaven is also represented in another hall. It is a great orderly place where many well-dressed people sit in seraphic happiness in complete repose.

Taoism is the third great religion of China. It seems to be a congeries of the ancient superstitions of the people. Its founder, Laotze, was born B. C. 604. Taoism has been variously defined as "reasoned," "method," "nature."

Its founder called Tao heaven, or a divine principle which moulds and sways material and spiritual nature. Its tenets are wisdom, purity, humility, compassion, frugality, and modesty. It returns good for evil. It teaches the existence of a Trinity, the "Three Pure Ones," and immortality. The great monad represents the two germs of life. The haes of the Taoists corresponds in ranks and dignities with actual life. The gods hold office, marry, and are appointed by the Emperor with the advice of Pope Chang, who is the head of the sect and the vice-regent on earth of the Pearly Emperor. This deity is the chief god of Taoism. Mount Tai is the chief shrine of this sect. Each part of the body and every disease has its god. The gods are innumerable.

Death has few terrors for the Chinese. The dead are still in the hands of the living. Provisions are furnished them, tea is poured out for them, sycee supplied to them. The manufacture of sycee out of leaden sheets is one of the great industries of China. The value of

many hundreds of thousands of dollars is consumed every year in the use of sycee.

Fung-shuy means literally wind and water. It is an almost universal superstition. Houses are built with reference to warding off evil spirits. On every roof there are at the angles five small images of animals resembling dogs, which are intended to catch the evil spirits as they come to the house.

Chinese houses are never on a line. One always projects beyond or recedes from the others. This superstition regulates the digging of graves and the construction of all buildings. It was claimed as an excuse for the Chung-king riots that the Americans had violated the rules of fung-shuy in building.

There are three principles or practices which stand in the way of the foreign missionary. First, the doctrine of the worship of ancestors; second, fung-shuy; third, the necessity of working every day and disregarding Sunday.

Foreign religious teachers have sometimes dallied with the doctrine of ancestral worship and have sought to tolerate it as not a belief but a sentimental practice similar to our decoration of the graves of the departed. But missionaries generally have recognized no middle ground and have insisted on the abandonment of the doctrine by converts. So with fung-shuy and Sabbath observance. Thus the evangelization of China has been and will be slow.

The poor and needy come to the Christian for charity, for bread, raiment, and medical aid. The rich and learned hold aloof. The hospital and the school win their way to tolerance. There are conversions, but compared with the vast population they are not numerous. The Catholics have been most successful. I was told by a priest that last Christmas 30,000 converts in this province went to the confessional. They probably number 1,200,000 in China. The Catholics here, as elsewhere in the world, were the pioneers.

Among the Protestant denominations, one sees with sympathy all over China churches filled with worshipers as respectful and earnest as in any part of the world. The native preacher occupies the pulpit, and every head is bowed in prayer. The non-religionist can not forbear to wish that, for the material good of the people, Christianity should supplant the polytheism which is scarcely any religious belief.

But the missionary repudiates mere materialistic benefits. He came to China to save human souls, not to improve the material condition of the people. He uses human methods to accomplish spiritual ends. He is not the apostle of progress, but the follower of Christ. His avocation is to give eternal life, not to ameliorate mundane life.

On these conditions the battle will never end, but as it progresses it will insensibly evolve a better, stronger, and purer civilization.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 790.]

LEGATION OF THE UNITED STATES,
Peking, January 11, 1889. (Received March 12.)

SIR: The coming 4th of March will witness an event in China similar to the important administrative change which will occur in the United States. On that day the young Emperor of China, with his bride beside him, will assume the reigns of government.

Speculation is rife as to the consequences which will follow this event. In a country like this, where the imperial court lives in the most complete seclusion, attended by eunuchs and hidden from every other eye, prognostics as to future events must be largely speculative. Still there are among foreigners many inquiring minds who regard China as in some sense their home and their inheritance, and conjectures based on long residence and intimate acquaintance with the people and Government are entitled to some consideration.

The Emperor is now seventeen years old. He is about to take to himself a bride and two secondary wives. The adroitness of the Empress Dowager is illustrated in the selection of these wives. The principal wife is the daughter of Deputy Lieutenant-General Kuei Hsiang, who lives in Peking. She is the cousin of the Emperor. The two others are sisters whose father is dead. His name was Chang Hsü and he was formerly vice-president of a board. Thus complete control of the imperial household is preserved without any risk of factional opposition.

The Emperor has been carefully educated after the Chinese fashion, and books from abroad have been translated for his instruction. The chief instructor of the emperor is Weng Tung Ho, a Chinaman, not a Manchu, who is now president of the board of civil office. It is supposed that this official will have great influence in the Government. I am informed that this man is decidedly antagonistic to foreigners.

The Emperor is the son of Prince Chun, the seventh prince, who is the brother of the former emperor, Hien-fung. There are still living in Peking two other brothers of Hien-fung, who are uncles of the Emperor. One is the celebrated Prince Kung, commonly called the sixth prince, and the other, Prince Tun, commonly called the fifth prince.

Prince Chun's health has lately been very bad. He is the chief of the Peking field force and the head of the admiralty. These employments do not bring him into actual contact with the Emperor. In accordance with Chinese etiquette he must retire from active employment when his son becomes the actual and sole ruler of the Government. Filial respect, which lies at the foundation of Chinese polity, does not permit from the father the abject observances to the son which custom demands from officials.

Prince Kung was at the head of the foreign office from the death of Hien-fung, in 1861, down to 1884, with an intermission of a few days. He is a man of great ability and is thoroughly conversant with affairs. I had an interesting interview with him in the country more than a year ago. Etiquette does not permit him to visit foreigners in the city, but at the hills visits were interchanged between him and his family and me and mine. He is apparently still young and vigorous. It is quite probable that he may come to the front again.

Prince Tun is poor and popular. He is eccentric and benevolent, but it is not supposed that he will ever take an active part in affairs.

Tung Chi, the immediate predecessor of his Imperial Majesty, Kuang Hsü, died at the age of nineteen after being thirteen years on the throne. Naturally his untimely fate excites some comparative remarks between him and the present Emperor.

As far as can be known here the Empress Dowager is still the autocrat of China. Her nephew is devoted to her. She is the great central figure in the Empire, universally esteemed and revered, and is justly regarded as being one of the greatest characters in history. As long as she lives she will be the power behind the throne. Under her rule for a quarter of a century China has made immense material progress. The people have been and are contented and happy. Foreign

affairs have been in the main happily conducted. She has shown herself to be benevolent and economical. Her private character has been spotless, and in her public acts she has seemed to consult supremely the welfare of her people.

I do not anticipate that the nominal retirement of the Empress and the accession of the Emperor to the actual control of the Government will make any great change in the conduct of affairs touching foreigners or their interests. To my mind there is no possibility that China will ever succeed in throwing off foreign domination, at least not until she shall adopt the Japanese method of approximating her court procedures to western practices. This would involve a revolution in her domestic institutions, and can not be anticipated for many years.

It must always be remembered in looking at China that she is ruled by an alien race—the Mantchus. The main struggle of the governing race is to keep power. Inter-marriage between the Chinese and the Mantchus does not exist. Side by side with the Chinese official all over China stands the Mantchu. The Tartar-general ranks with the viceroy. He represents the throne. While numerically the Chinese immeasurably surpass the Mantchus, a system of jealousy and disunion among the Chinese is so adroitly fostered that the supreme power remains with the Mantchus. The preservation of this race domination is the one important thing with the Government. At all hazards the people must be appeased and kept in good humor. Nowhere in the world are their wishes more consulted in mass than in China. The main object of the Government being to maintain itself in power, it will avoid war, commotion, disturbance, innovation, all things that might tend to unsettle its rule.

The problem of the treatment of China by western powers is not in its conception difficult, but in practice may become so owing to international jealousies and rivalries. Perfect reciprocity between China and western countries is impossible. Where two men ride a horse one must ride behind. It is the world against China, and for many years to come the western world will dominate her policy.

Nevertheless, the reign of the young Emperor, which is about to commence, will be the most memorable epoch in Chinese history. Railroads, the electric light, physical science, a new navy, an improved army, a general banking system, a mint, all in the bud now, will soon be in full flower. Such progress, by whomsoever promoted, goes to aggrandize the commerce of the whole world.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 793.]

LEGATION OF THE UNITED STATES,
Peking, January 18, 1889. (Received March 12.)

SIR: I have the honor to inclose herewith a translation of an informal—red letter—dispatch which the Dean has, by direction of the ministers, sent to the Tsung-li Yamén. The purport of this communication is a remonstrance against a publication in a periodical published at Shanghai which represents that foreigners boil corpses for the preparation of soap. Such a proceeding on the part of the ministers would

perhaps be unusual in any part of the world but the east. I inclined first to the idea that the consuls should be directed to bring the matter to the attention of the local authorities. But a full discussion of the subject convinced me that it would be better to send a direct though informal remonstrance to the Yamên. The superstition that foreigners commit all kinds of horrors on the bodies of the dead is very general in far eastern countries. It will be remembered that the massacre at Tientsin, the 21st June, 1840, of the French nuns and other foreigners was caused by the rumor that children were murdered and their eyes used to make medicine.

Last year the outbreak at Seoul, Corea, was owing to charges that foreigners were engaged in kidnapping children. Charges of like character have been spread throughout the cities on the Yangtse. Other examples of the circulation of atrocious libels against foreigners as a class might be cited.

Owing therefore to the general prevalence of such scandalous charges all over the Empire, it was deemed proper to bring the matter to the attention of the Imperial Government.

A decree from the throne would put an end to such abominable superstitions. At least, if nothing is done by the Imperial Government to check the circulation of such foul accusations, it may well hereafter be held responsible should disorders follow publication and rumors of this nature.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 793.]

Mr. Von Brandt to the Tsung-li Yamên.

PEKING, January 14, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES :

Mr. Von Brandt and his colleagues have the honor to represent to your highness and your excellencies that recently there appeared in the Chinese Illustrated News, published in Shanghai, No. 163, a picture representing foreigners boiling corpses for the preparation of soap, with the statement that this is the scientific method adopted by westerners.

In regard to this matter Mr. Von Brandt and his colleagues would remark that if the practice represented is regarded as worthy of credence, the publication of such pictures will have the effect of creating foolish discussion and laughter and ridicule among the ignorant and silly classes.

Some years ago there were unfounded reports circulated (against foreigners), such as charging them with using the eyes of children for the manufacture of photographic material, and using dead bodies to make medicines of.

These resulted in riots accompanied by the murder of innocent and good men and women, and nearly led to seriously impairing the friendly relations existing between China and western powers. This fact should be thoroughly borne in mind.

Now with regard to the publication of the picture complained of, Mr. Von Brandt and his colleagues are unanimous in their opinion about it, and they therefore consider it their duty to represent the matter to your highness and your excellencies for your careful consideration in the hope that speedy action may be devised to prevent a recurrence of publications of so stupid and false a character, which may lead to the people believing them, and result in very serious consequences.

Mr. Von Brandt and his colleagues have the honor to send herewith a copy of the Chinese Illustrated News referred to for the perusal of your highness and your excellencies.

With assurances, etc.

Mr. Denby to Mr. Bayard.

No. 816.]

LEGATION OF THE UNITED STATES,
Peking, February 6, 1889. (Received March 26.)

SIR: In your dispatch, No. 375, of December 5, 1888, relating to the question of marriage in China, you say:

I am at a loss to understand why you should use the term "perform the ceremony" in connection with the consul.

I have the honor to state that my authority for this statement will be found in section 386 of the Consular Regulations of 1888. The language is this:

It is held also that, in respect to a consular officer in such countries (meaning the East) the right to perform marriage is incidental to the judicial office, and consequently that he may solemnize the ceremony if it is the wish of the parties that he should do so.

The tenor of my dispatch, No. 737, of October 19, 1888, is clearly to the effect that in the case stated I was not to make any official "recognition" whatever, but was simply to express my opinion that the marriage had before the United States Consul was a valid marriage, so far as the American party was concerned.

You agree with me that the validity of such a marriage "being exclusive sexual union for life" would be "in conformity with the great body of judicial authority in the United States."

I thoroughly apprehend the difficulty which, under our form of government, attends the certain determination of questions affecting the validity of marriages. But it is a "condition and not a theory that confronts us" in China. A well-informed lawyer would know generally what the law governing marriages was. Certainly he could acquire all the information necessary to enable him to determine, in almost every case, whether the parties were competent to marry. Assuming that the conditions authorizing the marriage existed, the question of how to perform the ceremony would alone remain.

As far as the marriage of Americans is concerned, there is no difficulty whatever. There is in China a large American resident population, and marriages between them are frequent. Usually, in the presence of the consul, the ceremony is performed by a minister of the gospel, and no one has ever questioned its validity, and no court, I think, ever could, unless some common law or statutory disabilities existed.

Questions affecting mixed marriages are different, because the laws of two jurisdictions must be complied with. The only mode of satisfying the consciences of both parties is the one suggested by me, that is, a double marriage.

While the executive can not determine legal questions, it can properly control the conduct of its own officials in matter of procedure relating to marriages as to all other subjects. Without defining the power of consuls, it occurred to me that it would be proper to suggest to consuls that in case they were satisfied that two parties, one of American nationality and one foreign, were competent to marry, they might authorize the ceremony to be performed, provided that the consuls of both nationalities joined in the performance thereof.

In the particular case stated, the parties started to Tientsin to be married but finally agreed to disagree, and my work was "love's labor lost."

I have, etc.,

CHARLES DENBY.

Mr. Bayard to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 25, 1889.

Present to Emperor felicitations of President on occasion of his marriage.

BAYARD.

Mr. Denby to Mr. Bayard.

No. 827.]

LEGATION OF THE UNITED STATES,
Peking, February 25, 1889. (Received April 15.)

SIR: I have the honor to inclose herewith a translation of the official announcement of the Yamèn of the approaching marriage of the Emperor, and a copy of my reply thereto.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 827.]

The Tsung-li Yamèn to Mr. Denby.

PEKING, February 19, 1889.

YOUR EXCELLENCY: The Prince and Ministers have the honor to state that sometime since the following decree was issued by Her Majesty the Empress:

"From the time that the Emperor reverently entered upon the succession to the throne he has been gradually advancing up to manhood, and it is fitting that a person of eminent character should be named to fill the position of His Majesty's Consort and aid him in the performance of the duties of the Palace, to the end that the exalted position of Empress may be properly filled, and the Emperor assisted in following the path of virtue; Yeh-ho-na-la, the daughter of the Deputy Lieutenant General Kuei Hsiang, a woman of moral excellence, whose deportment and bearing are befitting and of a high dignified character, having been selected, we command that she be appointed Empress."

The Prince and Ministers have now received a communication from the Board of Ceremonies stating that by Her Majesty's commands, the 26th day of February has been selected for the performance of the marriage ceremonies.

As in duty bound the Prince and Ministers send this communication for your Excellency's information.

A necessary communication, etc.

[Inclosure 2 in No. 827.]

Mr. Denby to the Tsung-li Yamèn.

PEKING, February 25, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of the communication of your highness and your excellencies wherein you announce the approaching marriage of His Imperial Majesty the Emperor of China.

I am directed by the President of the United States to convey to His Imperial Majesty his earnest felicitations on this auspicious event, and to express his sincere hope that these gracious nuptials will be blessed by Heaven, and that happiness and prosperity will always attend their Imperial Majesties.

Availing myself, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 831.]

LEGATION OF THE UNITED STATES,
Peking, February 28, 1889. (Received April 15.)

SIR: The Empress Regent Tzi An will on the 4th of March next retire from active participation in governmental affairs.

Her retirement furnishes a proper occasion for a brief review of her life and character, and of some of the important events of her reign. The Emperor Hsien-fung died August 22, 1861, five months after the British envoy was installed at Peking. He left one son of the age of five years, named T'ung-chih.

The widowed Empress, Tzu An, associated with Tzi An, then jointly assumed the reins of power. Tzi An was the mother of T'ung-chih. She was the secondary wife of Hsien-fung. Prince Kung organized the Tsung-li Yamên, and became its head.

During the reign of T'ung-chih the Government succeeded in putting down the great Tai Ping rebellion, in quelling the Mahomedan insurrections in Yunnan and Kansuh, and in opening diplomatic relations with foreign powers.

T'ung-chih died in January, 1875, without issue. His cousin, Kuang-sii, son of the seventh son of Tao-Kuang, Prince Chun, who was born August 15, 1871, was selected by the present Empress Regent to be Emperor, and succeeded T'ung-chih.

The Empress Regent, Tzu An, died in 1881. Since her death the Empress Regent, Tzi An, has been the sole ruler of China until the present time, when she voluntarily abandons the reins of government. Once before she made an effort to retire, but was induced by the earnest prayer of the chief mandarins to remain at the head of affairs.

The principal event in the reign of Kuang-sii is the reconquest of western Kansuh, Sungaria, Kuldja, and Kashgaria. A Mohammedan rebellion broke out in those provinces in 1862, and Russia, fearing disturbance in her own borders, crossed over and occupied Kuldja in 1871. In 1867 a soldier of fortune from Khokand, called Yakub Beg, made himself master of Kashgar. In 1876 China succeeded, after a bloody war, in re-asserting her power. Russia finally evacuated Tli, and in 1881, by the treaty of St. Petersburg, restored to China the territory she had seized, upon the payment of one million and one-half sterling.

In 1884 difficulties originated between the French and China over the French occupation of Tonquin and Annam. A desultory war ensued, during which the French destroyed the shipping and ports at Foochow. They also occupied Kelung, in Formosa, but they were beaten at Tam-sui. In 1885 the French were beaten at Langson. Then peace was made. China recognized the French protectorate over Annam and the possession of Tonquin, but paid no indemnity.

Between England and China the most celebrated event was the murder of a British officer named Margary, in 1875, who had been sent to Yunnan to meet an exploring party sent by the Indian Government to Burmah. In 1876 the Chinese agreed to pay an indemnity to Mr. Margary's family, and to compel their local officials to protect foreigners with passports. China agreed also to facilitate the dispatch of a British mission to Shassa. England agreed to the opium convention, which finally resulted in amalgamating lekin and import duties at 80 taels per chest.

In 1885 England took possession of Upper Burmah, but agreed in 1886, however, that the authorities in Burmah should send to China

every ten years a present of local produce in charge of a native official. England agreed also not to press the Thibet mission clause of the Chefoo convention. In 1887 England surrendered to China Port Hamilton, a Corean island which she had seized and fortified.

On the whole the relations between China and Japan have been friendly, though on several occasions there has been danger of serious complications between the two countries.

Between China and the United States international affairs are too well known to require any mention. Additional articles were added in 1868 to our treaty of 1858, and in 1880 the immigration and commercial treaty was made. In the general, China has observed the articles of these treaties.

There have been, owing to sudden outbreaks of the populace, riots here and there which have resulted in injury to property, and very rarely and in a small degree to persons. These riots are severely condemned by the Imperial Government and reparation has been usually made. It may be said, with emphasis, that the Empress Regent has been the first of her race to apprehend the problem of the relation of China to the outer world and to make use of this relation so as to strengthen her dynasty and to promote material progress. The imperial maritime customs service which was first inaugurated to provide means to pay damages claimed by foreigners has become, under the control of Sir Robert Hart, a great fiscal institution. It has provided in the most complete manner for the lighting of the coast of China, has fostered navigation, and has produced great revenues.

During this reign a fine navy has been created, and the army has been largely improved. The electric telegraph now covers the land. Arsenals and ship-yards have been located at Foochow, Shanghai, Canton, Taku, and Port Arthur. Western methods of mining have been introduced and two lines of railway have been built. Steamers ply on all the principal rivers. The study of mathematics has been revived and the physical sciences have been introduced into the competitive examinations. The treatment of the progress of education, in which our own countrymen have largely figured, would require a separate article. Almost as soon as the foreign office was organized it memorialized the throne advising the establishment of a school for the training of official interpreters. This resulted in the establishment of the Tung Wen Kuan College in 1862. This institution is presided over by Dr. W. A. P. Martin, an American, with a full corps of foreign and native professors. The great statesmen of China, such men as Li Hung Chang, and Tseng Kuo Fan, have always favored the introduction of Western learning.

In 1872 China sent a large detachment of boys to the United States to be educated. They were recalled in 1881. To-day there are colleges and schools of the highest order all over China, under the control of missionaries of various countries. Our own countrymen are at the front of this work.

The improvement and progress above briefly sketched are mainly due to the will and the power of the Empress Regent. To her own people she has been kind and merciful, and to foreigners she has been just. She leaves her country at peace with all the world, and destined by her influence to grasp the benefactions of foreign intercourse, and to assume a commanding place among the nations of the earth. While her own people will always venerate and bless her, history will rank her among the greatest rulers of mankind.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Bayard.

No. 835.]

LEGATION OF THE UNITED STATES,
Peking, March 4, 1889. (Received April 23.)

SIR: I have the honor to inclose herewith a translation of a communication from the Tsung-li Yamén, which may be regarded as an official notification that the Emperor of China will to-day assume the reigns of government.

In honor of this event the foreign ministers to-day displayed their flags and sent cards to the members of the Yamén. The flag of this legation was elevated for the double purpose of signalizing the advent of the Emperor to power, and in honor of the ceremony of the inauguration which was then transpiring in Washington.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 835.]

The Tsung-li Yamén to Mr. Denby.

PEKING, March 2, 1889.

YOUR EXCELLENCY: The prince and ministers have the honor to state that the following edict was issued by her Majesty, the Empress Regent, on the 27th of July last:

"Inasmuch as when the Emperor first assumed reins of government there would be questions arise that might cause His Majesty some hesitancy as to the best means to be adopted to meet them, we could not refuse to offer our advice when occasion made it necessary, and we therefore feel constrained to yield consent to the entreaty of our servants of state to continue the direction of government for some years.

"During the past two years His Majesty has devoted his leisure hours in continuing his course of instruction and has shown skill and cleverness in the advancement of his education. In the matter of governmental questions, whether important or otherwise, His Majesty has proved himself competent to determine the pros and cons as they arise, and to deal with them in a manner befitting and right. To us this is a source of great joy.

"His Majesty will enter the bonds of matrimony some time during the first moon of next year (February), and he should therefore assume the entire charge of the administration of government, thus satisfying the aspirations and hopes of our ministers and the people of our Empire. Let the board of astronomy reverently select an auspicious day during the second moon of next year (March) for our retirement and report to us. Respect this."

Upon the 30th day of July, 1888, Her Majesty issued the following decree:

"In obedience to our command, the imperial board of astronomy having memorialized us, selecting an auspicious day for the occasion, we command that the 4th of March next be chosen as the day for the full assumption of power by the Emperor.

"Respect this."

As in duty bound the prince and ministers send your excellency copies of the above decree for your information.

A necessary communication, etc.

Mr. Denby to Mr. Bayard.

No. 837.]

LEGATION OF THE UNITED STATES,
Peking, March 5, 1889. (Received April 23.)

SIR: I inclose herewith the translation of a decree wherein the Empress declines to entertain the proposal that certain memorials should be addressed to her, and severely reprimands and punishes the censor who made the proposal.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 837.]

19th and 20th February, 1888.—*Personal assumption of Government by the Emperor. Empress Dowager declines to entertain proposal that certain memorials should continue to be addressed to Her.*

[A Decree by Her Majesty, the Empress Dowager.]

We have received a memorial from the Censor, T'u Yën-shou, in which he takes upon himself to give an unreserved expression of opinion respecting the approaching assumption of government by the Emperor in person. In view of the important questions pressing at the moment, he asks Us to issue a Decree directing that memorials from the provinces, as well as sealed reports from the Officers of the Court, should continue to be addressed to Us, and he requests that such documents should be perused by Us before effect is given to the proposals to which they refer. The Censor's suggestion has caused Us profound astonishment. A female Regency was only resorted to as a last device, and looking back in Our seclusion upon the abuses which it caused in previous dynasties, We issued special commands that the Government should revert to its proper Head the moment the right time arrived, in order that the constitutional usages of Our revered predecessors might be duly preserved, and that no ground for adverse comment might be furnished to future ages. Our decision was taken with firm resolve and Our object had a deep significance. Besides, We have already issued Decrees fully expounding Our views to Our subjects, and all classes under Our rule have cheerfully acquiesced in Our action.

Were We now at the very beginning of a new order of things to require that memorials should be addressed to Us, we should be stultifying our previous action by cancelling instructions which have been only recently issued. In what light would posterity regard Us? The analogy adduced by the Censor is quite irrelevant, as a female Regency and that instituted by the Emperor K'ien-lung are totally different things. After the assumption of personal government by the Emperor, Prince Ch'un alone will be required to address memorials directly to Us in his own name. The secret documents referred to by the Censor which have been submitted to Us by Prince Ch'un treated of important concerns of state which at the outset of the Emperor's assumption of government it was thought he should submit to Us on such occasions as he paid Us visits of respect. It was never for a moment intended that this practice should be sanctioned as a permanent institution, or that Our tutelage of the Emperor should be indefinitely prolonged. The Censor's suggestion is made in manifest disregard of Our former Decrees and has the further objection of furnishing grounds for adverse criticism of our action in future ages. Having regard to the extravagance of his proposals and the very important issues to which they relate, we feel bound to administer to him a severe warning, unless reckless interference with accepted institutions is to go unpunished. We command therefore that T'u Jên-shou be required to vacate his office of Censor, that he be handed over to the board for the determination of a penalty, and that his memorial be flung back to him.

Mr. Denby to Mr. Blaine.

No. 841.]

LEGATION OF THE UNITED STATES,
PEKING, March 8, 1889. (Received April 23.)

SIR: You are no doubt aware that under Chinese usage foreigners are not permitted to take any part in public ceremonies.

On the occasion of the Emperor's marriage on the 26th ultimo the foreign ministers were ignored except that formal notice was sent to them of the approaching event.

Practically foreigners see and know nothing of what transpires in the "Forbidden City" when the ceremonies are had.

The bride resided with her father in the northeastern part of the city. Upon the announcement of her selection as Empress eunuchs took possession of the family residence, guards were posted in the grounds, and the utmost seclusion was maintained.

At 1 o'clock in the morning of the 26th ultimo the lady was conveyed to the palace. There were reports that she had serious objections to

the marriage, but the truth thereof can not be ascertained. She is represented as being several years older than the Emperor, and as being very intelligent.

I inclose from the North China Daily News an account of the imperial marriage ceremony. This description was prepared especially for the News after the ceremony was arranged at Peking. I have made inquiries of competent persons as to the accuracy of this account, and have been assured that it is faithful and correct.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 841.]

THE IMPERIAL MARRIAGE CEREMONY.

The marriage of the Emperor of China, Kuang-sui to Yeh-ho-na-la, niece of the Empress Dowager and cousin of the Emperor, takes place to-day, and the following account of the ceremony enjoined by precedents has been specially sent to us from Peking.

A few days before the actual wedding the servants of the office of equipments will carry to the imperial palaces, with all ceremony, the hundreds of articles for the use of the Emperor and his bride that have been prepared previously by the board of the imperial household and kept in the Empress's palace. These articles comprise jewelry, head-dresses, clothes and accessories, embroideries, needlework, fine chinaware, gold and silver work, furniture, carved and inlaid upholstery, personal ornaments, stationery, etc.

On the 24th of February the high officers, by the Emperor's command, should go to worship at the temples of Heaven, Earth, and the Gods, and announce the approaching nuptials. On the 25th of February the necessary arrangements should be made in the palace. The officers of the office of equipments should reverentially bring out the Empress's sedan chair, yellow chairs, and her chariot to which an elephant is harnessed—this last being merely formal. The accompanying paraphernalia are:

Two pairs of yellow silk umbrellas, embroidered with dragons.

One pair of crooked handled umbrellas, embroidered with phoenixes.

A pair of large fans.

Ten colored umbrellas.

Four umbrellas worked with gold thread.

A pair of plain red umbrellas.

Eight banners decorated with dragons and phoenixes.

Two embroidered flags.

Eight fans embroidered with dragons.

Eight yellow fans shaped like a pheasant's tail.

At the proper time the gold scepter inlaid with jade, with a dragon character on it, should be brought out from the imperial palace and received by the two ministers of the imperial household at the Chien-ching palace, in order that it may be placed in the Empress's sedan chair. The same ministers must prepare two pavilions in the court yard of the Chung-tsui palace, to contain the Empress's wedding dresses. A leading eunuch then requests the appointed princesses to put the dresses in the pavilions, which are then carried by eunuchs to the gate of the Shun-chên palace, and handed to the office of equipments, who dispatch them to the Empress's residence, attended by four princesses. On their arrival they are handed to the eunuchs of the residence, the princesses remaining to be ready for their next duties. On the same day yellow tables are arranged by the chief eunuchs at the Chiao-tai palace, on the right and left hand, and on them the marriage contract and gold seal are placed.

The Emperor then repairs to the Tzüning palace, where he kotows nine times to the Empress Dowager, after which he goes to the Tai-ho palace, where the yellow tables are placed, and reads over the marriage contract. Here two pavilions have been prepared and the chief commissioner takes the gold scepter and puts it in one pavilion, while the assistant commissioner puts the marriage contract and gold seal in the other. The office of equipments then carries these pavilions in procession from the Tai-ho palace through the middle gate of the palace, and out at the Ta Ching gate to the Empress's residence. On their arrival the Empress's sedan chair is placed temporarily in front of the hall, with these pavilions on the right and left of it. Meantime the board of works has arranged three yellow tables in the hall, one in the middle, the others on either side, the chief commissioner placing the gold scepter

on the center table, and the marriage contract and gold seals on the side tables. The two commissioners then retire and leave the arrangements in charge of the eunuchs belonging to the Empress's residence.

On the 26th of February, all being ready, four princesses will proceed to the Empress's residence at 12 o'clock a. m. (*sic*), to assist in robing the Empress. The robes that she will have to wear are :

A red silk head-dress decorated with pearls, chrysophrases, coral, rubies, carnelians, amethysts, and jasper, and blue feathers.

An embroidered court robe decorated with pearls, with jewels on the overlaps.

Two strings of coral beads.

A necklace decorated with coral.

A pair of jeweled earrings.

A folded handkerchief.

The Empress will rest after being robed, and then a eunuch will come to the hall and invite her to come out and receive the marriage contract and gold seal. She will be attended by two princesses, while a eunuch holds the contract in both hands and reads it to her. This done, the Empress will retire to her hall and again rest. A eunuch then takes the gold scepter and seal and hands them to the chief commissioner, who replaces them in their pavilions, all the proper officers and attendants being in their places. Another eunuch will fix the auspicious time, and then eight eunuchs will carry the Empress's chair into the hall, the chair containing a scepter inlaid with jade. This scepter will be taken out by two princesses, and handed to a eunuch who will give it to the officer of the imperial household, who will replace it in its pavilion.

The princesses will then help the Empress to take her seat in her chair, after giving her an apple, the chair having been fumigated with a piece of Tibetan incense, and having been placed in the position of "Pleasing God." The whole procession will then escort the Empress to the imperial palace by the main front entrance, the Ta Ching gate. Princesses and noble ladies will enter by the back gate, the Shên Wu gate, and will await the arrival of the procession at the palace. On its arrival at the Chien-ching gate, the attendants must stop, and the pavilions having been replaced here, the ministers of the board of rites will take out the gold seal and marriage contract from these pavilions and place them on the tables arranged at the Chiao-tai palace, where eunuchs will be in waiting to receive them. During this time the officials of the board of music will perform, and then eight eunuchs will carry the Empress's chair into the Chien-ching palace, where she will be requested to alight, and will be transferred to another chair decorated with peacocks' feathers, in which she will be carried to the Chung-tsui palace. Here a brazier of live coals will have been made ready, over which her chair will be carried. The appointed princess will then ask her to alight, and present her with an apple. The scepter, inlaid with jade, will then be taken out of her chair and she will be presented with a "precious bottle" containing pearls and gold coins.

A bow and arrow and a saddle have been previously placed on the threshold of the bridal chamber, and the Emperor having arrived in full costume to meet his bride, takes the bow and arrow and shoots at the saddle on the threshold, and then removes the bride's veil. Two princesses then conduct the Empress to the bridal chamber where the Emperor sits on the left hand of the bed, and the Empress on the right, face to face. The princesses then request the imperial couple to drink by joining their wine cups. When night comes, some of the ladies of the court offer them the pudding called the "pudding of sons and grandsons," and the broth called the "broth of long life." This having been done the princesses will arrange the bed, scepters inlaid with jade being put at the four corners of the bedstead.

At 3 a. m. on the 27th of February the princesses go to the bridal chamber to help the Empress to dress. The Emperor also puts on his full dress, and the proper instructions are given to the imperial couple as to kneeling, kotowing, and rising. The Emperor then conducts the Empress to worship the Gods of Heaven, Earth, and the Household, which they do by kneeling and kotowing nine times. This done, they repair to the Hwu Huang temple where they burn Tibetan incense and kotow nine times; thence to the Cheng-chien palace where they kotow nine times before the images of their grandfather, father, and brother. Thence they come to the Chu-hsiü palace, where they present scepters to the Empress Dowager and kotow nine times. The Empress Dowager gives them her own scepter, and they return to the palace, where the Empress kneels to present her scepter inlaid with jade to the Emperor, and kotows nine times. The Emperor confers his scepter inlaid with jade on the Empress, who then takes her seat, and the two secondary empresses kneel down and kotow nine times to the Empress.

On the 3d of March a proclamation will make known the imperial marriage throughout the whole empire.

On the 5th of March the viceroys, governors, generals-in-chief, and brigadier-generals of the eighteen provinces, and nobles and high officials of the first and second

rank in Peking, will congratulate the Emperor, each presenting him with a scepter intaid with jade. On the following day the Emperor graciously gives a banquet to his ministers, and the envoys of his vassal kingdoms, which, by the gracious permission of the Empress Dowager is attended by the noble ladies of the court.

NOTE.—The Empress's gold scepter, decorated with pearl, signifies that the Empress guards her virtue as hard as gold, and as pure as pearl. The Empress's gold seal is made by the board of works, and is engraved with hieroglyphic characters as her standard authority.

Mr. Denby to Mr. Blaine.

No 842.]

LEGATION OF THE UNITED STATES,
Peking, March 8, 1889. (Received, April 23.)

SIR: I have the honor to inclose herewith a translation of the reply of the prince and ministers of the foreign office to my communication conveying the felicitations of the President to His Majesty the Emperor, on the occasion of his marriage.

I have, etc.

CHARLES DENBY.

[Inclosure in No. 842.]

The Tsung-li Yamén to Mr. Denby.

PEKING, March 6, 1889.

YOUR EXCELLENCY: The prince and ministers have had the honor to receive your excellency's communication conveying the felicitations of the President of the United States to His Majesty, the Emperor of China, on the occasion of his marriage, with the request that the same be made known to His Majesty. This fully evinces a sincere purpose on the part of the President to cultivate a good and kindly feeling, and of your excellency's good desire to maintain amicable relations, for which the prince and ministers express their sincere gratification.

The prince and ministers have presented in a memorial to the Emperor the sentiments conveyed in your excellency's communication, and, as in duty bound, send this reply for your information.

Mr. Denby to Mr. Blaine.

No. 845.]

LEGATION OF THE UNITED STATES,
Peking, March 8, 1889. (Received April 23.)

SIR: I have the honor to report that yesterday, the 7th of the month, I went with my suite, as also the entire diplomatic corps, to the Tsung-li Yamén, in answer to their invitation to a dinner, ordered by the decree of Her Majesty, the Empress Regent, Tzi An.

The affair, as by a royal decree, was a very unusual one. From a native stand-point the preparations were of a most elaborate nature, and to any eye cultured or artistic were extremely picturesque. Special buildings had been erected for the banquet at a reported cost exceeding 6,000 taels.

On entering the outer gates of the inclosure large panels of lacquered wood were discovered, bearing gilt and red Chinese characters wishing us all "prosperity," "longevity," "happiness" and "official promo-

tion." His Imperial Highness, Prince Ching, a second cousin to His Majesty and the president of the Tsung-li Yamèn, welcomed us cordially, and after him all the ministers and secretaries, clad in their robes of rank and office.

Arriving in the first or reception-room, everything showed pains and expense in preparation, Old decorations had given place to new and handsomer ones, and whether in compliment to their guests or in keeping with their ideas of luxury, foreign carpets covered the floors.

In the center of this room, on handsomely lacquered and painted tables, were exhibited a large number of presents, intended for the several foreign ministers, of scepters of jade carved in bas relief, satins, and embroidered trinkets for personal use.

The banquet hall was built of woods richly painted and frescoed, glass of fantastic shape and design, the whole being profusely hung with rare native paintings, mottoes of friendly purport and stuff in wool and silk, the imperial color, yellow, largely prevailing. All the tables and seats were covered with valuable embroideries, and the service of silver, porcelain, and glass was entirely new for the occasion. Ivory "kwai tsz," *i. e.*, "nimble lads" or "chop sticks" were at each cover, and the ménu comprised such national delicacies as "birds' nests soup," "shark's fins," and "bamboo shoots"—these last from the valuable furniture wood of that name in its earlier and tender stage.

The place of honor, the left of his Imperial Highness, according to Chinese etiquette, was given of course to our Doyen, the next on his right to myself.

I inclose herewith a copy of his Imperial Highness' speech of welcome, and also the Doyen's toast to the health of Her Majesty the Empress Dowager and His Majesty the Emperor, and my own to his highness Prince Ching and their excellencies the ministers of the Tsung-li Yamèn.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 845.]

Speeches of Prince Ching.

FIRST SPEECH.

We are entertaining your excellencies at the banquet given at this Yamèn to-day in obedience to the commands of Her Majesty the Empress Dowager. In the decree in which these commands were promulgated, allusion has been made to the close relations of friendship existing between China and foreign countries, and Her Majesty has referred in complimentary terms to the merits of your excellencies here assembled. Not only do your excellencies, I presume, attend this banquet with pleasurable feelings, but it is a source of extreme satisfaction to myself and my colleagues, the ministers of the Yamèn, to entertain you as commanded by Her Majesty. The relations between China and foreign countries are now growing more intimate day by day, while trade is flourishing in a correspondingly satisfactory ratio. This happy state of things is attributable to the gracious merits and beneficent and successful efforts of Her Majesty the Empress Dowager during the past thirty years, and the policy thus laid down will be sedulously followed by my august sovereign in obedience to the teachings of Her Majesty, thereby securing in our relations with foreign countries the blessings of continued prosperity and peace. The banquet that we are celebrating to-day is a token of the friendly relations that have existed between us for so many years past, and is an augury of the perpetual maintenance of these friendly relations in the days to come, while the record of this auspicious gathering will find a place in the histories of foreign countries. On the tablet which is to be seen on the portals of this Yamèn, four characters are inscribed, Chung-wai-ship-fee, meaning "may all prosperity attend Chinese and foreigner." The banquet of to-day renders this sentiment especially appropriate. I raise this

glass in respectful salutation to the Emperors and Empresses, the Kings and Queens, and the Presidents of foreign nations. I wish them continuous prosperity and long life, and the blessings of peace and happiness to the people over whom they rule.

SECOND SPEECH.

Your excellencies have reported to your respective Governments the two important events that have recently taken place, the retirement of Her Majesty, the Empress Dowager, from the duties of government, and the marriage of His Majesty, the Emperor. In some cases imperial or royal letters have been sent, in others telegrams of congratulation have been received, or the dispatch of valuable presents has been announced. Your excellencies have further been good enough to hoist the flags of your respective legations on the 26th of February and the 4th of March, in honor of the occasion, and it is our duty to offer you our thanks for the compliment. Answers to the letters will be dispatched in due course, and meanwhile I would propose the health of the foreign representatives and the members of their respective staffs, to whom we wish prosperity in all their undertakings, and hope that their desires may be fulfilled as well in their private as in their public life.

[Inclosure 2 in No. 845.]

Speech of the Doyen.

It is in my quality of Doyen of the diplomatic body that I have the honor and privilege to express to your highness the thanks of my colleagues and myself for the eloquent words with which, in the name of Her Majesty the Empress Dowager, you have proposed the health of the sovereigns and chiefs of government of the treaty powers, and spoken of the friendly international relations of China, past, present, and future. The last few days have marked a very eventful epoch in the history of China and of the dynasty which has done so much for the country. The imperial marriage, the withdrawal of Her Majesty the Empress Dowager from the active duties of government, and the assumption of the same by His Majesty the Emperor, have been events that excited general interest and sympathy much beyond the confines of the Chinese Empire. When, nearly thirty years ago, Her Majesty the Empress Dowager assumed with cares the responsibilities of government, many an anxious thought must have beset her mind, and it must be with a feeling of well-founded pride and satisfaction that her majesty looks back upon the troubled times and compares them with the peace and union that now exist all over the great empire she has governed for so long a time. During the last thirty years great changes have taken place; China, which formerly it took many months to reach, and which from our point of view was considered as the farthest part of the globe, has been brought into close contact with the outer world, and it is now by weeks that the time is reckoned which it takes to reach it from Europe or America. It is therefore with so much greater satisfaction and sympathy that my colleagues and myself have welcomed the words of Her Majesty referring to the foreign relations of China in the imperial edict that is the cause of our meeting here to-day the high ministers of state, charged with the maintenance of these relations. My colleagues and myself hope and trust that they may remain, what they so happily are, a faithful expression of the mutual desire to cultivate and observe the eternal principles of right and justice, forbearance and progress. It is in this sense and with this hope that I have the honor to request your highness to place before Her Majesty the expression of these feelings as well as of our gratitude for the honor done to us by the terms of the imperial edict, to-day's banquet, and the rich presents that we shall always value as a remembrance of Her Majesty's gracious approval of the spirit in which we have worked and shall continue to work for the maintenance and the strengthening of the friendly and intimate relations between China and the treaty powers. In the name of my colleagues and my own, I have the honor to propose the health of Her Majesty, the Empress Dowager, and to drink to her happiness, to the continuation of those relations with the outer world she has so happily inaugurated and maintained, and to the welfare of the great empire which will always remember her with pride and gratitude. At the same time we drink to the health of His Majesty, the Emperor, whose assumption of the government has been celebrated a few days ago, as also to that of Her Majesty, the Empress. May their majesties long live in health and happiness.

[Inclosure 3 in No. 845.]

Speech of Mr. Denby, United States Minister.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES:

On behalf of the diplomatic representatives I have much pleasure in proposing the health of your Imperial Highness and your excellencies. It is a source of gratification to know that your Imperial Highness and your excellencies have always shown great courtesy and have been actuated by friendly feeling in the administration of public business between our respective countries, and we are sure that your Imperial Highness and your excellencies will continue to evince the same friendliness in the future administration of diplomatic questions. Our wish is that your Imperial Highness and your excellencies may be blessed with a long, happy, and prosperous career. The health of your Imperial Highness and your excellencies.

Mr. Denby to Mr. Blaine.

No. 849.]

LEGATION OF THE UNITED STATES,
Peking, March 12, 1889. (Received April 23.)

SIR: I have the honor to report that the provisional judge of Kuang-tung, Wang Chi-chun, has submitted to the throne an important memorial, of which I send the following abstract:

1. China should possess an abundance of steam-ships. The favoring of the China Merchants Navigation Company by the Government is criticised, and the advantages of steam-vessels during time of war is strongly set out.

2. China should purchase machinery to further her industrial purposes. She must provide herself with iron forging machines, to be used for the manufacture of arms with native iron. Needful capital should be provided for manufacturing cotton cloth on a large scale. The importations now exceed fifty millions of taels in value. China should take measures to manufacture these cottons and she can easily take the business out of the hands of foreigners.

3. The military competitive examinations should be modified. The dynasty owes its existence to the use of foot and mounted archery, and for this reason these two branches are held in the highest esteem. But the conditions of warfare have changed. In place of the bow and arrow we have the iron-clad and cannon to deal with. The rifle should take the place of the bow at examinations, and successful competitors should teach its use to their towns-people and neighbors.

4. Canals should be dug in dangerous places to divert the water in the Yellow River. Economy in buying materials should be observed. The soldiers in Shan-tung should be made to do the work.

These suggestions are eminently practicable and indicate progress. I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 885.]

LEGATION OF THE UNITED STATES,
Peking, May 10, 1889. (Received June 19.)

SIR: I have the honor to inclose herewith a copy of my communication to the foreign office of the 4th instant, relating to the missionary troubles at Chi-nan-fu.

I inclose also a translation of the reply of the Yamèn thereto.

The facts as reported to me by the head of the Presbyterian mission are stated in my communication.

In my dispatch No. 723 of October 6, 1888, I deemed it my duty to suggest to your predecessor that, in the event of all other means failing,

it might be well to consider the propriety of my going in person to Chi-nan-fu, or sending a member of this legation, to endeavor to effect a settlement of this troublesome question. Such a trip would be very expensive, and I did not feel authorized to take it unless so directed by the Department, and unless authority were conferred to draw for the necessary funds.

The missionaries agree with me in the opinion that personal intervention at Chi-nan-fu by one in authority offers the only means of securing favorable results. I have no personal desire to incur the fatigue of such a trip, but I am prepared to do so, if some time shall elapse and still nothing be done.

I therefore submit for your consideration the question whether I shall be authorized to go to Chi-nan-fu should all other means fail of success.

It must be remembered that the question of the right of the missionaries to acquire land at Chi-nan-fu has produced great annoyance to our fellow citizens, to the public, and this legation.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 885.]

Mr. Denby to the Tsung-li Yamén.

LEGATION OF THE UNITED STATES,
Peking, May 4, 1889.

YOUR HIGHNESS AND YOUR EXCELLENCIES:

I have the honor to inform your highness and your excellencies that I am again compelled to call your attention to the trouble of the missionaries at Chi-nan-fu.

The missionaries have been notified by the local magistrate that they can not retain the piece of land that they bought, which lies outside of the city. This is the second place that has been refused to them. It is claimed that this second piece of land was not owned by the person who sold it to the missionaries, although he had a stamped deed from the person who now claims it. It is claimed also that there is a grave on the land. This is true, but when the missionaries bought the land it was stipulated that this grave should remain there three years. The reason given was that the dead person, who was a poor woman, had died of cholera, and it would not do to disturb the body immediately. On these trivial pretexts the deeds are not sealed, the sale is rescinded, and the middle man has been incarcerated.

It thus appears that although the missionaries made two *bona fide* purchases, they have in each case been refused possession of the places bought.

I renew the statement heretofore repeatedly made to your highness and your excellencies that the missionaries are willing to accept any suitable piece of land that may be satisfactory to the authorities.

I have the honor to state further that by the direction of my Government I must request that in the final settlement of this case damages be awarded to the Rev. Gilbert Reid for the serious beating suffered by him at the hands of a mob. I have to request that his case be considered and a reasonable compensation be made to him for his wrongs and injuries.

Your highness and your excellencies are aware that this matter has been long pending. If it be the intention of the local authorities to deny the missionaries the right to acquire a suitable place to carry on their charitable and religious work at or near Chi-nan-fu, and if they are to be sustained by your highness and your excellencies in that determination, it would be best to make the declaration positive and final, so that I can inform my Government of the conclusion.

But I have been led to believe by the communications of your highness and your excellencies that this case would be amicably settled, and I still hope that such may be the case.

I avail, etc.,

CHARLES DENBY.

[Inclosure 2 in No. 885.]

*The Tsung-li Yam2n to Mr. Denby.*PEKING, *May 9, 1889.*

YOUR EXCELLENCY: Upon the 4th instant the prince and ministers had the honor to receive a communication from your excellency setting forth that the missionaries had reported that the magistrate at Chi-nan-fu had refused to allow them the second piece of land, a vacant lot outside of the city, etc.

In reply, the prince and ministers would observe that, in regard to this, on the 18th of February, 1889, they received a note from your excellency having relation to it, and they at once transmitted a copy of same to the governor of Shan-tung requesting him to instruct the local officials to expeditiously and satisfactorily take action and settle it, but up to the present time no report has been received from the said province.

Now, having received your excellency's dispatch under acknowledgment, it is right to again address the governor of Shan-tung in the matter, pressing him to issue strenuous injunctions to the officials under his jurisdiction to speedily bring the case to a close. On receipt of a reply the prince and ministers will inform you, and in the meantime they send this acknowledgment for your excellency's information.

A necessary communication, etc.,

Mr. Denby to Mr. Blaine.

No. 908.]

LEGATION OF THE UNITED STATES,
Peking, June 10, 1889. (Received July 22.)

SIR: The spread of the Chinese race into the dependencies of European powers in the east is interesting as illustrating its vitality, perseverance, and colonizing qualities.

From late sources I have prepared the following statement of the Chinese population in the more important eastern localities.

The population of Hong-Kong, by the census of 1881, was 160,402. Of this number the foreign population was 8,000. These figures (8,000) include the entire transient population, of which only 3,000 were permanent residents. It is estimated that the total population is now 200,000, of which probably 190,000 are Chinese.

According to the returns made in 1879, the population of Macao was, Chinese 63,532, Portuguese 4,476, other nationalities 78, or a total of 68,086. It is thought that there has been no increase since 1879, but rather a decline.

The population of Nagasaki, Japan, was, in 1887, 38,229. The number of foreigners was 1,031, of whom 741 were Chinese. The population of Kobe in 1887 was 101,231, of whom 1,139 were foreigners, the Chinese numbering 724. The population of Osaka in 1887 was 361,694. Of foreign residents there were 284, of whom 185 were Chinese. The population of Tokio in 1885 was 1,207,847. There were 300 foreign residents, but I am unable to state the number of Chinese. The native population of Yokohama is 89,545. The number of foreign residents in 1887 was 3,821, of whom 2,359 were Chinese. According to the census of 1883 there were residing in Manila of European origin 4,189 European Spaniards, 15,157 Chinese, 46,066 Chinese Mestizos (half-breeds), 3,849 Spanish half-breeds, and 160,896 pure natives. The population of Saigon, the capitol of Cochin China, was, December 31, 1886, 18,009, of whom 8,986 were Annamites and 6,649 Chinese. The French population numbers 1,257, and other Europeans 97. In Haiphong, the shipping port of Hanoi, in Tonquin, the Chinese population is about 4,700 and the Annamite 3,800, the foreign population being

323. In Borneo the Chinese conduct all the trading operations. In British North Borneo there are many Chinese, but I am unable to state their number. In Labuan, the smallest British colony in Asia, with a population of 6,000, 1,000 are Chinese. The Chinese are the chief traders and most of the industries of the island are in their hands. The number of Chinese in Siam is estimated at 1,300,000. The population of Singapore Island, according to the census of 1881, was 139,203, of whom 86,768 were Chinese and 22,114 Malays. The European community consists in the main of English and Germans, and numbers, with 783 military, a total of 2,769. In Malacca, with a population of 93,579, there are 19,741 Chinese. In Sungie Ujong the Chinese form a large proportion of the population of 30,000. In Selangor, with a population of 97,106, 78,155 are Chinese. The Chinese are a large part of the population of Perak, being estimated at 47,000, while the Malays are about 53,000. In Penang, out of a total population of 244,000, the Chinese number 67,502.

It will be seen from this cursory exhibit that the Chinese are over-running contiguous commercial points in the East. They are gradually absorbing business and ousting other native and foreign traders. In China proper, even at the open ports, they are dangerous rivals to foreign merchants. They make no display, do not leave their business to compradors; rely on quick returns, and, owing to a wide-spread system of mutual responsibility, they are generally honest, and meet all their obligations.

It is easy to be seen that the time will come in the "far East" when the same objections to their presence which have been heard in the United States and Australia will be loudly uttered. They seem to possess the faculty of absorbing even their conquerors. Thus the Chinese have absorbed the Mongolians and the Manchus, and with their religion, their arts, and their government they dominate these races. Wherever they go in the East they become the masters of trade. The mutterings against them are loud in every locality where they are settled. But their compact conservatism, their industry and their economical habits enable them to win their way over all opposition short of absolute exclusion.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Blaine.

No. 967.]

LEGATION OF THE UNITED STATES,
Peking, October 2, 1889. (Received November 13, 1889.)

SIR: I have the honor to inclose a copy of the imperial decree referring to the burning of the "Temple of Heaven." It will be seen that the officers of sacrificial worship, who were in charge of the temple, have been delivered to the board of punishments for the determination of a penalty. Why these officials should be held responsible criminally for an accident caused by lightning can only be understood by some reference to Chinese polity.

The Chinese Government offers the simplest specimen now extant of a theocratic state. The Emperor is the father of his people, and owes allegiance only to Heaven. Everything that happens is ascribed to supernatural influences. Praying, fasting, humbling one's self before the Deity are common official acts in China. The Emperor no less than

all the officials acknowledges his responsibility to Heaven, and at stated times returns thanks for favors accorded, and fasts and prays to avert calamity and to propitiate the Supreme Being.

At the winter solstice, and at various other times, the Emperor, attended by the great officials of state, repairs to the great altar in Peking, and as the great high priest of his race prostrates himself before the Most High God. The origin of this rite is lost in antiquity.

The direct governance of Heaven remains to-day as well recognized in the daily life of the Chinese as it was three thousand years ago; and so when calamities occur Heaven is in anger. Somebody has sinned and the sin is to be expiated by punishment and suffering. If the heart of man were right Heaven would not punish him by misfortunes. Therefore he deserves human punishments. The Emperor, being the vice-regent of God, may jointly punish those who have sinned against God. He may do so in an absolutely arbitrary manner, because he is executing the will of Heaven. Thus the theocratic principle of the government becomes of vast practical utility.

Another phase of this theocratic principle is found in the execution of insane persons who have committed crime. Heaven has caused them to be insane because they or their families or their ancestors committed sin, and therefore to subject them to the slicing process is simply to carry out the will of Heaven.

It does not appear from the decree that the accident of the burning of the temple has been ascribed as yet to the proposal to build railroads. The Emperor takes the event "as a solemn warning, and his mind is filled with awe." What "proper precautions" the officials failed to take to guard against the stroke of lightning are not stated, nor is it necessary to state them. The untoward event proves that somebody has sinned against Heaven and punishment must be assessed against some one. The part of the altar which was struck by lightning was called the *chi-nien-tien* or palace of prayers. Its construction dates back to the reign of Yung Lo, of the Ming dynasty, who ascended the throne A. D. 1403. The principal walls were of marble or white jade and the timber used was a species of valuable sandal-wood. It will be difficult to secure like costly materials for its reconstruction. I inclose herewith an account of the temple, written by Dr. Happer.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 967.]

20th September, 1889.—Burning of the Temple of Heaven.

An Imperial decree notices the burning of a part of the Temple of Heaven. On the fifth of September a thunder-storm occurred, in the course of which the Hall of Annual Prayer was struck by lightning and gradually burnt. The flames were extinguished by the efforts of the soldiers and other persons. Two officers in charge, belonging to the Court of Sacrificial Worship, can not escape the blame which falls upon them for their carelessness in not taking proper precautions. They and the presidents of court are therefore delivered to the board for the determination of a penalty. The attendants at the temple will be rigorously examined by the governor of Peking in order to find out if there have been any improper practices or not. The city fire brigade, which rendered assistance, are formally thanked for their services. The event is regarded by the Emperor as a solemn warning, and his mind is filled with awe. He calls upon his officers with earnestness and sincerity to aid him in the unceasing efforts which he will make, even more than before, to secure the good government of the country.

The building which was destroyed is the three-storied temple, called the "Hall of Prayer for a Propitious Year." It is the loftiest erection in Peking and is conspicuous even from beyond the walls, being usually the first object descried on approaching the capital from the south or east. Dr. Happer describes it thus:

"This building, by reason of its high elevation, its beautiful dome shape, in three successive roofs, covered as it is with azure-coloured tiles, is the most striking feature in the park, though it is by no means regarded as the most important object. When standing at the foot, to the south of the altar, and looking up to the building, this structure on the top of this three-terraced altar presents a very grand appearance. In its shape and color it is designed to represent Heaven, the object which is worshipped there. In the rear of this temple there is a square building called 'Imperial Heaven's Temple,' in which the tablets to Heaven and the tablets to the Imperial ancestors are deposited, which are used in the service at this altar, and from which they are brought into the 'Hall for Prayer' at the time of the annual prayer for a propitious year. In the temple are the permanent shrines upon which the tables are placed at the time of the worship. As the building is round the space inside is circular. The tablet to Heaven is placed near the north side of the circle, facing the south. There are four shrines on each side of a passage way from the tablet of Heaven to the south door, facing east and west, in which are placed the tablets of the Imperial ancestors arranged according to their rank. The first one upon the left side, as the place of honor, is the first founder of the dynasty, and on the right side is the first occupant of the throne of China, and thus successively in the order of their rank. The Imperial worshiper kneels in the passage-way made by the location of the shrines, before each several tablet successively, rendering the same worship, in the order of precedence, beginning with the tablet of Heaven. As the glass rods which are placed in the circular openings of the window blinds are azure colored, the light which comes into the building through them is tinged with the ethereal blue."

Mr. Denby to Mr. Blaine.

No. 999]

LEGATION OF THE UNITED STATES,
Peking, November 10, 1889. (Received December 23.)

SIR: In view of the practice of cremation, which is sometimes resorted to in the United States and is there attracting some attention, I have the honor to submit a few observations on this practice in China:

Following their favorite idea of classification by numerical categories, the Chinese distinguish five forms of burial; these follow the five elements or primordial essences upon which the whole scheme of Chinese philosophy is based, viz, water, wood, metal, earth, and fire.

Burial by water is practiced somewhat in South China by dwellers by rivers or the sea, and consists, as the name indicates, simply in intrusting the body to the water. Burial by wood is the usual interment in a wooden coffin, the universal custom of the Chinese. Metal burial is said of the interment of an Emperor, though, as a matter of fact, Emperors also are buried in wooden coffins. Earth burial is the burial practiced by the Mohammedans. Followers of this sect carry the dead to the grave in a coffin, but the body is committed to the earth uninclosed. The last form, burial by fire, as the Chinese call it, or cremation, is, in view of all circumstances, the most remarkable of all.

It would seem somewhat inconsistent in a people whose deepest religious instinct is reverence for ancestors to practice cremation. The teachings of Confucius on the observance of funeral ceremonies and the performance of certain rites at ancestral tombs would apparently be quite opposed to such a custom. In spite of his teachings, however, this form of burial is practiced somewhat to-day in China, and was much more so in the middle ages.

The foreign books on China usually consulted refer to it as practiced only by Buddhist priests and lamas and as required in the case of

lepers. Well-informed Chinese in North China themselves will deny that the custom has ever existed outside of the religious orders. It seems, however, that while perhaps never universal, cremation was formerly practiced in many localities. A Chinese historical work states that *huo tsang* (burial by fire) was introduced from *Tien Chu Kuo*, now called *Yin Tu Kuo* (India), during the Han dynasty (about the beginning of the Christian era). It came as a feature of Buddhism and was probably confined at first to priests.

It is well known that cremation in Japan was introduced with Buddhism and had never been known there before. The cremation of a bonze in 700 A. D. is said by Griffis (*Mikado's Empire*, p. 175, note) to have been the first instance. It is now regularly practiced there by certain Buddhist sects.

In a book called the *Kao Seng Chuan*, it is stated that the Chinese Emperor Han Wu Ti (92 B. C.), in digging a lake, found some bone ashes and asked his celebrated minister, Tung Fang So, what they were. The reply was that they were the ashes of a Buddhist priest from *Hsi Yii*, perhaps Thibet, and it was explained that when a priest dies he is buried by fire, a custom which is therefore called *chieh hui*, "to reduce to ashes." The minister further stated that the people of *Ti Chiang* have this mode of burial. Williams states in his dictionary that *Ti Chiang* was "a tribe in the Shang dynasty, which occupied a region on the upper waters of the river Wei, in Kansuh." Whether or not this is the place referred to it would be difficult to say, but the statement seems to indicate the practice of cremation in that locality even anterior to Buddhism.

Another Chinese work, the *Jih Chih Lu*, refers to "burial by fire" during the Sung dynasty (twelfth to fourteenth centuries). It is stated that in the reign of the Emperor Shao Hsing (1131) the custom of cremation prevailed in Kiang-nan, (Kiangsi, Kiangsu, and Anhui). It is further stated that Han Chi (1008-1075), one of the most celebrated of the statesmen of that dynasty and a man who was "renowned," says Mayers, "by solicitude for the well-being of the people," bought lands for free burial grounds for the poor and thus abolished the custom. Marco Polo's mention of it, however, shows that it continued to be commonly practiced during the thirteenth century. This great traveler seems to have been chiefly struck during his journeys in China by the idolatry, the use of paper money, and the practice of cremation. At that time there must, however, have already been great feeling on the part of the officials and the educated classes against the custom.

In the vicinity of Su Chow, in the year 1262, a cremation furnace was destroyed by lightning. Upon the petition of the priests to whose temple it was attached and who had derived a profit therefrom, requesting permission to rebuild, a local official memorialized his superiors urging that this be withheld, and wrote at length against the custom in general. He recommended, in order to abolish the practice, that a free cemetery be furnished by the Government for each five families. Such incidents, which were not uncommon, show the prevalence of the practice of cremation at the time.

Were it not so opposed to the ideas of the Chinese on the disposition of the dead, cremation might furnish a solution of several difficulties. It would immensely reduce the area of ground required for graves, which continually encroaches on the arable soil. The economy of the practice also is a great recommendation. Funerals, as at present conducted, are ruinous to the poorer classes. The amount devoted to this purpose requires, in many cases, years for its collection, and frequently

would suffice for the support of the family for several years. Cases are not unheard of where sons sell themselves into slavery that their parents' funeral may be conducted according to their ideas of propriety. It frequently happens, also, that when there are not sufficient funds for the purpose at the time of death, the body is kept in the house, incased in a thick wooden coffin for three, four, and more years, awaiting the raising of money.

Cremation is, however, forbidden by the statutes of the present dynasty, and is rarely resorted to except to burn occasionally the bodies of Buddhist priests or poor persons.

I have, etc.,

CHARLES DENBY.

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON.

Mr. Shu Cheou Pon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., October 10, 1888. (Received October 10.)

SIR: I have the honor to inform you that I received yesterday a telegram from the Chinese consul-general at San Francisco, stating that there have just arrived at that port a number of Chinese laborers; some of them are possessed of certificates of identity to return to the United States, and some who intend to transit through the United States to other countries, but they are not permitted to land; and that the collector of customs at that port, on being remonstrated with, said that he had received written instructions that the return certificates in question are declared void and of no effect, and that as regards the question of privilege of transit he would ask for further instruction from the Secretary of the Treasury.

In my opinion those Chinese laborers who are possessed of the return certificates ought to be permitted to land, and those who intend to pass through the United States to other countries should by no means be obstructed and hindered from doing so. I would therefore beg that you will kindly communicate with the Secretary of the Treasury on the subject to the end that instructions by telegraph may be issued to the customs to permit them to land.

Accept, etc.,

SHU CHEOU PON.

Mr. Rives to Mr. Shu Cheou Pon.

DEPARTMENT OF STATE,

Washington, October 18, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, in which you advert to the reported arrival at San Francisco of a number of Chinese laborers, some of them being possessed of certificates of identity to return to the United States, and some intending to pass through this country in transit to other parts, and you ask me to communicate with the Secretary of the Treasury to the end that the action of the collector of customs at San Francisco in not permitting the Chinamen in question to land might be reversed by telegraphic orders.

The matter being, as you are evidently aware, within the jurisdiction of the Secretary of the Treasury, to whom is intrusted the execution of all statutes relative to foreign immigration and the carriage of foreign passengers to the United States, your request was promptly communicated to him, and I am now in receipt of his reply, by which I am informed that, under the mandatory provisions of the act of Congress approved by the President on the 1st instant, which prevents the landing of Chinese laborers after the date of the passage of such act, and which also prescribes that "no certificates of identity," as provided for in previous acts, "shall hereafter be issued," and that all certificates heretofore issued are declared void and of no effect, circular instructions were issued by the Treasury Department on the 2d instant, directing and enjoining the several officers of the customs to strictly enforce and carry into effect the provisions of the said act. Inasmuch as it is understood that the Chinese laborers to whom your note relates have arrived in a port of the United States since the approval of the act referred to, the Secretary of the Treasury finds himself without authority of law to comply with the request you present.

I inclose for your information copies of the act of Congress above mentioned.

Accept, etc.,

G. L. RIVES.

[Inclosure.]

AN ACT a supplement to an act entitled "An act to execute certain treaty stipulations relating to Chinese," approved the sixth day of May, eighteen hundred and eighty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, it shall be unlawful for any Chinese laborer who shall at any time heretofore have been, or who may now or hereafter be, a resident within the United States, and who shall have departed, or shall depart therefrom, and shall not have returned before the passage of this act, to return to, or remain in the United States.

SEC. 2. That no certificates of identity provided for in the fourth and fifth sections of the act to which this is a supplement shall hereafter be issued; and every certificate heretofore issued in pursuance thereof is hereby declared void and of no effect, and the Chinese laborer claiming admission by virtue thereof shall not be permitted to enter the United States.

SEC. 3. That all the duties prescribed, liabilities, penalties, and forfeitures imposed, and the powers conferred by the second, tenth, eleventh, and twelfth sections of the act to which this is a supplement are hereby extended and made applicable to the provisions of this act.

SEC. 4. That all such part or parts of the act to which this is a supplement as are inconsistent herewith are hereby repealed.

Approved, October 1, 1888.

Mr. Rives to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, October 19, 1888.

SIR: I have the pleasure to inform you that the President to-day approved an act recently passed by the Congress entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1888, and for other purposes," in which an appropriation is made, "to pay out of humane consideration and without reference to the question of liability therefor, the sum of \$276,619.75 to the Chinese Government as full indemnity for all losses

and injuries sustained by Chinese subjects within the United States at the hands of residents thereof."

It affords me great satisfaction to acquaint you with this generous provision on the part of the Government of the United States to relieve the unfortunate subjects of his majesty the Emperor of China who have suffered in their persons and property at the hands of evil-doers, whose acts can in no wise be imputed to the Government or to the right-minded people of the United States, however much they call for sincere and sorrowful regret and appeal—and not in vain—to their sentiments of humanity and to their desire to alleviate the distressed condition of those so injured by acts of lawlessness.

Upon your return to this capital the Secretary of State, or, I, in his absence, will be gratified to arrange with you the payment of the sum in question, through your instrumentality, as in the previous case of the Rock Springs appropriation, to the Chinese subjects for whom it is intended.

Accept, etc.,

G. L. RIVES.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., December 24, 1888. (Received December 24.)

SIR: I had the honor to receive the note of the acting Secretary, Mr. Rives, dated the 19th day of October, 1888, informing me of the approval, by the President of the United States, of an act recently passed by the Congress, appropriating the sum of \$276,619.75 to be paid as full indemnity for losses and injuries sustained by Chinese subjects within the United States at the hands of residents thereof.

As, by precedent, I should receive in behalf of my Government the indemnity money and distribute the same amongst the Chinese sufferers, I have telegraphed to Peking praying for an Imperial decree to authorize me to do so. As soon as I shall receive the same by telegraph, I will propose a day for receiving the payment in person and communicate with you accordingly.

Accept, etc.,

CHANG YEN HOON.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., January 3, 1889. (Received January 4.)

SIR: I have the honor to inform you that since I wrote to apprise you of my having, in accordance with the precedent of the Rock Springs case, memorialized the throne for an Imperial decree in connection with the amount of \$276,619.75 indemnity for losses and injuries sustained by Chinese in this country, I have this day received, by telegraph, the Imperial decree authorizing me to receive the same for distribution amongst them.

I would therefore deem it a favor if you will kindly name a day for me to receive the payment.

Accept, etc.,

CHANG YEN HOON.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, January 5, 1889.

SIR: I have the honor to acknowledge your note of the 3d instant, informing me that, having memorialized the throne to that effect, you have received from your Government an imperial decree authorizing you to receive from the United States the sum of \$276,619.75, appropriated by the Congress for the relief and indemnity of those Chinese subjects in this country who had sustained injuries and losses at the hands of lawless men, as related heretofore in your correspondence.

It is therefore my pleasant duty without delay to make this payment to you, and to this end I now invite you to come to this Department on Friday next, 11th instant, at 12 o'clock noon, at which time I will be ready to make the payment, and have the necessary acquittances prepared for your signature. Trusting that your convenience will be served by the day and hour I have proposed,

I have, etc.,

T. F. BAYARD.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., January 7, 1889. (Received January 7.)

SIR: I have the honor to acknowledge the receipt of your note proposing 12 o'clock noon, Friday, the 11th instant, for me to call at the State Department to receive the payment of the indemnity money, \$276,619.75, appropriated by the Congress.

I will, with pleasure, call at the appointed hour and receive the payment in person.

Accept, etc.,

CHANG YEN HOON.

RECEIPT FOR THE INDEMNITY.

Know all men that I, the undersigned, Chang Yen Hoon, envoy extraordinary and minister plenipotentiary of His Imperial Majesty, the Emperor of China to the United States, having been duly and specially empowered thereunto by the Imperial decree of China, do hereby acknowledge that I have this day received from the Honorable Thomas F. Bayard, Secretary of State of the United States, in the name and on behalf of the Government of China, the sum of two hundred and seventy-six thousand six hundred and nineteen dollars and seventy-five cents (\$276,619.75), which was appropriated by an act of the Congress of the United States, approved October 19, 1888, "out of humane consideration and without reference to the question of liability therefor," to be paid "to the Chinese Government as full indemnity for all losses and injuries sustained by Chinese subjects within the United States at the hands of residents thereof."

In witness whereof, and in full discharge and acquittance of and for the said payment, I have hereunto set my hand and official seal, at the city of Washington, District of Columbia, this eleventh day of January, A. D. 1889.

[SEAL.]

CHANG YEN HOON.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., January 18, 1889. (Received January 19.)

SIR: I have been informed by the imperial Chinese consul-general in Havana that for two or three months past the steamers sailing from that port to New York have refused to receive on board and transport to New York the subjects of China resident in the Island of Cuba who desire to pass through the United States in transit to China or other countries. The consul-general further reports that these steamers greatly desire to carry these Chinese subjects as passengers, but their officers and agents report that they are not allowed by the customs authorities of New York to bring to and land at said port of New York such Chinese subjects in transit to China.

It becomes my duty to represent to you that such prohibition of the customs authorities of New York causes great inconvenience and hardship to a large number of Chinese subjects in Cuba, and I think you must agree with me that such prohibition is in violation of the treaties existing between the Governments of China and the United States. The only modification which has been by treaty made upon the free entrance into and transit through the United States of Chinese subjects is contained in the treaty of 1880, and that modification relates only to the immigration of Chinese laborers, and does not affect the right of transit of Chinese subjects of all classes through the country en route to other parts of the world.

It is not my purpose now to consider the question of the extent of the violation of treaty rights and international law and usage in the act of Congress of October 1 of last year, copies of which were transmitted with your note of October 18 last. That question may be deferred to another occasion. It seems sufficient at present to cite the fact that the said law relates to the return to the United States of Chinese laborers who have been, or who may become, residents within the United States, and who have departed or may depart therefrom. The Chinese subjects in behalf of whose rights I now invoke the interposition of your Government are such as have never been residents of the United States and who merely desire to pass in transit through the United States from a foreign port to China or from China to some other foreign country, and to whom the law cited does not appear to me to have any application.

I therefore respectfully request that the attention of the Secretary of the Treasury may be directed to the subject, in order that he may require the treaties to be respected by the customs authorities, and that the practice as to transit which was in force before the passage of said law may continue to be observed.

I improve, etc.,

CHANG YEN HOON.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, January 26, 1889. (Received January 26.)

SIR: I have the honor to inform you that I have carefully examined the act of Congress approved October 1, 1888, in relation to the prohibition of the coming of Chinese laborers into the United States, copies of which you kindly sent me with your note of October 18 last, and

I beg respectfully to represent to you that this act is in plain violation of the treaty of 1880.

The treaty cited stipulates in Article I that "whenever, in the opinion of the Government of the United States, the coming of Chinese laborers to the United States, or their residence therein, affects or threatens to affect the interests of that country, or to endanger the good order of the said country or of any locality within the territory thereof, the Government of China agrees that the Government of the United States may regulate, limit, or suspend such coming or residence, but may not absolutely prohibit it. The limitation or suspension shall be reasonable," etc. And in Article II it is stipulated that "Chinese laborers who are now in the United States shall be allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, and immunities and exemptions which are accorded to the citizens and subjects of the most favored nation."

It is very evident that the treaty only confers power upon the Government of the United States to regulate, limit, or suspend the original coming or immigration into the United States of Chinese laborers, and that it does not confer upon the Government any power whatever to restrict by legislation the free exit or return of Chinese laborers who are already residents of the United States. As to these subjects a solemn pledge was given to allow them not only to "go and come of their own free will and accord," but they were guaranteed all the rights, privileges, immunities, and exemptions of the subjects of the most favored nation. No law of Congress can, therefore, be passed which in the slightest degree affects their right to leave the United States and return to it at their own free will without being a flagrant violation of this treaty.

But I think you must agree with me that the act of Congress is a further violation of the treaty in so far as it may affect the original immigration of Chinese laborers. It purports to be an act to supplement the act of May 6, 1882. This last act suspends the immigration of Chinese laborers for a period of ten years, but the act of October, 1888, if it has any application to the immigration of Chinese laborers, is a prohibition without limit as to time, and in that respect is a violation of Article I of the treaty of 1880.

I regard the language of the treaty as plain and easy to be understood; but if any doubt by any possibility could arise as to the object had in view in making the treaty, or as to the obligations which the two Governments assumed in it, this doubt would be removed by examining the circumstances under which the treaty of 1880 was made. You will remember that your Government sent three of your most prominent and intelligent statesmen as special ambassadors to Peking to negotiate a new treaty. They were such distinguished men, and came with such form and authority, that the Government of China was convinced that they represented the real sentiments and wishes of their nation, and it reposed in their statements the most implicit confidence. When they came to confer with the Imperial Chinese commissioners, they stated that their object in coming was to negotiate for such a change of the Burlingame treaty as would confer upon the Government of the United States the power to restrict or regulate the further immigration of Chinese laborers, but as to the Chinese laborers in the United States they made the following declaration:

So far as those are concerned who, under treaty guaranty, have come to the United States, the Government recognizes *but one duty*, and that is to maintain them in the exercise of their treaty privileges *against any opposition*, whether it takes the shape of popular violence or of legislative enactment. (Foreign Relations of the United States, 1881, p. 173.)

The Chinese commissioners were very reluctant to make the stipulation as to immigration, which was regarded by them as very unusual in the intercourse of friendly nations, and when pressed by the American commissioners as a measure greatly desired for the protection of their internal interests, the Chinese commissioners inquired what would be the character of the legislation to be adopted by the American Congress if power was conceded to it to restrict the immigration. The reply of the American commissioners was that it would be "difficult to say what would be the special character of any act of Congress;" but they declared "that two great nations discussing such a subject must always assume that they will *both act in good faith and with due consideration for the interests and friendship of each other.*" They added further, "that they were satisfied that if any special legislation worked unanticipated hardships the Government of the United States would listen in the most just and friendly spirit to the representations of the Chinese Government through their minister in Washington." (Foreign Relations, 1881, p. 185.) Upon the strength of these assurances, and of the recognized fact that the legation was not to absolutely "prohibit" immigration, the Chinese commissioners signed the treaty.

The American commissioners, in communicating to their Government the to them very satisfactory result of the negotiations, closed their dispatch with the following reference to the action of the Imperial commissioners :

After a free and able exposition of their own views, we are satisfied that in yielding to the request of the United States they have been actuated by a sincere friendship and an honorable confidence that the large powers recognized by them as belonging to the United States, and bearing directly upon the interests of their own people, *will be exercised by our Government with a wise discretion, in a spirit of reciprocal and sincere friendship, and with entire justice.* (Foreign Relations, 1881, p. 198.)

How well that confidence has been realized in the recent act of the American Congress I leave to your enlightened judgment to determine.

It is to be regretted that the act of Congress should have been passed at a time when the two Governments were endeavoring by further friendly negotiations to reach a satisfactory settlement of the new embarrassments which had arisen. It is a fact, plainly apparent at the time, that the treaty which had been signed by us and which had been sent to China with the amendments made by the Senate of the United States, had not been rejected by the Chinese Government, but was still under consideration and was awaiting your reply to the amendments which my Government had seen proper to submit for your consideration. This circumstance, it seems to me, greatly aggravates the action of your Congress in disregarding the plain stipulations of the treaty of 1880, and the assurances given in the most solemn manner by the august and special ambassadors of your Government when that treaty was negotiated.

When I recall the many acts of friendship which his excellency, the President, has shown to my Government and to me during my residence in this capital, I can not allow myself to express an unfavorable judgment of his unexpected action in approving the act of October 1, 1888. I must, however, remind you that in one of the interviews had with you during the negotiation of the unratified treaty, you gave me the assurance that his excellency, the President, would veto any legislation of Congress which violated the existing treaty. I therefore, feel persuaded that in view of the provisions of Article IV and of the assurances of the American commissioners herein quoted I may rely upon your kind inter-

position with his excellency, the President, with a view to having him recommend Congress to undo the wrong and hardship which is being inflicted upon my countrymen by the act of October 1, and to cause the same to conform to the treaty stipulations.

Accept, etc.,

CHANG YEN HOON.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, February 2, 1889.

SIR: I have the honor to acknowledge your note of the 26th ultimo, which was received at this Department on the 28th, but not laid before me until to-day.

To the highly important matters which are therein presented for my consideration I shall hereafter make more extended reply, and as preliminary thereto, and as matter in response, and for your information, I beg now to inclose a copy of a message sent by the President to Congress on the 1st day of October last in relation to the "act prohibiting the coming of Chinese laborers to the United States."

It is my impression that I have already placed in your hands informally a copy of this document, but as containing a review of the correspondence between the Government of China and that of the United States which led to the irresistible conclusion that the passage of the act of exclusion was in consonance with the expressed wishes of China, I commend it to your perusal.

My desire to make instant answer to your note is caused, however, by a remark near its close which is as follows:

I must, however, remind you that in one of the interviews had with you during the negotiation of the unratified treaty, you gave me the assurance that his excellency the President would veto any legislation of Congress which violated the existing treaty.

I must assure you with great distinctness that you labor under misapprehension, and that no such assurance was made, or could have been made by me, in the course of the conversation prior to the negotiation of the treaty.

It was never anticipated that Congress would legislate in violation of any treaty, nor was such an hypothesis ever the subject of conversation between us.

I can only suppose that owing to the indirect nature of our communication through an interpreter you may have misunderstood and mistaken some general and natural expression of a desire and intention of the President to live up to the obligations of treaties; for the statement that he would veto some bill not at that time in existence in case it should be found to contain anything in contravention of a certain treaty would have been without application, and would scarcely have been intelligible.

Our relations have been so satisfactory and my respect for you personally is so sincere that I am the more anxious to relieve your mind from any doubt that a misapprehension of my remarks has apparently caused. Therefore, I have made an examination of the report and memorandum of my conversations with you, which I regularly dictate at the close of every interview, and in none of these interviews is there a trace of any such assurance having been given by me as your note refers to.

On the 18th of September last I had the honor of a visit from Mr. Shu Cheou Pon, the chargé d'affaires of your legation, and I inclose a copy of the full text of what passed between us on that occasion.

From the tenor of these statements you will perceive that not merely no suggestion was made that any such assurance as you recite had ever been given, but that Mr. Shu expressed his hope that I would endeavor to influence the President not to approve the bill.

I have been thus solicitous to relieve your mind of the erroneous supposition that I had ever failed to fulfill any promise I ever made you, or that I had made such a promise as in the nature of things and within the knowledge of us both would necessarily have been wholly beyond my power to accomplish.

Accept, etc.,

T. F. BAYARD.

[Inclosure.]

Memorandum of an interview between Mr. Bayard and Mr. Shu Cheou Pon, at the Department of State.

SEPTEMBER 18, 1888.

Mr. Shu Cheou Pon, chargé d'affaires ad interim of China, called with his interpreter. He informed me that the Chinese minister would sail from Callao on the 26th instant; that he would go to New York instead of San Francisco in order to reach here sooner; that he was telegraphed last night of the passage of the bill, and they expected to hear from him to-day.

They were aware that the President had ten days within which to sign the bill, and asked me if I would use my influence with the President to induce him not to sign it until he had given all the time he could of the ten days, because they believed that notification of the ratification would come within that time.

I told Mr. Shu that the President had signed the bill which was predicated upon the ratification of the treaty, of which he was probably aware. I said that as far as I was personally concerned, I did not approve of the present bill, and that was well known, but that Congress was independent of the Executive, as they were aware, and that the matter was not wholly within his control.

Mr. Shu Cheou Pon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., February 7, 1889. (Received February 7.)

SIR: I have the honor to inform you that, through a letter received yesterday from the Chinese minister, Chang, in Cuba, I learn that there are more than a hundred Chinese subjects there who are anxious to pass through the United States in transit to China, but who are not permitted to come on board by the masters of the steamers that leave Havana for the port of New York, owing to the fact that some time last year the customs authorities in the latter port had not allowed four Chinese subjects who had come as passengers on board a steamer from Cuba to land. This would indeed occasion great inconvenience to the Chinese subjects who desire to pass through the United States in transit.

According to the stipulations of the treaty now existing between the two countries and international law, this class of Chinese subjects should not be prohibited from passing through the United States in transit. This subject has been fully discussed in the note of the 18th of January last, addressed to the Department by the Chinese minister. Now,

I beg respectfully that you will take into your consideration the friendly relations that happily exist between the two Governments and invite the immediate attention of the Secretary of the Treasury to the subject to the end that he may without delay issue instructions to the customs authorities in the port of New York to permit the masters of steamers or vessels to bring and land this class of Chinese subjects, which I will deem as an act of kindness.

Accept, etc.,

SHU CHEOU PON.

Mr. Chang Yen Hoon to Mr. Bayard.

[Telegram.]

HAVANA, February 16, 1889.

I respectfully inform you that the marriage of Chinese Emperor will be celebrated twenty-eighth instant. I start for Washington on twentieth, having been courteously entertained by American consul-general.

CHANG YEN HOON.

Mr. Shu Cheou Pon to Mr. Bayard.

WASHINGTON, D. C., February 18, 1889. (Received February 19.)

SIR: In my last interview with you regarding the question of the transit of the Chinese subjects through the United States you kindly told me that you would immediately correspond with the Secretary of the Treasury again on the subject.

As I have received another note from the Chinese minister informing me of the unusually great anxiety of the Chinese subjects to return to China in transit through the United States, I would feel greatly obliged if you will kindly inform me whether you have received a reply from the Secretary of the Treasury to your note in relation to the matter.

I have, etc.,

SHU CHEOU PON.

Mr. Bayard to Mr. Shu Cheou Pon.

DEPARTMENT OF STATE,
Washington, February 21, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, in which you refer to your last interview with me, when I informed you that I would forthwith correspond with the Secretary of the Treasury again upon the subject of the transit of Chinese through the United States; and I observe your statement that you have received another note from the Chinese minister making known to you the unusually great anxiety of the Chinese subjects, heretofore referred to, to be enabled to return to China in transit through the United States.

The absence of my colleague, the Secretary of the Treasury, from the city has delayed my reply to your former note in relation to the un-

willingness of the steam-ship companies to take on board at Havana Chinese subjects destined for New York in transit for San Francisco and China.

I find on application to my colleague, the Secretary of the Treasury, a not unnatural hesitancy on his part to decide in advance of an actual case arising in respect to the construction of a law.

And as no case is reported to me by you of the refusal to allow entrance at the port of New York of Chinese subjects for transit across the United States, the Secretary of the Treasury does not feel called upon to give an abstract opinion.

It is, however, not improper that I should say to you that neither my colleague, the Attorney-General, nor I can perceive any obstacle in the legislation of the United States which would induce a change in the practice of permitting such transit, as it was defined in the notes of my predecessor, Mr. Frelinghuysen, to the Chinese minister, under date of January 6 and February 2, 1883.

• Accept, etc.,

T. F. BAYARD.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., February 25, 1889. (Received February 26.)

SIR: On the 23d ultimo I had the honor to call on you at the Department of State for the purpose of informing you of my expected absence from the country for a few weeks and to present to you Mr. Shu Cheon Pon as chargé of the legation.

Upon my return from Havana to this city on the 23d instant I found at the legation your note of the 2d instant addressed to me. Owing to its special character I deem it my duty to give it my immediate attention.

It grieves me very much to think anything should occur to mar in the slightest degree the delightful intercourse which has existed between us in the past three years, and that as the period of your official service draws to a close anything which I have said or written may have occasioned you the slightest embarrassment.

When I recall your uniform kindness and marked consideration for me, I am sure I can say in all sincerity that in writing my note of the 26th ultimo it was not my intention to intimate that you had failed to fulfill any promise you ever made to me. I had learned too well your high sense of honor and understood too thoroughly your upright character to render it possible for me to intentionally make any such intimation. My note of January 26 last was written under a very impressive and strict sense of duty to my Government in view of the unwarranted act of Congress of October 1, 1888, and I felt required to make the statement which is quoted in your note of the 2d instant; but when I used the language that "you gave the assurance that the President would veto any legislation of Congress which violated the existing treaty," I did not intend to convey the impression that you had made me any promise or pledge or entered into any obligation which you bound yourself to have fulfilled. I understood you to be giving me your view of how his excellency the President regarded the proposed legislation then pending in Congress and to which you referred in our interview, and what course he would pursue in case Congress should pass any of

the bills which were in opposition to existing treaties with China. While it made me very glad to hear the declaration which I understood you to make, I did not then, nor do I now, understand that it was made in the form of a promise, nor did I intend to so recall it in my note of the 26th ultimo. If you will kindly refer to the connection in which it is made in that note you will see that my object was to explain why the action of his excellency in signing the act of October 1 was unexpected to me, and also to support the appeal which I made through you to him to recommend to Congress to undo the wrong and hardship which was caused by said act. I felt that if in a time of public excitement and political exigency Congress had passed a law which was contrary to what I understood to be the wishes and better judgment of the great executive head of the nation, when that excitement and exigency had passed that high body of enlightened men would listen to the voice of his excellency when he invoked the faith of solemn treaties entered into with a Government which had never disregarded them.

While I do not desire in the slightest degree to question the sincerity of the disavowal made in your note of the 2d instant, I think it due to myself that I should state the circumstances under which I received the impression that the statement of the President's intention cited in my note of the 26th ultimo was made by you. By reference to your note of February 24, 1888, you will see that you solicited a conference with me at the State Department on the subject of our treaty negotiations, and named Wednesday, February 29, 1888, at noon. At the time appointed I met you at the Department, taking with me Mr. Shu Cheon Pon, first secretary of legation, Mr. D. W. Bartlett, American secretary, and Mr. Leang Shung, official interpreter, all of whom understand and speak the English language. The words used by you in that interview were uttered in the hearing of the three persons named, and were at the time interpreted to me by Mr. Leang. On the same day the interview occurred a memorandum of it was made in writing by Mr. Leang, and on the following morning it was by him read to Messrs. Shu and Bartlett, in order that its correctness might be verified. After this had been done, it was drawn up in due form in the Chinese language, and a copy of it transmitted by me by the first mail to the Tsung li Yamen at Peking, with a dispatch relating to the treaty negotiations. I inclose herewith an extract from that memorandum relating to the declaration made by you as to the President's intention, and which was the basis of the statement made in my note of the 26th ultimo. To this extract is attached the certificate of Messrs. Shu and Bartlett as to their recollection of its correctness.

While I admit that there may exist a sincere misunderstanding between us as to what was said on the particular point in question, I trust the foregoing statement of facts will convince you that I had a good foundation for my impression of the President's intention, expressed in my note of the 26th ultimo.

I venture to suggest that you have fallen into an inadvertence in seeking to explain the misunderstanding which, unhappily, exists between us, when you say that "the statement that he (the President) would veto *some bill not at that time in existence*, in case it should be found to contain anything in contravention of a certain treaty, would have been *without application*, and would scarcely have been intelligible." I am, on the contrary, with the most profound respect, forced to say that your own note soliciting the interview, and the very circumstances of the state of legislation in Congress at that time, caused the

statement which I understood you to make not only to be very intelligible, but in the highest degree opportune.

In your note of February 24, 1888, asking the interview, after giving the reasons why a satisfactory conclusion of our negotiations was both probable and desirable, in its concluding paragraph you said :

The agitation in Congress of the question of immigration of Chinese laborers makes it very desirable that a conventional arrangement shall be speedily perfected.

In view of your language in that note it seems to me perfectly natural that you should in the solicited interview have referred to and discussed the "agitation in Congress" and its probable results. Besides, in place of no bill at that time being in existence in contravention of the treaty, before the interview took place my attention had been called to, and there were then in the legation copies of the following bills at the time pending in Congress :

1. Senate bill No. 582, first session Fiftieth Congress, introduced December 12, 1887, by Senator Mitchell.
2. Senate bill No. 1797, first session Fiftieth Congress, introduced January 31, 1888, by Senator Stewart.
3. House bill No. 1217, first session Fiftieth Congress, introduced January 4, 1888, by Mr. Felton.
4. House bill No. 4448, first session Fiftieth Congress, introduced January 10, 1888, by Mr. Voorhees.
5. House bill No. 5679, first session Fiftieth Congress, introduced January 23, 1888, by Mr. Hermann.

An examination of these bills will show, I think, that all of them were in contravention of the treaty of 1880, and it was a matter of public notoriety, discussed daily in the newspapers, that these bills were being considered in the committees of Congress. Recalling the terms of your note and the pendency in Congress of these bills, I can imagine nothing more natural or appropriate to the occasion than just what is reported of your declarations in the memorandum which I inclose. I well remember that your statement of the President's intention to veto any act which violated the treaty, as interpreted to me, had a marked influence in inducing me to agree upon the treaty which we soon afterwards signed. While I did not understand you to make it as a promise which you pledged yourself to see fulfilled, I did understand that if we entered into a conventional arrangement upon the subjects then being discussed in Congress, the President would prevent by his veto any contravening act of Congress becoming a law while the treaty was awaiting ratification. For if such a treaty was likely to be overthrown before it went into effect by a domestic law, our negotiations would be worse than useless, they would be humiliating on the part of China. I certainly could not have expected to place my Government in such an embarrassing position.

I would gladly close this communication at this point, especially as you indicate an intention to make a more extended reply to my note of the 26th ultimo, but a stern sense of duty to my Government requires me to notice an allusion made by you in connection with your reference to his excellency the President's message approving the act of October 1, and which you inclose with your note. I have not heretofore understood that I was permitted, under the diplomatic practice of this country, to take notice officially of or to discuss with you the communication which the Chief Executive makes to the national Congress. But as you state in your note that said message reached "the irresistible conclusion that the passage of the act of exclusion was in consonance with the expressed wishes of China," it becomes my imperative duty to

enter my most respectful but earnest protest against any such assumption. As I understand the history of our negotiations, that act is in direct opposition to the wishes of China, clearly, emphatically, and repeatedly expressed.

It is true the Chinese Government did propose of its own accord to prohibit the further immigration of Chinese laborers to the United States. But it will be seen that when you first submitted to me a project of a treaty on the subject on January 12, 1887, I sent you a copy of a note which the Tsung li Yamen had sent to Minister Denby several months before, in which the reason why the Chinese Government had reached that conclusion was clearly stated to be because of *the burning and murdering and expulsion* of these laborers, and because "Your Government in vain professes to guaranty protection," while the laborers "in reality do not derive any substantial protection as demanded by their rights." So that if my Government expressed its intention to prohibit the further emigration of its subjects to the United States, it was expressly stated to be because of the failure of the United States to observe and enforce treaty guaranties.

But you will remember that the same note to Mr. Denby stated that there were other objects to be more fully secured by the contemplated negotiations. The first of these was that "the Chinese laborers now remaining in the United States * * * entitled by treaty to come and go of their own free will and accord * * * will forever be treated according to treaty stipulations" with the limitations indicated. The second was that "the Chinese who while going from China to another foreign country or returning from the latter to China, or from one foreign country to another," should have through the United States "free transit without let or hindrance." In all my interviews with you and in all my correspondence respecting the treaty I clearly made it known to you that these were essential and necessary conditions, and without them I had no authority from my Government to sign the treaty.

If I understand correctly the act of October 1 last, it prohibits the return to the United States of any Chinese laborer now a resident of the United States and who may depart therefrom and declares void all certificates entitling them to return. I am informed that it is also construed by the customs authorities to abolish all right of transit, and it is a fact that no Chinese laborer has been permitted to pass through the United States since the act was adopted.

Under such circumstances how can it be claimed that it is "in consonance with the expressed wishes of China?" Nothing could be more absolutely contrary to the wishes of my Government and people than the exclusion act of October last, which is a flagrant violation of the treaty of 1880, and which opens the door to the overthrow of all the treaties made between the two nations.

I regret, Mr. Secretary, that this note has become so lengthy, but in my solicitude that you should accurately judge my conduct I have deemed it necessary to give the detailed circumstances under which I received the impression, the expression of which has given you so much concern. I am deeply grieved than any misunderstanding has arisen between us, but being as it is honestly and sincerely held, I trust it may not affect the very pleasant relations which have so long existed between us, and which I shall ever cherish as among the most highly prized of my experience in your country.

I improve, etc.,

CHANG YEN HOON.

[Inclosure.]

Memorandum of an interview had with the Secretary of State on the 29th of February, 1888.

[Extract.]

The Secretary of State said: We have met to-day by appointment to confer together because both the Senate and the House are considering more stringent measures to restrict the immigration of the Chinese laborers into the United States. Last year the Congressmen from the Pacific coast proposed to enact some unreasonable measures for their restriction, of which you are aware. At the present time they are still more active. Unless you and I soon agree upon some satisfactory measures in our negotiations, Congress will certainly enact laws regardless of the treaty stipulations. Should such be the case they would violate the treaty, and the President would of course veto them; but still the Executive would not like to raise any difficulty with the Congress. As the Congress has such object in view it would be better to meet its wishes as far as is possible by agreeing upon some satisfactory measures for the maintenance of the friendly relations between the two nations.

The Secretary further states: The States have their own laws, which can not be controlled by the Federal Government. If you should deem it necessary to enact laws to deprive the States of their police power, the Federal Government could exercise no such power. If anything occurs in a State, the complaint must be made in the court of that State, not only in the case of a citizen but even in the case of the President. If he should be insulted when absent from this capital he would have to appeal to the local authorities of the State where the insult had been committed.

The minister said: From what you have said in regard to the object of negotiating for a treaty it is apparent that you have a strong desire to maintain the international relations, but it is necessary that we should consider matters fairly and cordially, etc.

CHINESE LEGATION, *February 25, 1889.*

We, the undersigned, were present at the interview held between his excellency the minister plenipotentiary of China and the Secretary of State of the United States at the Department of State on the 29th of February, 1888, and we certify that the foregoing extract, taken from the memorandum of said interview as prepared by the official interpreter (who was also present), conforms to our recollection of what was said by the Secretary of State at that time.

SHU CHEOU PON,
First Secretary.
D. W. BARTLETT,
American Secretary.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., February 26, 1889. (Received February 27.)

SIR: I have had the honor to read, upon my return to this legation, your note of the 21st instant to Mr. Shu Cheou Pon, in relation to the transit of the Chinese subjects through the United States. I noticed with gratification the concluding part of your note. You say:

It is, however, not improper that I should say to you that neither my colleague, the Attorney-General, nor I can perceive any obstacle in the legislation of the United States which would induce a change in the practice of permitting such transit as it was defined in the notes of my predecessor, Mr. Frelinghuysen, to the Chinese minister under date of January 6 and February 2, 1883.

I find that the present obstacle that lies now in the way of the Chinese subjects who desire to pass through the United States in transit is the unwillingness of the shipping companies to take them on board; I therefore deem it expedient to request that you will correspond with the Secretary of the Treasury to the end that instructions may be issued to the customs authorities in the ports of New York and New Orleans to notify masters of all vessels that run between Havana and those ports that

the practice of permitting such transit will be continued as heretofore. Thus the apprehension of the masters of all vessels carrying such Chinese subjects may be allayed and the obstacle that has been in the way of the Chinese subjects who desire to pass through the United States in transit may be removed.

Accept, etc.,

CHANG YEN HOON.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, February 28, 1889.

SIR: Although but a few hours remain of my official term, yet I feel constrained to acknowledge, and say a few words by way of reply, to the note of the 25th instant with which you have honored me, and for the kind expressions contained in which, I am sincerely and wholly appreciative.

I do not find therein any question of the accuracy of the narration of events and oral interviews set forth in my note to you of February 2, and shall not therefore refer to what I said therein.

I am not disposed to question the accuracy of the recollection of yourself and the gentlemen of your suite who were in attendance at our interview of February 29, 1888, to which you refer as to what transpired on that occasion.

The bills which at that time had been brought into Congress proposing to deal with the question of Chinese immigration, and apparently without due regard to treaty obligations, undoubtedly caused me to feel anxious to remove by conventional methods all causes of discontent in the United States in connection with the presence here of Chinese laborers.

We shared, and I believe equally, a desire to prevent any breach of treaty engagements—and with that sentiment I know the President was fully penetrated.

Consequently I assure you of the desire of the President to prevent any infractions of existing treaties by the passage of statutes in opposition, and hence the subsequent negotiations which were included in the treaty of March 12, 1888.

None of the bills mentioned in your note ever passed Congress. The treaty negotiated and signed by you and me as the accredited and duly empowered representatives of our respective Governments accomplished the good purpose for which it was intended, so far as to put an end to the further progress in Congress of the objectionable measures alluded to in your note.

After this treaty had been submitted to the Senate, and had been ratified by that body with certain amendments, which were admitted by you not to change the force and effect of the original text, it was sent to China, and after a considerable lapse of time and during your personal absence from the United States, the news was transmitted from China by way of London that your Government had rejected the treaty which was expressly designed to put an end to all misunderstanding between the two Governments, and allay the ill-feeling of prejudice against Chinese laborers in the United States, of which we had received such unhappy but undeniable proofs.

The fact that the first news of this rejection of the treaty between the United States and China came from Great Britain gave impetus to

the popular belief that influences exterior to the two nations who alone were parties to the treaty had been at work successfully to defeat the arrangement which had been so deliberately, carefully and amicably arranged by you and myself under the express authority of our respective Governments.

Under this condition of affairs, during your temporary absence from the country, and believing that China did not intend to carry out and accept in full faith and force a plan of settlement so carefully and deliberately proposed by herself, the exclusion act, known as the "Scott bill," was suddenly and without notice brought forward in Congress, and passed with an unanimity in both houses which palpably rendered an interposition by a veto of the Executive wholly futile.

Accept, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, March 2, 1889.

SIR: Acknowledging your note of the 26th ultimo, I have now the honor to inclose copies of certain correspondence by telegraph between my colleague, the Secretary of the Treasury, and the collectors of customs at the ports of New York and New Orleans, in relation to orders affecting the transit of Chinese subjects across the United States en route to China.

By this you will perceive that no new orders have been given in this regard, and that consequently the status which existed prior to the enactment of the present exclusion act, commonly known as the "Scott bill," apparently is held by the Treasury Department to remain undisturbed.

I trust that this announcement may suffice to relieve your countrymen from all embarrassment.

Accept, etc.,

T. F. BAYARD.

[Inclosure 1.—Telegram.]

Mr. Maynard to Mr. Magone.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C. February 28, 1889.

COLLECTOR OF CUSTOMS, *New York, N. Y.:*

Inform Department by wire whether you have issued any orders to vessels regarding Chinese desiring transit through the United States.

MAYNARD,
Assistant Secretary.

Similar telegram to collector of customs, New Orleans.

[Inclosure 2.—Telegram.]

Mr. Magone to Mr. Fairchild.

NEW YORK, February 28, 1889.

SECRETARY OF THE TREASURY, *Washington:*

Telegram received, Have not issued any such order.

D. MAGONE,
Collector.

FOREIGN RELATIONS.

[Inclosure 3.—Telegram.]

Mr. Jonas to Mr. Fairchild.

NEW ORLEANS, LA., March 1, 1889.

SECRETARY TREASURY, Washington, D. C.:

No orders issued regarding transit Chinese through the United States.

B. F. JONAS,
Collector.

*Mr. Chang Yen Hoon to Mr. Blaine.*CHINESE LEGATION,
Washington, D. C., March 11, 1889. (Received March 11.)

SIR: I have the honor to inform you that I received, on the 10th instant, a telegram from the foreign office, advising me that the President of the United States had, through Mr. Denby, the United States minister in Peking, offered his congratulations to my august sovereign the Emperor of China on the occasion of his marriage, and instructing me to request you to convey to his excellency the President the thanks of His Imperial Majesty.

Accept, etc.,

CHANG YEN HOON.

Mr. Blaine to Chang Yen Hoon.

DEPARTMENT OF STATE,

Washington, March 13, 1889.

SIR: I have the honor to acknowledge your note of the 11st instant, conveying to the President of the United States the thanks of His Imperial Majesty the Emperor of China for the congratulations of this nation, through its Chief Magistrate, on His Majesty's nuptials.

The President is glad to avail himself of any occasion, especially of so happy a one, to testify his interest and satisfaction in the happiness and prosperity of the Empire of China and its ruler.

Accept etc.,

JAMES G. BLAINE.

*Mr. Chang Yen Hoon to Mr. Blaine.*CHINESE LEGATION,
Washington, July 8, 1889. (Received July 9.)

SIR: I desire to direct your attention to the fact that it became my serious duty, in a note under date of the 26th of January last, to ask your predecessor to take into consideration the effect of the act of October 1, 1888, of the Congress of the United States upon the treaty relations between the Governments of China and the United States. In a note dated February 2, Mr. Secretary Bayard recognized the highly important character of the matters contained in my note, and promised to make an extended reply thereto, but no such reply has, up to this date, been received by this legation. That distinguished gentleman

honored me with two notes, those of February 2 and 28 last, but it will be seen that they were confined to an incidental, though important, point connected with the main question, to wit, whether I had any well-founded basis for the expectation I had entertained that the President would veto the act of October 1, 1888.

Since my notes of January 26 and February 25 on this subject, an important event has occurred, which seems to me to have aggravated this already embarrassing question. I refer to the action of the Supreme Court of the United States which has decided "that the act of 1888 is in contravention of the express stipulations of the treaty of 1868 and of the supplemental treaty of 1880," but as it is the exercise of a sovereign power vested in Congress, it must be respected and obeyed as the supreme law of the land. It says that it can not inquire whether the reasons for this action are good or bad, because that court can not be a censor of the morals of other departments of government, and that the will of Congress must be obeyed, though it is in plain violation of treaties. You will pardon me, Mr. Secretary, if I express my amazement that such a doctrine should be published to the world by the august tribunal for whose members by personal acquaintance I entertain such profound respect. It forces upon me the conviction that in the three years which I have resided in this country I have not been able fully and correctly to comprehend the principles and systems of your great Government. In my country we have acted upon the conviction that where two nations deliberately and solemnly entered upon treaty stipulations they thereby formed a sacred compact from which they could not be honorably discharged except through friendly negotiations and a new agreement. I was, therefore, not prepared to learn through the medium of that great tribunal that there was a way recognized in the law and practice of this country whereby your Government could release itself from treaty obligations without consultation with or the consent of the other party to what we had been accustomed to regard as a sacred instrument.

I have no desire to lengthen this note by repeating what I have said in my communications to your predecessor on this subject, and confine myself on this point to calling your attention to them, and especially to that of the 26th of January last. But in asking your consideration anew to the question I deem it important to refer to some additional facts which I hope may strengthen the request made in the concluding paragraph of my note of January 26.

1. It is to be noted that the existing treaty relations between China and the United States were brought about at the express solicitation of the Government of the United States. This fact is clearly stated in the historical review contained in the opinion of the Supreme Court. It there appears that the first treaty (1844) between the two nations was negotiated by means of a special commissioner who was sent to China by the Government of the United States for that express purpose. And it is a noticeable fact that the initiatory movement towards this end was taken by the Congress of the United States, the body which to-day stands before the world as the power which has forced its Government to violate its treaty obligations. (Act of March, 1843, 5 Stat., 624). Not being satisfied with that treaty and desiring more enlarged intercourse between the two nations, another plenipotentiary was sent by the Government of the United States to China and a new treaty was negotiated in 1858. Although the additional articles of 1868 to the treaty of 1858 were negotiated at Washington, they owe their origin to the American minister at Peking, and we find the American

Secretary of State declaring that "the policy inaugurated by Mr. Burlingame and Mr. Seward at Washington * * * was essentially an American policy in its inception and is so regarded in the Chinese mind." (U. S. Foreign Relations, 1870, p. 332.) A third time the Government of the United States sent its ambassadors to Peking to negotiate new treaty compacts in 1880, and the spirit in which they were received and their requests attended to are stated in my note of January 26 and need not here be repeated. When, it is remembered, therefore, that the treaty relations between the two nations were established at the express solicitation of your Government, and that its every request for further stipulations or modifications has been met in the highest spirit of complaisance, I think you must sympathize with my astonishment that the body, which itself initiated this policy and which represents the intelligence and justice of the great American people, should trample these treaties under foot and grossly offend the nation which has always held these compacts in such sacred esteem. In order to satisfy you that I have not misstated the conduct of China in the history of these negotiations, I beg to close this point with an extract from the declarations of one of your worthy predecessors. When the act of 1888 was before the Senate Mr. Evarts uttered this language :

There has not been an approach that this Government has made to China in our domestic interests, in the questions of our polity, the questions of our naturalization, and the questions of immigrations, that the great nation confronting us has not met us in the most conciliatory and most yielding attitude. (Congressional Record, vol. 19, p. 8453.)

2. The action of Congress in violating treaty stipulations is not justified by its conduct towards other nations, nor by any action of the Chinese Government.

I learn from the message of President Hayes of March 1, 1879, vetoing the act of the Forty-fifth Congress, and also from reading the decision of the Supreme Court, that only once before in the history of this country has Congress, by its own act, forced its Government to abandon its treaty obligations. Although this nation has entered into a multitude of treaties with all the nations of the earth, President Hayes says there is only one other instance where Congress has ventured upon the course pursued towards China, and that was in 1798, respecting the treaties with France. He further stated that the action of Congress in that instance "strongly illustrates the character and degree of justification which was then thought suitable to such a proceeding." The reasons for the act of 1798 are set forth in the preamble to that law. The first was that "the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government." Can any such charge be brought against China? Has not my Government sacredly kept its plighted faith respecting all the stipulations of its treaties with the United States? The second reason given was that "the just claims of the United States for reparation of the injuries so committed have been refused." Has not China met and satisfied every just claim ever made by the United States? Is not this so strictly true that only recently your Government, by generous justice, was impelled to return a large sum which China had paid on behalf of claims overestimated? The third reason given by Congress for refusing to maintain the French treaties was that the "attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity." So far from such a state of affairs ever having existed between China and the United States, has not the very reverse of it marked their relations?

If, then, in this single instance existing in the history of the country, no parallel or excuse can be found for the action of Congress, where can we look for its justification? President Arthur, in his message to Congress of April 4, 1882, declared that "a nation is justified in repudiating its treaty obligations only when they are in conflict with great paramount interests. Even then all possible reasonable means for modifying or changing these obligations by mutual agreement should be exhausted before resorting to the supreme right of refusal to comply with them." Did such a state of facts exist as would justify Congress in applying the principle stated by President Arthur to China? It will be shown later in this note that my Government had already signified its willingness to meet the wishes of the United States, and that it only remained to arrange some matters of detail in order to carry out the desired treaty modifications. Certainly you will agree with me that the time had not been reached when Congress should exercise "the supreme right" recognized by President Arthur as possible.

The Supreme Court, while it prudently abstained from deciding whether the reasons which attended Congress "were good or bad," did state some circumstances which, in its judgment, would justify the Government in disregarding its treaty stipulations, as follows:

Neglect or violation of stipulations on the part of the other contracting party may require corresponding action on our part. When a reciprocal engagement is not carried out by one of the contracting parties, the other may also decline to keep the corresponding engagement.

I am at a loss to understand why such reasons as the foregoing are cited by the court, unless it be to show incidentally that Congress was not justified in its action; for the history of the treaty relations of the two Governments, as given by the court itself, makes it clear that neither of the two causes just cited existed respecting China.

3. The action of Congress is virtually a denunciation of all existing treaties, and an invitation to China to terminate all diplomatic and commercial relations.

With a statesman so well versed in the principles of international law as you, Mr. Secretary, I do not think it necessary to argue that the abrogation by Congress, under the circumstances, of an important treaty stipulation, releases China from the observance of all its treaties with the United States. That such is the accepted opinion in this country I need only cite the declaration of two of your public men. Mr Sherman, the chairman of the Committee on Foreign Relations of your Senate, a gentleman who has a high reputation in all nations for his great wisdom and experience, in discussing the act of 1888 in the Senate, said:

The Chinese Government might at once with great propriety and according to the system of civilized nations, upon our refusing to observe existing treaties, declare that all the treaties are null and void. There is no question about that. (Cong. Record, vol 19, p. 8451.)

President Hayes, in his message already cited, declared that "the denunciation by one party of the part, necessarily liberates the other party from the whole treaty." The President further shows that all the existing treaties between the two nations are indissolubly bound together. He says:

Upon the settled rules of interpretation applicable to such supplemental negotiations, the text of the principal treaty (that of 1858) and these additional articles thereto (treaty of 1868) constitute one treaty, from the conclusion of the new negotiations, in all parts of equal and concurrent force and obligation between the two Governments, and to all intents and purposes as if embraced in one instrument.

When it is remembered, also, that the treaty of 1880 is, in its preamble, expressly made supplemental to those of 1858 and 1868, and that the treaty of 1844 (Wharton's Digest, Vol. II, p. 63) was superseded by that of 1858, it will be seen that the whole series of our treaties stand or fall together.

I can not say what was the intention of your Congress in passing its act of abrogation, and I can only infer its intention by studying the history of the single other instance where it has adopted a similar course, that with France in 1798 already cited. Notwithstanding the preamble to the act of 1798 states that France had first violated the treaties and repelled with indignity the offers of the United States, it seems to be admitted by your writers of international law that France was entitled to treat the law of Congress as an act of war, and that it was in fact followed by a suspension of all intercourse, by reprisals and preparations for hostilities. Happily, however, the spirit of conciliation which controlled the Executive of your country at that time led to the re-establishment of friendly relations and new treaties.

If in that case, where France was held to be wholly the aggressor, the action of Congress had such warlike significance, what must it be in the present instance, where China has sacredly kept faith with all its obligations? You will not, I am sure, understand this question, Mr. Secretary, to imply a threat on my part. China has in its intercourse with your Government given too many proofs of its pacific and friendly disposition to justify such an inference. But I think you will not fail to see that some positive and decided action on the part of the Executive head of this nation is called for in order to rehabilitate the treaties and to continue on the same free and friendly footing the commercial intercourse of the two peoples. And this brings me to a further consideration, to which I desire to allude in this note.

4. The action of Congress must be held to be an affront to the Government of China.

An examination of the correspondence between this legation and the Department of State and between my Government and the American minister at Peking, will show that at the time of the passage by Congress of the act of October 1, 1888, there was pending between the two Governments a treaty which had been negotiated and was at that date being considered, with a view to compliance with the usual formalities of ratification and promulgation. The history of that negotiation may be briefly stated. A treaty respecting immigration, transit of Chinese laborers, their residence in and departure from the United States, and indemnity, modifying the treaty of 1880, was signed March 12, 1888. It was soon thereafter submitted to the Senate of the United States, and in due time was by that body ratified with two amendments.

The treaty as amended was forwarded to Peking and was considered by my Government also in due time, having in view the great distance and the necessary formalities usual at the Imperial capital in such cases. After consideration at Peking of the treaty as amended by the Senate, the Tsung-li Yamèn submitted to Minister Denby certain proposed amendments which on its part seemed desirable to make to the treaty. These suggested amendments were also communicated to the Department of State by this legation. Pending this consideration and these amendments, and before any reply to them was given by either your Department or Minister Denby, the act of October 1, 1888, was passed by Congress and signed by the President. It can hardly be contended that my Government was exceeding diplomatic practice or

courtesy in following the example of the Senate and proposing amendments to the treaty. Nor do I think it an unreasonable expectation on the part of my Government to look for an answer from your Department on the amendments before it should be required to decide upon what course it would take upon the treaty as it came from the Senate. I do not overlook the fact that your predecessor, in his note to me of February 28 last, refers to a telegram from London published in the newspaper press of the United States, stating that my Government had rejected the treaty, as an evidence accepted by Congress "that China did not intend to carry out and accept in full faith and force" the pending treaty. But I have yet to learn that it is the practice of Governments to act upon newspaper reports when diplomatic channels of communication are open, and I regret to have to direct attention, in this connection, to the fact that at the time and before the act of 1888 was passed by Congress, it was officially known at the Department of State and to Congress that China had not rejected the treaty. I deem it proper here to add that up to the present date my Government has not been advised by the State Department of the views of your Government on the amendments of the treaty proposed to it, and so far as this legation knows officially the treaty is still pending and awaiting the reply of the State Department to the amendments proposed in the legation note of September 25 last.

I shall not venture upon any characterization of the conduct of the legislative power of this Government, under the circumstances above related, but shall leave that judgment to two of your own statesmen already named in this note. Mr. Evarts, your own predecessor, while the act of 1888 was pending in the Senate, said :

It is the first time in the diplomatic history of this country of an intervention by legislative action while there was a treaty negotiated by this Government in all its constitutional forms pending for adoption by a foreign nation, and this intervention * * * immediately and absolutely affronts the foreign nation with the suggestion that we will no longer tolerate any such method of dealing with the matter between us. (Cong. Record, vol. 19, p. 8452.)

On the same date and in the same body Mr. Sherman used the following language :

I submit as a national honor whether it be right or proper for us to seek to nullify a treaty that is now being considered by a friendly nation. * * * I frankly say that if our position was reversed and Great Britain was thus to act towards the American people, I would without hesitation vote for a declaration of non-intercourse or war. (Cong. Record, vol. 19, p. 8450.)

In this connection I think I should direct your attention to that part of my note of February 25 last, to your predecessor, in which I state that both my Government and myself understood that if we entered upon the negotiation of a treaty covering the questions respecting Chinese laborers the President would prevent by his veto any contravening act of Congress becoming a law while the treaty was awaiting ratification ; and that my reason for securing such an understanding was that if the treaty was likely to be overthrown before it went into effect by a domestic law, our negotiations would be worse than useless, even humiliating on the part of China. I can only add to that declaration that if that affront, which I sought to avoid, has been placed upon the Imperial Government it was because of the trust we reposed in the good faith and honorable friendship of the American Government.

5. The Government of the United States must accept accountability for all the injuries and damages resulting from the enforcement of the act of Congress.

It seems from my examination of the decisions of your Supreme Court and the acknowledged authoritative writers on your law in these matters, that the Congress has the power to compel a violation of treaty stipulations, "whether the reasons therefor are good or bad," as the Supreme Court expresses it. But it also appears clear from these same authorities that the action of Congress does not release the Government internationally from its obligations under the broken treaty. Mr. Wheaton, who is recognized not only in this country, but in China and throughout the world, as a high authority, says:

Neither Government has anything to do with the auxiliary legislative measures necessary, on the part of the other State, to give effect to the treaty. * * * The King can not compel the chambers, neither can he compel the courts; but the nation is not the less responsible for the breach of faith thus arising out of the discordant action of the international machinery of its constitution. (Lawrence's Wheaton, p. 459.)

To the same effect is the opinion of the late learned Solicitor of the State Department, as follows:

Defective or erroneous municipal legislation, by which a sovereign claims to be unable to perform his international obligations, is no defense to a demand by another sovereign for redress for a violation of international duty. (Wharton's Digest, Vol. I, p. 35.)

The same author gives a digest of various decisions of the Supreme Court on the subject, as follows:

Subsequent legislation may municipally abrogate a treaty which may nevertheless continue to bind internationally. (Vol. II, p. 73.)

By the treaty of 1868, Chinese subjects were guaranteed "the same privileges, immunities, and exemptions in respect to travel or residence" in the United States "as the subjects of the most favored nation," and by the treaty of 1880 Chinese laborers now in the United States are "allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, and immunities which are accorded to the subjects of the most favored nation." Under the operations of these treaty stipulations, during the past twenty years a large number of Chinese subjects have come to the United States and established very considerable property and commercial interests, to the proper enjoyment of which the right of free exit and entrance to the United States is an essential condition, and without the enjoyment of which they will necessarily suffer great hardship and pecuniary loss. The act of Congress of 1888 deprives them of this privilege, which is accorded to the subjects of all other nations. It must be conceded that if this act is to be enforced the Government of the United States should, in justice and according to the principles of international law as interpreted by its own authorities, be held responsible to the Government of China for all the losses and damages occasioned thereby to Chinese subjects.

But I trust, Mr. Secretary, that some way will be found whereby the hasty and unprovoked action of Congress may be undone, this wrong and damage to thousands of my countrymen avoided, and the high affront to the Chinese Government and people removed. I can not but feel that if the late President had followed the example of his predecessors, Presidents Hayes and Arthur, when it was attempted by Congress to disregard treaty stipulations, a like happy result would have followed. I recall the noble language of President Hayes when he appealed to the "considerations of interest and duty which sacredly guarded the faith of the nation in whatever form of obligation it may have been given," and stated that "our history gives little occasion for any reproach in this regard, and in asking the renewed attention

of Congress to this bill I am persuaded that their action will maintain the public duty and the public honor." And I am satisfied that even now if his excellency the President will ask the calm judgment of Congress to this subject that high body "will maintain the public duty and the public honor."

In my note to your predecessor of January 26 I called attention to the assurance given by the ambassadors who negotiated the treaty of 1880, respecting the Chinese laborers in the United States, which you will allow me to repeat in this connection. They said :

So far as those are concerned who, under treaty guaranty, have come to the United States, the Government recognizes but one duty, and that is to maintain them in the exercise of their treaty privileges against any opposition, whether it takes the shape of popular violence or of legislative enactment.

Has not the time now arrived when this solemn promise should be redeemed? You will remember that the ambassadors were so earnest in this assurance that they inserted in the treaty the provisions that whenever the legislative measures enacted "are found to work hardships upon the subjects of China, the Chinese minister at Washington may bring the matter to the notice of the Secretary of State of the United States, who will consider the subject with him," and the ambassadors added the further assurance that the "Government of the United States would listen in the most just and friendly spirit to the representations of the Chinese Government through their minister in Washington." In my note of January 26 I suggested an appeal to Congress to undo the wrong and hardships which its action inflicted upon my countrymen ; but with your intimate knowledge of your system of government, and with your earnest desire to deal justly and to "maintain the public duty and public honor," you may find a more efficacious and speedy method of satisfying the reasonable expectations of the Imperial Government.

I regret that the considerations which I have felt it necessary to present have made the present note so lengthy, but the questions and interests involved are so important that my sense of duty would not allow me to omit anything which might tend to an honorable and just settlement, and secure the continuance of the friendly relations which have heretofore marked the intercourse of the two Governments.

I improve, etc.,

CHANG YEN HOON.

Mr. Chang Yen Hoon to Mr. Blaine.

CHINESE LEGATION,
Washington, D. C., July 10, 1889. (Received July 11.)

SIR: According to section 6, of the act of Congress of July 5, 1884, every Chinese merchant entitled by the existing treaty (1880) between the Governments of China and the United States to come within the United States, shall obtain the permission of and be identified as so entitled by the Chinese Government, in each case to be evidenced by a certificate in the English language issued by said Government.

I have now the honor to inclose for your perusal a form proposed by me, of the certificate above mentioned, and would deem it a favor if you will kindly inform me whether it is a proper one and conforms with the requirements of the said act of Congress ; if so, I shall submit it to Tsung-li Yamén at Peking for its consideration and adoption, so that the

local authorities of all the provinces along the coast of China may be instructed to issue a certificate, according to this form, with a Chinese translation thereof printed on the counterpart thereof, to any Chinese merchant who may apply for the same.

Accept, etc.,

CHANG YEN HOON.

[Inclosure]

Form of certificate.

This is to certify that _____, whose description list is given below, has been granted permission by the Government of China to go to the United States; that his occupation is that of a merchant, in which he has been engaged for _____ years at _____ and that his present place of residence is _____; that his special business as a merchant has been _____ and its estimated annual value amounts to _____ dollars or taels.

Signed and sealed this

[Here follows date and place of certificate.]

Descriptive list.

Name. (Give individual and tribal family) _____.

Age _____.

Height _____ feet _____ inches.

Color of eyes _____.

Physical marks _____.

Signature _____.

Mr. Wharton to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,

Washington, July 15, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant calling attention to the hardships entailed upon certain Chinese subjects by the provisions of the act of Congress of October 1, 1888, entitled "An act, a supplement to an act entitled 'An act to execute certain treaty stipulations relating to Chinese,' approved the sixth day of May, eighteen hundred and eighty-two," and to say in reply that the subject of your note shall receive the very careful and prompt attention of the Department.

Accept, etc.,

WILLIAM F. WHARTON.

Mr. Wharton to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,

Washington, July 19, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, proposing a form of certificate whereby Chinese merchants may be permitted to visit this country, in conformity with the provisions of the act of Congress of July 5, 1884, section 6, and the treaty of November 16, 1880, between the United States and China.

I have accordingly submitted your note and its accompaniment to the Secretary of the Treasury for an expression of his opinion thereon, and will take pleasure in apprising you of the tenor of his reply when received.

Meanwhile I avail, etc.,

WM. F. WHARTON.

Mr. Chang Yen Hoon to Mr. Blaine.

[Telegram.]

NEW YORK, *July 19, 1889.*

I am informed that twelve Chinese laborers, arriving at New Orleans, destined for China, in transit through the United States, have been refused to land from steamer and detained by customs authorities. I claim that this is in violation of treaty as well as existing customs regulations, and I appeal to you to have instructions given to officials at New Orleans to allow them to pass in transit in accordance with Treasury Department circular of January 23, 1883. By reference to correspondence with this legation early in this year you will see Secretary Bayard decided, after consulting Attorney-General, that there was no impediment in act October 1st last against transit of Chinese laborers in conformity with Treasury circular 83. Under this decision the collector at New York has for several months past been allowing the transit through that port of Chinese laborers from Cuba to San Francisco. I think inquiring of customs officials at both these ports will show that Chinese in transit have faithfully observed the provisions of circular. It seems clear that act October 1st has no application to transit. I am confident neither you nor President Harrison are disposed to give act greater application than language of Congress warrants, especially in violation of solemn treaty rights. A prompt decision is requested.

CHANG YEN HOON.

Mr. Wharton to Mr. Chang Yen Hoon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 20, 1889.

I have received your telegram of 19th instant relative to refusal of New Orleans customs authorities to permit landing of twelve Chinese laborers destined for China, in transit through United States. I have immediately submitted copy of telegram for consideration to Secretary of Treasury and will communicate his reply upon its receipt.

WILLIAM F. WHARTON.

Mr. Wharton to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, July 25, 1889.

SIR: As a further reply to your note of the 10th instant I have now the honor to acquaint you with the receipt of a letter from the Acting Secretary of the Treasury, dated the 23d instant, saying that the cer-

tificate proposed to be issued by the Chinese Government in accordance with the provisions of section 6 of the act of Congress approved July 5, 1884, and the treaty of November 17, 1880, between the United States and China, to enable Chinese merchants to visit the United States, was in the form submitted by your note satisfactory to the Treasury Department.

Accept, etc.,

WM. F. WHARTON.

Mr. Tsui Kwo Yin to Mr. Blaine.

CHINESE LEGATION,
Washington, October 16, 1889. (Received October 19.)

SIR: I have received information, not of an official character, that some new measures of your excellency's Government have been adopted which it is reported are working hardship to the subjects of China, who seek to exercise the privilege guarantied to them by treaty stipulations of transit through the territory of the United States.

Having resort to the provision contained in Article IV of the treaty of 1880 between our Governments, I beg of you to be so kind as to inform me at your earliest convenience whether any new legislative measures have been adopted by your Government in relation to the transit of Chinese subjects, and if so what is the character of those measures.

I improve, etc.,

TSUI KWO YIN.

Mr. Blaine to Mr. Tsui Kwo Yin.

DEPARTMENT OF STATE,
Washington, October 18, 1889.

SIR: Referring to your excellency's note of the 16th instant, in which you inquire whether any new legislative measures have been adopted by the Government of the United States in relation to the transit of Chinese subjects through this country, I have the honor to inform you that no new legislation has been adopted on that subject.

Accept, etc.,

JAMES G. BLAINE.

Mr. Tsui Kwo Yin to Mr. Blaine.

CHINESE LEGATION,
Washington, D. C., November 5, 1889. (Received November 6.)

SIR: In my note of the 16th ultimo I advised you that I had received information that some new measures of your excellency's Government had been adopted which, it was reported, was working hardship to the subjects of China seeking, in accordance with treaty stipulations, transit through the territory of the United States, and I asked you whether any new legislative measures had been adopted by your Government. You very promptly replied, under date of the 18th ultimo, that no legislative measures had been adopted on that subject,

This answer has led me to call for more specific information respecting the new measures reported to me as working hardship to Chinese subjects in transit, in order that I might find an explanation of the apparent conflict between the reported measures and the explicit statement in your excellency's note. In reply to my inquiries, the Imperial Chinese consul in New York reports to me that your worthy colleague, the Secretary of the Treasury, has issued a new regulation requiring every Chinese subject desiring to pass in transit through the United States to cause to be deposited with the collector of customs at the place of arrival a bond of \$200 before he shall be permitted to exercise the privilege, guaranteed by treaty, of transit through the territory of the United States. For further information as to this requirement, a printed copy of this new regulation is inclosed with this note. The consul states that the large Chinese population in the island of Cuba find it most convenient in going thence to and from China to pass through the United States, and that many of them have been accustomed, prior to this regulation, to take the American line of steamers and come to New York, and thence proceed on their journey by railroad to San Francisco. Since the new regulation has been issued the American Steam-ship Company has notified the consul that neither it nor the railroad transportation lines with which it has connection can furnish the bond required, and the company can not carry any more Chinese laborers in transit from Cuba to the port of New York unless the Secretary of the Treasury will revoke the new regulation. In this state of affairs the consul reports that the Chinese subjects in Cuba who desire to pass in transit through the port of New York will be deprived of the privilege guaranteed to them by the treaty.

I was much gratified to receive the assurance in your note of the 18th ultimo that no legislation had been adopted on the subject of the transit of Chinese subjects through the United States, and I am at a loss to understand by what authority the Secretary of the Treasury can adopt a regulation which has the effect to nullify the treaty. If I have been correctly informed as to your system of government, an executive officer can not enact laws, much less nullify a treaty. I understand that your Congress passes the laws and the executive officers enforce them. In accordance with the requirements of Article IV of the treaty of 1880 as to immigration, it has been the practice of your Department to send to this legation the new laws of Congress and the executive regulations respecting them. I have examined carefully these laws and do not find that they relate in any way to Chinese subjects in transit through the United States. I also find that I am sustained in my conclusion by the learned law officers of your own Government. When this question of transit was under consideration between your Department and this legation in 1882, the Attorney-General was consulted, and he expressly stated :

I do not think that a Chinese laborer coming to this country merely to pass through it can be considered as within the prohibition of the law, he being neither an immigrant nor a laborer coming here as laborer. Opinion of Attorney-General, December 26, 1882.)

And again quite recently the subject was before your Government, and the Solicitor of the Treasury, under date April 20 last, said :

The evil sought to be remedied by the modification of the treaty above cited (treaty of 1880) and the law was the enormous influx of Chinese laborers and their continued residence among us. * * * It was to secure these results that our Government asked the modification of the treaty, and in the negotiations to that end this was the *limit only* to which we asked this friendly power to go. * * * The legislation had in view the evil. The passage of a traveler through our country is no part of this evil.

It will thus be seen that your Congress, which I fear has not always shown a great regard for treaty stipulations, has passed no laws which in any degree restrict the treaty privilege of transit. How then can the Secretary of the Treasury legally do such a thing? By Article VI of the treaty 1868 it is stipulated that—

Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation.

As shown above, the treaty of 1880 does not in any way modify this guaranty as to Chinese laborers in transit. Hence the Secretary of the Treasury does not seem to have any power to exact requirements of Chinese subjects in transit which are not as uniformly applied to British, French, German, or other subjects of friendly powers.

My Government has not protested against the regulations of the Treasury Department heretofore issued on the subject of transit, although contrary to the letter and spirit of the treaties, because they have been of such a character that the Chinese subjects could without great inconvenience comply with them, and because my Government was desirous of avoiding any possible occasion of controversy. But when a regulation, without the warrant of law or treaty, is sought to be enforced which deprives a large body of my countrymen of their treaty privileges, it is my solemn duty to bring the matter to your attention and to ask that the subject be investigated with a view to a revocation of the objectionable requirement.

My predecessor has had occasion to present to your Department the views of my Government respecting recent legislation of Congress, and it has awaited with anxiety the answer which you may be able to give. There will be occasion for increased anxiety and regret if a favorable reply may not be given to this new cause of complaint. I therefore hope, from the well-known spirit of justice and benevolence which distinguishes your excellency, that you will enable me to communicate to my Government a satisfactory answer at your early convenience.

I improve, etc.,

TSUI KWO YIN.

[Inclosure. Circular.]

TRANSIT OF CHINESE LABORERS THROUGH THE UNITED STATES.

[1889. Department No. 100, Division of Customs.]

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., September 28, 1889.

To collectors and other officers of the customs:

In view of the opinion of the Attorney-General promulgated in S. 9519, of July 25, 1889, the following regulations for the transit of Chinese laborers throughout the United States are hereby prescribed:

1. Any Chinese laborer claiming to be in transit through the territory of the United States in the course of a journey to and from other countries, shall be required to produce to the collector of customs at the first port of arrival a through ticket across the whole territory of the United States intended to be traversed, and such other proof as he may be able to adduce, to satisfy the collector of the fact that a bona fide transit only is intended; and such ticket and other evidence presented must be so stamped, or marked, and dated by the customs officer as to prevent their use the second time,

2. Descriptive lists of all such Chinese laborers will be prepared in duplicate in the following form:

Descriptive list of Chinese laborer in transit through the United States.

Name.	Age.	Occupation.	Last place of residence.	Height.	Complexion.	Color of eyes.	Physical marks.
				<i>Ft. In.</i>			

[SEAL.]

Collector of Customs.

Port of _____, _____ [date.]

The collector shall be satisfied of the correctness of the descriptive list before affixing his signature and seal.

One of the copies will be retained on the files of the office of the collector of customs at the port of arrival, and one forwarded by mail to the collector at the port of exit.

3. The collector of customs at the first port of arrival shall take a bond in the penal sum of not less than \$200 for each Chinese laborer, conditioned for his transit and actual departure from the United States within a reasonable time, not exceeding twenty days from the date of arrival at such port. The bond may be given either by the transportation company issuing the through ticket, or by some responsible person in behalf of the laborer, and will be canceled on receipt from the collector of customs at the port of exit of a certificate showing that the person specified in the descriptive list transmitted to such port has actually departed therefrom, and stating the name of the vessel and date of departure.

Previous regulations on this subject are hereby rescinded.

WILLIAM WINDOW,
Secretary.

Mr. Blaine to Mr. Tsui Kwo Yin.

DEPARTMENT OF STATE,
Washington, December 6, 1889.

SIR: Referring to your note of the 5th ultimo, touching a regulation adopted by the Secretary of the Treasury, in relation to the transit of Chinese laborers through the territory of the United States, I have the honor to inform you that I have just received from my colleague of the Treasury a communication on that subject. He states that in consequence of the prohibition of the entrance of Chinese laborers into the United States, both by treaty and by law, it became necessary for him to devise measures to prevent a violation or evasion of the restrictions in question under cover of the exercise of the privilege of transit.

The regulation to which your note refers expressed the best judgment of the Treasury Department as to the minimum requirements to be enforced for the execution of the restrictive acts while facilitating the privilege of transit. Upon further consideration, however, it is proposed to amend the third paragraph of the regulations of September 28, 1889, by adding thereto an alternative provision that common carriers engaged in the business of transporting Chinese laborers in transit may execute a general bond in lieu of the special bond now required in the case of each transit laborer. The amendment of the regulation provides that any transportation company engaged in the transit of Chinese laborers through the territory of the United States may execute such

general bond or undertaking to the United States in a penal sum, and with such conditions as may be fixed by the Secretary of the Treasury, and that such company and the Chinese laborers in transit whom it transports shall thereafter be exempted from the foregoing requirements of the paragraph in question in respect to the execution of a special bond in the case of each laborer. It is proposed in this way to secure a guaranty of good faith and a pledge of reasonable diligence on the part of the companies engaged in transporting Chinese laborers in transit. It is not sought by the regulation in question to impair in any respect the privilege of the transit, but merely to exact from the companies engaged in the transportation of Chinese laborers a guaranty against the abuse of the privileges which they enjoy.

Accept, etc.,

JAMES G. BLAINE.

Mr. Windom to Mr. Blaine.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., November 26, 1889.

SIR: I have the honor to receive your letter of the 15th instant, inclosing a copy of a note from the Chinese minister, under date of the 5th instant, taking exception to certain regulations prescribed in circular No. 100, series of 1889, from this Department, in relation to the transit of Chinese laborers through the territory of the United States.

A question having arisen at one of the ports of the United States touching the right of Chinese laborers to enter the United States, in transit from one foreign port to another, was referred by the collector of that port to this Department, which, by law, regulation, and custom, has a general supervision of such officers and the subjects committed to their jurisdiction. Upon consideration of the question by the Attorney-General, to whom it was presented, that officer gave his opinion that the right of such transit was legal and proper.

In view of the provisions of the act of May 6, 1882, chapter 126; of July 5, 1884, chapter 220; of September 30, 1883, chapter 1015; and of October 1, 1888, chapter 1064; and of the decision of the Supreme Court of the United States in *Chae Chan Ping vs. The United States*, 130 U. S. Reports, 581, that the act of October 1, 1888, was not unconstitutional, but the lawful exercise of the sovereign power of the legislative branch of the Government, it became necessary to devise measures to prevent a violation or evasion of those statutes under cover of the transit privilege admitted to belong to Chinese laborers seeking to pass through the territory of the United States. The regulations to which the Chinese minister raises objection express the best judgment of the Department as to the minimum requirements to be enforced for the safe guarding of the Chinese exclusion acts, while facilitating the transit privileges of Chinese laborers.

In view of the existing statutes, the Department could not, under the guise of providing for the transit of Chinese laborers across American territory, leave an open door for the admission, at their will, of such of them as were disposed to establish themselves as additions to the population of the country.

Upon further consideration it is proposed to amend the third paragraph of the regulations of September 23, 1889, by adding thereto an alternative provision that common carriers engaged in the business of conveying Chinese laborers in transit may execute a general bond in lieu of the special bond now required in the case of each transit laborer. A draught of the regulation intended to effect this amelioration of the present requirements is herewith submitted for your consideration. It would seem that any carrier unwilling to furnish proof and guaranty of good faith and reasonable diligence could not safely be intrusted with the participation in the execution of the so-called Chinese exclusion acts, nor be regarded as a proper instrumentality in the exercise of the transit privilege. It will be observed that it is in the case of laborers only that a regulated transit is prescribed by this Department. It seems equally clear that to permit an unregulated transit of that class of Chinese subjects would be equivalent to inviting a practical nullification of the laws prohibiting the immigration or return of persons of that class to the United States.

It would be unnecessary to convey to the Department of State an assurance that no purpose exists in or by the regulations described to interfere with or impair any treaty rights of Chinese laborers in the matter of such transit, or to withhold from them that comity due to the citizens of a friendly power.

The sole object of the regulation was to guard against the obvious danger of an infraction of those provisions of the law that prohibit the entry of Chinese laborers into the United States for the purpose of residence, while preserving to such laborers the right of transit through the country.

I have, etc.,

W. WINDOM.

[Inclosure No. 1.]

Mr. Chapman to Mr. Windom.

DEPARTMENT OF JUSTICE,
Washington, July 23, 1889.

SIR: I have the honor to acknowledge the receipt of your two communications upon the subject of the "transit of Chinese laborers through the territory of the United States in the course of their journey to or from other countries," one under date of July 19 instant, inclosing a letter of the Solicitor of the Treasury, a circular of the Treasury Department, No. 5, dated January 23, 1883, and a telegram from John W. Foster, counsel of the Chinese legation; the other, under date of July 20, inclosing a letter from the Acting Secretary of State, and a copy of a telegram from the Chinese minister. You state that—

"Certain Chinese laborers have arrived at the port of New Orleans, and are now awaiting the determination of the question as to whether they have the right to pass through to San Francisco for the purpose of embarking for China, and I will therefore thank you for an expression of your opinion on this question at as early a day as practicable."

In reply I would say that the same question arose under the act of May 6, 1882, (22 Stats. at Large, 58). It was submitted to this Department, and the opinion of December 26, 1882 (reconsidering a former opinion), was given. The conclusions reached in that opinion I believe to be correct.

Moreover, it appears that from that time the Department of State, uniformly, and the Treasury Department, generally, have recognized and acted upon the construction given therein, at least down to the passage of the act of October 1, 1888.

Manifestly the act of July 5, 1884 (23 Stats. at Large, 115), did not render the opinion inapplicable to the question submitted.

Nor does the act of October 1, 1898, known as "the Scott Exclusion Act" (25 Stats. at Large, 504), affect its application. That act was directed to "Chinese laborers" who had been or might be residents here, and related to their departure and return.

I have been able to find no other legislation bearing materially upon the question. But it is possible that some of the "collectors of customs" to whom you refer may have been influenced by the stringent provisions of the act of September 13, 1888 (25 Stats. at Large, 476). The restrictive provisions of that act, however, by its very terms do not take effect till "the date of the exchange of ratifications of the pending treaty," which date has not yet arrived.

I therefore adopt the carefully considered opinion of this Department, given under date of December 26, 1882, as expressing my views upon the question you submit without additional argument.

I return the inclosures as requested.

Very respectfully,

O. W. CHAPMAN,
Solicitor General.

Approved.

W. H. H. MILLER,
Attorney-General.

The SECRETARY OF THE TREASURY.

[Inclosure No. 2. Circular.]

TRANSIT OF CHINESE LABORERS THROUGH THE UNITED STATES.

[1889. Department No. 100, Division of Customs.]

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., September 28, 1889.

To collectors and other officers of the customs :

In view of the opinion of the Attorney-General, promulgated in S. 9519, of July 25, 1889, the following regulations for the transit of Chinese laborers through the territory of the United States are hereby prescribed :

1. Any Chinese laborer claiming to be in transit through the territory of the United States in the course of a journey from and to other countries, shall be required to produce to the collector of customs at the first port of arrival a through ticket across the whole territory of the United States intended to be traversed, and such other proof as he may be able to adduce, to satisfy the collector of the fact that a bona fide transit only is intended ; and such ticket and other evidence presented must be so stamped, or marked, and dated by the customs officer as to prevent their use for the second time.

2. Descriptive lists of all such Chinese laborers will be prepared in duplicate in the following form :

Descriptive list of Chinese laborer in transit through the United States.

Name.	Age.	Occupation.	Last place of residence.	Height.	Complexion.	Color of eyes.	Physical marks.
				Ft. In.			

[SEAL.]

Port of ———, ——— (date.)

Collector of Customs.

The collector shall be satisfied of the correctness of the descriptive list before affixing his signature and seal.

One of the copies will be retained on the files of the office of the collector of customs at the port of arrival and one forwarded by mail to the collector at the port of exit.

3. The collector of customs at the first port of arrival shall take a bond in the penal sum of not less than \$200 for each Chinese laborer, conditioned for his transit and actual departure from the United States within a reasonable time, not exceeding twenty days from the date of arrival at such port. The bond may be given either by the transportation company issuing the through ticket, or by some responsible person on behalf of the laborer, and will be canceled on receipt from the collector of customs at the port of exit of a certificate showing that the person specified in the descriptive list transmitted to such port has actually departed therefrom, and stating the name of the vessel and date of departure.

Previous regulations on this subject are hereby rescinded.

WILLIAM WINDOM,
Secretary.

[Inclosure No. 3.]

To collectors and other officers of the customs :

It is announced that paragraph 3 of Department's Circular No. 100, dated September 28, 1889, relating to the transit of Chinese laborers through the United States, is hereby amended by the addition thereto of the following provisions :

Any transportation company engaged in the transit of Chinese laborers through the territory of the United States may execute such a general bond or undertaking to

the United States in a penal sum and with such conditions as may be fixed by the Secretary of the Treasury; and such company and its transit Chinese laborers shall thereafter be exempted from the forgoing requirements of this paragraph.

Mr. Tsui Kwo Yin to Mr. Blaine.

CHINESE LEGATION,

Washington, D. C., December 16, 1889. (Received December 17).

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant respecting the transit of Chinese laborers through the United States.

In that note you are kind enough to inform me that in consequence of the prohibition of the entrance [immigration] of Chinese laborers into the United States it became necessary for the Secretary of the Treasury to devise measures to prevent a violation of that prohibition under cover of the privilege of transit. It would seem to be inferred from this declaration that under cover of transit the laws against immigration were being violated. My note which occasioned this correspondence related to the transit between the eastern ports of the United States and San Francisco. The records of the Imperial consulate-general at San Francisco show that no abuse of the transit privilege has existed since the regulation of January 23, 1883; and it is understood that a report to the same effect was made by the customs officials of San Francisco to the Treasury Department before the adoption of the regulations of September 28 last, that is, that every Chinese laborer exercising the privilege of transit has passed through and out of the United States with a single exception, and that exception was occasioned by death en route.

The modification of the third paragraph of the last-named regulations proposed by the Secretary of the Treasury does not in any manner remove the objection presented in my note of November 5 last. Neither the Chinese Government nor its representatives in the United States have any control or influence over the transportation companies in this country, and it is understood that these companies centering at the port of New York [through which the Chinese residents of Cuba principally pass] are unwilling to give any bond for this traffic. It thus leaves the individual Chinese subject under the necessity of giving the bond of \$200. As these subjects are strangers in New York their only practicable way of complying with the requirement is to make a deposit in that city of the sum named, and as the bond is not released until proof is produced that the subject has actually departed from the port of San Francisco, it is readily seen how great is the inconvenience even in case the subject should be possessed of the ready cash. And in default of this \$200 the regulations amount to an absolute prohibition and a plain violation of the treaty. The effect of the new regulations has been to put an end to the transit through the port of New York.

I have no disposition to prolong this discussion by repeating the arguments made in my note of November 5 last, but I respectfully suggest that they remain unanswered by your note of the 6th instant. The action of the Congress of the United States in the passage of the act of October 1, 1888, in the opinion of my Government manifested an open disregard of treaty obligations on the part of the legislative department of the Government of the United States.

If anything should occur to make it appear that a similar spirit influenced the conduct of any of the Executive Departments of that Gov-

ernment, its effect would create upon my Government, I fear, a most unfavorable impression.

Knowing the high sense of justice which marks your excellency's conduct, I had hoped that you might, and still hope that you may, bring about a solution of this question in accordance with treaty stipulations.

In this connection, I beg again to direct your attention to the note of my predecessor of July 8 last, and to ask that I may be informed at a convenient time, of the views of your Government on the questions therein presented, in order that I may be enabled to communicate them to my Government, which awaits an answer with the solicitude which the gravity of the subject naturally occasions.

I am, etc.,

TSUI KWO YIN.

DENMARK.

Mr. Anderson to Mr. Bayard.

No. 259.]

LEGATION OF THE UNITED STATES,
Copenhagen, December 7, 1888. (Received December 26.)

SIR: I have the honor to report that on the 3d of December I received a note from the royal Danish minister of foreign affairs informing me that he was ready to sign the convention for arbitration of the Carlos Butterfield claim against Denmark with me. Yesterday I accordingly called on the minister of foreign affairs, and after comparing the documents and after presenting our full powers from His Majesty the King of Denmark and from His Excellency the President of the United States, His Excellency Baron O. D. Rosenörn-Lehn, royal Danish minister of foreign affairs, and I signed our names and affixed our seals to the convention, which I herewith transmit to you in order that it may be duly submitted to the Senate of the United States for its advice and consent. As soon as the convention has been ratified by the Senate the same will be submitted to the Danish Rigsdag, for its advice and consent, prior to the exchange of ratifications in Washington.

I have, etc.,

R. B. ANDERSON.

[Inclosure in No. 259.]

Agreement between the United States of America and the Kingdom of Denmark to submit to arbitration the claim of Carlos Butterfield and Company against the Government of Denmark.

Whereas the Government of the United States of America has heretofore presented to the Kingdom of Denmark the claim of Carlos Butterfield and Company, of which Carlos Butterfield, now deceased, was the surviving partner, for an indemnity for the seizure and detention of the two vessels, the steamer *Ben Franklin* and the barge *Catherine Augusta*, by the authorities of the island of St. Thomas of the Danish West India Islands in the years 1854 and 1855; for the refusal of the ordinary right to land cargo for the purpose of making repairs; for the injuries resulting from a shot fired into one of the vessels, and for other wrongs:

Whereas the said governments have not been able to arrive at a conclusive settlement thereof; and

Whereas each of the parties hereto has entire confidence in the learning, ability, and impartiality of Sir Edmund Monson, Her British Majesty's envoy extraordinary and minister plenipotentiary in Athens—

Now, therefore, the undersigned, Rasmus B. Anderson, minister resident of the United States of America at Copenhagen, and Baron O. D. Rosenörn-Lehn, royal Danish minister of foreign affairs, duly empowered thereto by their respective governments have agreed upon the stipulations contained in the following articles:

ARTICLE I.

The said claim of Carlos Butterfield and Company shall be referred to the said Sir Edmund Monson, Her British Majesty's envoy extraordinary and minister plenipotentiary in Athens, as sole arbitrator thereof in conformity with the conditions hereinafter expressed; to which end the high contracting parties agree to communicate to him in writing their common desire to commit the matter to his arbitration.

ARTICLE II.

The arbitrator shall receive in evidence before him duly certified copies of all documents, records, affidavits, or other papers heretofore filed in support of or against the claim in the proper department of the respective Governments, copies of which shall at the same time be furnished to the other Government. Each Government shall file its evidence before the arbitrator within seventy-five days after its receipt of notice of his acceptance of the position conferred upon him.

Each party shall be allowed seventy-five days thereafter to file with the arbitrator a written argument. The arbitrator shall render his award within sixty days after the date at which the arguments of both parties shall have been received.

ARTICLE III.

The expenses of such arbitration, which shall include the compensation of a clerk at the rate of not more than two hundred dollars a month, should the arbitrator request such aid, shall be borne by the two Governments jointly in equal moieties.

ARTICLE IV.

The high contracting parties agree to accept the decision of the arbitrator as final and conclusive and to abide by and perform the same in good faith and without unnecessary delay.

ARTICLE V.

This agreement shall be ratified by each Government and the ratifications exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed and sealed the present agreement in duplicate in the English and Danish languages.

Done at Copenhagen this sixth day of December in the year of our Lord one thousand eight hundred and eighty-eight.

R. B. ANDERSON, [SEAL.]
O. D. ROSENÖRN LEHN. [SEAL.]

Mr. Blaine to Mr. Anderson.

No. 130.]

DEPARTMENT OF STATE,
Washington, June 6, 1889.

SIR: I have to inform you that the ratifications of the treaty for the settlement of the claim of Carlos Butterfield were exchanged in this city on the 23d ultimo, and that it was duly proclaimed by the President on the following day.

The next step to be taken is the extension to Sir Edmund Monson, the arbitrator named in the treaty, of a formal invitation to accept the power therein conferred upon him.

It is thought that the best way of extending such invitation will be for the Government of the United States and the Government of Denmark, respectively, to instruct their diplomatic representatives at Athens, where Sir Edmund Monson holds the position of diplomatic representative of Her Britannic Majesty, to write to him jointly, informing him of the mutual desire of their Governments that he should discharge the task of arbitrator. For such a course there are precedents, of which an example is that of the invitation extended on behalf of the Governments the United States and Spain to Baron Blanc to accept the position of arbitrator in the cases of the *Masonic*. (See Foreign Relations, 1885, p. 693.) Such a course secures absolute uniformity of language in the invitation and avoids the raising of any question as to the effect or intention of variant phraseologies.

With this view I inclose herewith a draft of a note to be written to Sir Edmund Monson by the diplomatic representatives of the United States and Denmark at Athens, requesting his acceptance of the post of arbitrator.

At the same time a copy of this draft note will be sent to our diplomatic representative at Athens, with instructions to hold it until the representative of his majesty the King of Denmark at that place shall have been directed to join in its signature.

While it is not anticipated that any objection will be raised by the Danish Government to the extension of the invitation by a joint note, yet, in order to avoid delay in case such objection should be raised, I inclose herewith a draft of an identic note, which may, in that case, be written to Sir Edmund Monson by the diplomatic representatives of the United States and Denmark at Athens, respectively.

I inclose herewith printed copies of the treaty in question.

You are instructed to bring this matter to the attention of the Danish Government as early as possible.

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1 in No. 130.]

Joint note to be written by the diplomatic representatives of the United States and Denmark at Athens to Sir Edmund Monson, British minister there.

EXCELLENCY: The Government of the United States of America and the Government of his majesty the King of Denmark have, by a treaty concluded on the 6th day of December, 1888, of which the ratifications have been duly exchanged, agreed to submit to the decision of an arbitrator the claim of Carlos Butterfield and Company, of which Carlos Butterfield, now deceased, was the surviving partner, presented by the Government of the United States against the Government of Denmark for an indemnity for the seizure and detention of the two vessels, the steamer *Ben Franklin* and the barque *Catherine Augusta*, by the authorities of the island of St. Thomas of the Danish West India Islands, in the years 1854 and 1855; for the refusal of the ordinary right to land cargo for the purpose of making repairs; for the injuries resulting from a shot fired into one of the vessels, and for other wrongs. A copy of the treaty is hereto annexed.

Both Governments having entire confidence in the learning, ability, and impartiality of your excellency, they have had great satisfaction in agreeing upon you as the proper person to whom to submit for decision the questions involved in the claim referred to.

In performing the grateful duty of inviting your excellency to accept the power conferred upon you by the treaty, we have the honor to express the hope that we may have the pleasure, as soon as it may suit your convenience to communicate to us your wishes, of sending a notice to our respective Governments that you have accepted the task now jointly tendered by us in their behalf.

[Inclosure 2 in No. 130.]

Note to be written by the diplomatic representative of the United States at Athens to Sir Edmund Monson in case a joint note is not signed.

SIR: The Government of the United States of America and the Government of his majesty the King of Denmark have, by a treaty concluded on the 6th day of December, 1888, of which the ratifications have been duly exchanged, agreed to submit to the decision of an arbitrator the claim of Carlos Butterfield and Company, of which Carlos Butterfield, now deceased, was the surviving partner, presented by the Government of the United States against the Government of Denmark, for an indemnity for the seizure and detention of the two vessels, the steamer *Ben Franklin* and the barque *Catherine Augusta*, by the authorities of the island of St. Thomas, of the Danish West

India Islands, in the years 1854 and 1855; for the refusal of the ordinary right to land cargo for the purpose of making repairs; for the injuries resulting from a shot fired into one of the vessels, and for other wrongs. A copy of the treaty is hereto annexed.

Both Governments having, as stated in the treaty, entire confidence in the learning, ability, and impartiality of your excellency, I have the honor to express the great satisfaction of my Government in agreeing upon you as the proper person to whom to submit for decision the questions involved in the claim referred to.

In performing the grateful duty of inviting your excellency, in behalf of my Government, to accept the power conferred upon you by the treaty, I have the honor to express the hope that I may have the pleasure, as soon as it may suit your convenience to communicate to me your wishes, of sending a notice to my Government that you have accepted the task now tendered by me in its behalf.

Mr. Blaine to Mr. Anderson.

No. 131.]

DEPARTMENT OF STATE,
Washington, June 7, 1889.

SIR: Since writing my instruction No. 130 of the 6th instant it has been suggested to the Department by the Danish minister in this city that his Government may find difficulty in communicating with Sir Edmund Monson through its representative at Athens, who has no regular diplomatic, but only a consular capacity. If such difficulty should be found to exist you are authorized to sign with the Danish minister for foreign affairs a joint note to Sir Edmund, or to write a separate but identic note of invitation to be sent from Copenhagen. In either case some alteration of the phraseology of the drafts inclosed in my No. 130 would be required. This, however, is a matter of little importance so long as one point, which is made clear in the two drafts inclosed in that instruction, is understood. This point is, that the date of the receipt of notice, from which the seventy-five days allowed for the submission by each Government of its case to the arbitrator are to be counted, is the date of the receipt by the department for foreign affairs of such Government of the notice of the arbitrator's acceptance. This is thought to be clearly stated in the treaty, but it is desirable that it should always be understood.

Should the invitation to Sir Edmund be sent by yourself and the Danish minister for foreign affairs you are instructed, upon the reception of his acceptance, to send notice thereof to the Department by cable, in order that unnecessary delays in the execution of the treaty may be avoided.

I am, etc.,

JAMES G. BLAINE.

Mr. Anderson to Mr. Blaine.

[Extract.]

No. 311.]

LEGATION OF THE UNITED STATES,
Copenhagen, July 1, 1889. (Received July 13.)

SIR: Referring to your dispatches Nos. 130 and 131, dated June 6 and 7, I have the honor to report as follows: *

Both the above dispatches were received on June 26, and the same day I had an interview with the director-general of the Royal Danish ministry for foreign affairs. I suggested to him that my Government

preferred that I should sign a joint note. In reply the director-general urged that it was a delicate point in diplomacy as to who should sign first, and to avoid the raising of this and possibly other questions his Government preferred that we should send separate identical notes simultaneously, the Danish note to be written in the French language. In accordance with your instructions I agreed to his proposition, and on the next day (June 27) I sent a note to the Royal Danish minister for foreign affairs, inclosing copies of the two drafts of a note suggested by you, but still urging, as you will see by the copy thereof inclosed, the adoption of the joint note in preference to separate identical notes. On the 29th I received a reply from the Royal Danish minister for foreign affairs, in which he repeats the preference of his Government for two identical notes, and incloses a copy of the one in French, which he proposes to send to Sir Edmund Monson to-day. I have carefully compared it with the separate note transmitted by you to me, and find the two identical in all important respects. I have this day mailed a note to Sir Edmund Monson in behalf of the Government of the United States, inviting him to accept the task of arbitrator in accordance with the treaty of December 6, 1888. I have made such alterations in the draft you sent me as the case required, but none of the changes are essential. I inclose herewith copies of my note to the Royal Danish minister for foreign affairs, dated June 27, of my note to Sir Edmund Monson, and, finally, of a note sent by me this day to the Royal Danish minister for foreign affairs.

I shall look for an answer from Sir Edmund Monson in about two weeks.

I have, etc.,

R. B. ANDERSON.

[Inclosure 1 in No. 311.]

Mr. Anderson to Baron O. D. Rosenörn-Lehn.

LEGATION OF THE UNITED STATES,
Copenhagen, June 27, 1889.

EXCELLENCY: The honorable the Secretary of State at Washington informs me in a dispatch dated June 6 that the ratifications of the treaty for the settlement of the claim of Carlos Butterfield were exchanged at Washington on the 23d ultimo; and that it was duly proclaimed by the President of the United States on the following day.

The next step to be taken is the extension to Sir Edmund Monson, the arbitrator named in the treaty, of a formal invitation to accept the power therein conferred upon him.

I have the honor to inclose herewith two drafts, one of a joint and the other of an identic note to be written to Sir Edmund Monson, and also a printed copy of the treaty in question.

The joint note secures absolute uniformity of language in the invitation, and avoids the raising of any question as to the effect or intention of variant phraseologies; but in a conversation which I had with the director-general of the Royal Danish ministry of foreign affairs yesterday I was led to believe that your excellency prefers that we should send identic notes separately, and I am authorized by my Government to sign either a joint or an identic note.

Hoping the inclosed documents may be found satisfactory, and adding that I am ready to sign and transmit either one of the notes mentioned at any time that may suit your excellency's convenience, I seize, etc.,

R. B. ANDERSON.

[Inclosure 2 in No. 311.]

*Mr. Anderson to Sir Edmund Monson.*LEGATION OF THE UNITED STATES,
Copenhagen, Denmark, July 1, 1889.

EXCELLENCY: The Government of the United States of America and the Government of His Majesty the King of Denmark have, by a treaty concluded on the 6th day of December, 1888, of which the ratifications have been duly exchanged, agreed to submit to the decision of an arbitrator the claim of Carlos Butterfield and Company of which Carlos Butterfield, now deceased, was the surviving partner, presented by the Government of the United States against the Government of Denmark for an indemnity for the seizure and detention of the two vessels, the steamer *Ben Franklin* and the bark *Catherine Augusta*, by the authorities of the Island of St. Thomas, of the Danish West India Islands, in the years 1854 and 1855, for the refusal of the ordinary right to land cargo for the purpose of making repairs; for the injuries resulting from a shot fired into one of the vessels, and for other wrongs. A copy of the treaty is hereto annexed.

Both Governments having, as stated in the treaty, entire confidence in the learning, ability, and impartiality of your excellency, I have been instructed by the honorable the Secretary of State to express the great satisfaction of my Government in agreeing upon you as the proper person to whom to submit for decision the questions involved in the claim referred to.

In performing the grateful duty of inviting your excellency in behalf of my Government to accept the power conferred upon you by the treaty, I have the honor to express the hope that I may have the pleasure, as soon as it may suit your convenience to communicate your wishes to me, of sending a notice to my Government that you have accepted the task now tendered by me in its behalf.

I avail, etc.,

R. B. ANDERSON.

[Inclosure 3 in No. 311.]

*Mr. Anderson to Baron O. D. Rosenörn-Lehn.*LEGATION OF THE UNITED STATES,
Copenhagen, July 1, 1889.

EXCELLENCY: I have the honor to acknowledge the receipt of your esteemed note of June 29, informing me that you propose to send the note of which you had the goodness to inclose a copy to Sir Edmund Monson to-day. This note being identical with the one proposed by my Government, I have the honor to inform your excellency that I have this day mailed to Sir Edmund Monson at Athens, in behalf of my Government, a note, of which I transmit inclosed a copy.

I avail, etc.,

R. B. ANDERSON.

Mr. Anderson to Mr. Blaine.

[Extract.]

No. 313.]

LEGATION OF THE UNITED STATES,
Copenhagen, July 16, 1889. (Received July 29.)

SIR: I have the honor to send you a copy of Sir Edmund Monson's dispatch to me, and a few additional particulars in regard to the Butterfield claim.

As reported in my dispatch No. 311, dated July 1, identic notes were sent by the Royal Danish minister for foreign affairs and by me to Sir Edmund Monson at Athens, inviting him to assume the task of arbitration. On the 8th instant I received from Sir Edmund a telegram containing these four words: "Arbitration accepted; letter follows." With this telegram I called at the Danish ministry for foreign affairs.

No message had there been received from Sir Edmund and we agreed that the short telegram received by me should be regarded as a private communication to me and could not be considered as a sufficient notice to either Government of the arbitrator's acceptance of the power conferred upon him by the treaty. The Royal Danish minister urged that it was necessary to see Sir Edmund's acceptance over his own signature and to examine its phraseology before it could be received as a proper notice in accordance with Article II of the treaty. To this view of the matter I gave my consent.

Yesterday, the 15th, I received by mail from Sir Edmund Monson a dispatch, of which I herewith inclose a copy, and in which you will see that he accepts the position conferred on him without reservation.

The language of the treaty and of your instructions in your dispatch No. 131 being perfectly clear, I at once cabled Sir Edmund's acceptance to you, adding that the evidence must be filed before the arbitrator within seventy-five days from yesterday; that is, before September 28.

I have, etc.,

R. B. ANDERSON.

[Inclosure 1 in No. 313.]

Sir Edmund Monson to Mr. Anderson.

ATHENS, July 8, 1889.

SIR: I had the honor to receive last night your excellency's dispatch of the 1st instant in which you transmit to me a copy of the agreement entered into between the Government of the United States of America and that of his majesty the King of Denmark, signed by yourself and Baron Rosenörn-Lehn on the 6th of December of last year, in virtue of which they propose to refer to my arbitration the claim known as that of Carlos Butterfield and Company.

Your excellency, acting under instructions from the honorable the Secretary of State, invites me to accept the power conferred upon me by this agreement.

In reply I hasten to state to your excellency that I recognize with the most sincere appreciation the honor done to me by the two Governments in selecting me for this task, and that I readily place my services at their disposal.

I have not as yet received a similar formal invitation from the Government of the King of Denmark, but as soon as I do so I shall forward to Baron Rosenörn-Lehn an affirmative reply.

I shall have great pleasure in contributing to the utmost of my power to the settlement of a question of such long standing between two countries in each of which I have passed several years of diplomatic service and for both of which I entertain the kindest and most friendly feeling.

I have, etc.,

EDMUND MONSON.

Mr. Anderson to Mr. Blaine.

No. 315.]

LEGATION OF THE UNITED STATES,
Copenhagen, July 18, 1889. (Received July 30.)

SIR: Referring to my dispatch No. 313, dated July 15, I have the honor to report that I have this day mailed to Sir Edmund Monson, at Athens, a note of which I inclose a copy and in which I acknowledge the receipt of his letter of July 8, and thank him for accepting the task of arbitration referred to him by the treaty anent the Carlos Butterfield claim.

An identic note of acknowledgment and thanks has been sent to Sir Edmund by the Royal Danish minister for foreign affairs.

I have, etc.,

R. B. ANDERSON.

[Inclosure in No. 315.]

*Mr. Anderson to Sir Edmund Monson.*LEGATION OF THE UNITED STATES,
Copenhagen, July 18, 1889.

SIR: It gives me great pleasure to inform you that on the 15th instant I had the honor to receive your excellency's dispatch of the 8th instant, in which you accept the task of arbitrator in the Carlos Butterfield claim between the United States and Denmark, in accordance with the treaty signed by his excellency Baron O. D. Rosenörn-Lehn and me on the 6th of December, 1888.

His excellency Baron O. D. Rosenörn-Lehn having on the same day (July 15) received an affirmative reply to his formal invitation sent you on the 1st instant, this fixes July 15 as the beginning of the first period of seventy-five days according to Article II of the treaty, and each Government must therefore file its evidence before you before September 23 next.

In behalf of my Government I have the honor to thank your excellency for your readiness in placing your services at its disposal in this question of such long standing.

I avail, etc.,

R. B. ANDERSON.

*Sir Edmund Monson to Mr. Blaine.*ATHENS, *January 22, 1890.* (Received February 10.)

SIR: I have the honor to transmit to you herewith my award as arbitrator under the convention signed at Copenhagen by the representatives of the United States and of Denmark on the 6th of December, 1888, for the settlement of the claim of Carl's Butterfield & Co.

A duplicate of this award will be forwarded to the Danish Government.

I have, etc.,

EDMUND MONSON.

[Inclosure.]

AWARD.

The undersigned, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary to his majesty the King of the Hellenes, having been nominated by a convention signed at Copenhagen on the 6th of December, 1888, arbitrator in respect of the claim preferred by the Government of the United States against that of Denmark for compensation due by the latter to the former on account of the alleged seizure and detention in the years 1854 and 1855 of the steamer *Ben Franklin* and the bark *Catherine Augusta* by the authorities of the island of St. Thomas, in the Danish West Indian Islands, has had before him, and was duly considered, the evidence tendered by the respective parties to the said convention, and has carefully studied the arguments in which the merits of the case are set forth according to the views of the two Governments.

The argument of the United States places the question before the arbitrator as follows: What indemnity is due from the Government of Denmark for losses and injuries growing out of the following wrongful acts committed by the Danish authorities at the island of St. Thomas, West Indies:

First. The seizure and detention of the American bark *Catherine Augusta*.

Second. The refusal to her of the ordinary right to land her cargo for the purpose of making repairs, and herein of the exaction of unusual, onerous, and illegal conditions.

Third. The seizure and detention of the steamer *Ben Franklin*.

Fourth. The wrongful firing of a shot into the last-named steamer, and the injuries resulting therefrom.

The argument of the United States contends that, as it is indubitable that a vessel injured by the elements has a right to put into a friendly port for repairs, and a fur-

ther right to land her cargo in order to effect such repairs, and as it is equally indubitable that a peaceful vessel may not, under ordinary circumstances, be fired into and the lives of those on board imperiled, the mere statement of the case, with regard to the facts of which there is no material divergence in the evidence presented by the respective parties, establishes, under the principles of international law, an indubitable ground upon which the claim of indemnity may safely be permitted to rest.

The Danish Government, on the other hand, argues, in the first place, that, setting aside the original merits of the case altogether, the amount of time which was allowed to elapse before the claim was first presented, and the intermittent manner in which it was subsequently pressed, constitute in themselves a conclusive objection to the validity of the claim.

It appears convenient to settle this preliminary point at once; and the arbitrator has no difficulty in deciding that, although neither Butterfield and Company nor the United States Government have used due diligence in the prosecution of the claim, and have thereby exposed themselves to the legitimate criticism of the Danish Government on their dilatory action, the delay caused thereby can not bar the recovery of just and reasonable compensation for the alleged injuries, should the further consideration of the merits of the case result in the decision that such compensation is due.

Those merits depend, as is legitimately stated in the Danish argument, upon the answers which the arbitrator must return to three questions which relate to the legality of the measures adopted by the Danish authorities with regard to the two vessels—measures which, as aforesaid, are described by the argument of the United States as “seizure and detention.” The question of the firing upon the *Ben Franklin* will be treated separately.

The three questions above referred to are :

- (1) Had the local authorities legitimate grounds of suspicion warranting them in taking precautions ?
- (2) Is there reasonable ground for objecting to the nature and extent of the measures taken by those authorities ?
- (3) Were those measures allowed to remain in force for a longer period than necessary ?

First. The careful consideration of the whole correspondence set forth in the evidence submitted by the respective parties had led the arbitrator to decide the first question in the affirmative, and he consequently declares that the authorities of St. Thomas were warranted in taking precautions to prevent the possible violation of the neutrality of the port by acts of the nature of an equipment of armed vessels intended to operate against a friendly power.

Second. In deciding the second question, the arbitrator must point out that the words “seizure and detention” constitute an erroneous description of the measures taken by the Danish authorities. Those measures consisted in exacting from the consignees a bond of moderate amount, for which their personal guaranty was accepted, that the vessels, if allowed to be repaired, would not be employed for purposes of aggression against a power with which Denmark was at peace; and in a subsequent guaranty that the cargo, consisting of munitions of war, which had to be landed in order that the ships might be repaired, should not be replaced on board or re-exported without satisfactory proof being given to the authorities as to its destination being a legitimate one, this latter precaution being obligatory on the governor in virtue of the law which forbids the free export of arms. The ships were in no sense seized nor detained, and the precautionary measures proposed by the governor of the island were cheerfully acquiesced in by the consignees and the commercial agent of the United States. The arbitrator is of opinion that these measures were reasonable, and in no sense oppressive, and that they can not be considered to have been extorted under duress.

Third. It appears from the correspondence that no request for permission to reload the cargo was made to the governor of St. Thomas until the 7th of May, 1855, and that that permission was almost immediately granted; nor is there in the evidence presented to the arbitrator anything to warrant the presumption that had such a request been preferred at an earlier date it would have been refused. The arbitrator must, therefore, decide that the precautionary measures were not maintained longer than was necessary.

The conclusions arrived at by the arbitrator on these points will, therefore, have the effect of disallowing all claim for compensation for the measures taken by the Danish authorities at St. Thomas in regard to the vessels *Ben Franklin* and *Catherine Augusta* conjointly.

There remains the question of the firing upon the *Ben Franklin*.

The arbitrator is of opinion that the temporary engagement of the steamer by the representatives of the Royal Mail Steam-ship Company to convey passengers and mails to Barbadoes did not *ipso facto* entitle her to the enjoyment of those privileges ac-

corded by the Danish Government to the regular packets of the company, in virtue of which they were allowed to leave the port of St. Thomas at night without complying with the formalities imposed on all other merchant vessels, including even Danish mail packets. It is clear that the captain of the *Ben Franklin* neglected to comply with these formalities, and consequently the Danish Government can not be fixed with the responsibility of what unfortunately ensued. It is pertinent to add that the assertion that the action of the commandant of the fort was subsequently disapproved by his superiors and that he was dismissed from his appointment is absolutely erroneous.

The arbitrator has therefore only further to declare that neither in respect of the firing upon the steam-ship *Ben Franklin*, any more than in the treatment of that steamer and of her consort, the *Catherine Augusta*, is any compensation due from the Danish Government.

In testimony of which the arbitrator has hereto set his hand and seal, in duplicate, on the twenty-second day of January, in the year of our Lord one thousand eight hundred and ninety.

[SEAL.]

EDMUND MONSON.

FRANCE.

Mr. McLane to Mr. Bayard.

[Extract.]

No. 720.]

LEGATION OF THE UNITED STATES,
Paris, December 19, 1888. (Received January 2, 1889.)

SIR: I have the honor of sending herewith a copy and a translation of resolutions framed October 31, 1888, at a conference held here of members of the British and French Parliaments, who have taken the lead in the movement for securing peace by means of tribunals of arbitration.

A committee of the conference waited on me to present these resolutions and to express the hope that our Government if it could take no part in their action would at least sympathize with its object. I assured them that the American people and Government could not be indifferent to such a move; that we had been the first to take decided steps for the practical adoption of the principle of arbitration, and that the efforts of the distinguished men who in France and in England were endeavoring to reach the same object had our moral support.

The members of the French Chambers who are in favor of arbitration are men of character and ability; some like Jules Simon of the Senate and Mr. Frederic Passy of the House are conspicuous and eminent in certain respects, but they are not numerous, and the public at large seems to take very little interest in the matter.

I have, etc.,

ROBERT M. McLANE.

[Inclosure in No. 720.—Translation.]

Extract from the Proces-Verbal of the Parliamentary Conference of the 31st October, 1888.

The members of the British and French Parliaments united in conference at Paris the 31st October, 1888, for the purpose of assuring the maintenance of pacific relations between Great Britain, the United States, and France, by working at the preparation of treaties of arbitration between these three nations for the friendly settlement of differences which may arise between them, have taken cognizance of the documents, parliamentary and others, relating to the question of arbitration in the three countries, to wit, especially:

First. The address sent to the President and Congress of the United States by two hundred and thirty-three members of the House of Commons of England, and the sentiments annexed thereto of thirty-six members of the House of Lords, and of eminent persons, such as Messrs. Gladstone, Bright, Spurgeon, Cardinal Manning, Reverend Newman Hall, and the Lord Mayor of London.

Second. The resolutions presented to the two Houses of the Congress of the United States by a great number of their members and more especially by the Senators, in view of a permanent treaty of arbitration between France, the United States, and Great Britain, as well as with all other nations disposed to join with them.

Third. The reports of the Committee of Foreign Affairs and the votes of the Senate in the sittings of the 14th and 18th June, 1888.

Fourth. The provisions of resolutions, dated 21st January, 1887, and 21st April, 1888, presented to the chamber of deputies of France by a great number of its members and tending to the amelioration of international law by the more frequent resort to arbitration for the settlement of conflicts between nations, and more particularly to the conclusion of a general and permanent treaty of arbitration between the French Republic and the Republic of the United States.

Fifth. The petitions addressed with this object to the French Government, the last of which bears, besides others, the signatures of one hundred and twelve members of the chamber of deputies.

They declare, on the one hand, that the present state of the world constitutes for all nations a source of dangers and of ruin to which an end should be put; on the other hand, that the resort to arbitration for the settlement of international difficulties, the efficacy of which has always been proved on numerous occasions, is at once one of the surest ways of terminating the difficulties which may arise, and one of the best means of preventing these difficulties by the spirit of moderation and justice which it tends to disseminate.

They consider that the facts above recalled and the manifestations of opinion in the different civilized states show in the most evident manner the feeling of the necessity of peace and security with which civilized nations are animated.

They observe that, as far as the three nations specially cited above are concerned, the initiative taken by an important number of the members of their parliaments gives ground for hoping from these parliaments the approval of conventions of a nature to insure, under conditions of perfect dignity for each of the parties, the resort to arbitration.

That from the simultaneousness as from the importance of these manifestations it is clear that the same movement was produced with the same intensity and to the equal honor of each of the three nations in the three countries; so that it can not be said that it belongs rather to one than to another, and that no one of the governments in giving its attention to it could be considered as making advances to the others, advances which would be, moreover, entirely honorable.

They congratulate themselves upon this situation, record it, and by common accord adopt the following resolutions:

First. A copy of the present resolutions shall be forwarded simultaneously to the Governments of the United States, Great Britain, and France.

Second. An appeal shall be made to the press and to public opinion to second this movement.

Third. All members present and those who have given their approval to the provisions above recalled are requested not to neglect any opportunity of drawing the attention of the parliaments to which they belong to the question; and a similar request shall be addressed to the members of the American Congress who have presented or supported analogous resolutions.

Fourth. A further meeting, to which will be admitted not only the members of the three parliaments above cited, but also the members of other parliaments who have made themselves known by their devotion to the same ideas, shall take place next year to complete the work commenced in this first conference.

Fifth. A committee shall be charged with making the preparations for that meeting, and with carrying out the present resolutions.

In accordance with the above-given fifth resolution, Messrs Frederic Passy, president; Sir George Campbell and Cremer, vice-presidents; Jules Gaillard and Burt, secretaries; officers of the meeting have been chosen to form the executive committee, to whom have been joined Messrs. Provand and Schwann, M. P.; Jules Simon, Senator; Siegfried and Yves Guyot, deputies.

Mr. Rives to Mr. McLane.

No. 419.]

DEPARTMENT OF STATE,
Washington, January 7, 1889.

SIR: Your dispatch No. 720 of the 19th ultimo, inclosing a copy of the resolutions in favor of international tribunals of arbitration, adopted by a conference of members of the British and French Parliaments, held at Paris on the 31st of October last, has been received and communicated to the appropriate committees of Congress.

I am, etc.,

G. L. RIVES.

Mr. McLane to Mr. Blaine.

No. 789.]

LEGATION OF THE UNITED STATES,
Paris, May 3, 1889. (Received May 14.)

SIR: With my dispatch No. 720 of December 19, 1888, I sent to the Department a copy of certain resolutions in favor of arbitration adopted October 31 of the same year at a conference of prominent members of the French and British Parliaments. At the request of Mr. Frederick Passy, who, with Mr. Jules Simon and other deputies, have taken a leading part in the move for securing peace by means of tribunals of arbitration, I now send a few copies of a printed circular recalling that among the resolutions referred to one had in view the calling of another conference at Paris during the exhibition, and naming the 29th and 30th of June as the time for the meeting of said conference.

Mr. Passy and his associates ask that this circular be communicated to those who are likely to favor the object they have in view, as well as to the American press, and express the hope that our Government will give its moral support to a move in which the United States have taken a conspicuous part. A translation of the circular is also inclosed herewith.

I have, etc.,

ROBERT M. McLANE.

[Inclosure in No. 789.—Translation.]

International parliamentary conference of arbitration.

PARIS, April, 1889.

SIR: On the 31st of October last, as we have previously notified you, a certain number of members of the British Parliament and of the French Parliament, acting in the name of several hundreds of their colleagues, met at Paris with a view to occupy themselves with the means of improving international policy, and more particularly of bringing about between their two nations and the Republic of the United States of America the conclusion of treaties of arbitration of such a nature as to insure, by the amicable settlement of difficulties which might arise between them, the maintenance of their friendly relations.

Among other resolutions unanimously decided upon, and the text of which has been brought to the knowledge of the Governments and of the press, this assembly decided that a later conference in which would be invited to take part, not only the members of the parliament above cited, but also the members of the other parliaments known to be interested in the same ideas, should be held at Paris during the exhibition of 1889, to pursue, and, if possible, complete the work so happily begun.

In conformity with this decision, and in virtue of the mission which has been given us to insure its execution, we, by a previous circular which has received on all sides the best reception, have had the honor of begging you to be kind enough to take part, with the other members of the various parliaments who, like you, as we hope, understand the full importance of this manifestation, in the assembly which will take place at Paris on the 29th and the 30th of June next, in the large hall of the mairie of the sixth arrondissement (Place St. Sulpice), kindly put at our disposal by the municipality.

The first sitting will be opened at 9 o'clock in the morning. From 8 o'clock the members of the committee of organization will be at the office so that the list of those present can be signed, and to take note of the credentials and positions of those invited.

In the hope of being favored by your support and your presence, we beg you to accept, etc., in the name of the committee.

The members of the French Parliament: Jules Simon, senator; Frederic Passy, Jules Gaillard, Jules Siegfried, Yves Guyot, deputies.

The members of the British Parliament: W. R. Cremer, Sir George Campbell, Burt, Provand, Schwann, of the House of Commons.

Be kind enough to communicate this letter to the press and to those of your colleagues who, in spite of our care, have not received it.

Address replies to Mr. Frederic Passy, Neuilly sur Seine, near Paris.

Mr. Blaine to Mr. Reid.

No. 16.]

DEPARTMENT OF STATE,
Washington, June 11, 1889.

SIR: I inclose herewith for your information a copy of resolutions recently adopted by the board of directors of the board of trade of the city of Chicago relative to the prohibition by Germany and France of the importation of American hog products.

It is difficult to add to the earnestness with which, during many years, this Government has remonstrated against this unjust and onerous prohibition of trade in one of the greatest staple products of our country and one which the continuous experience of long and careful observation has demonstrated to be second in healthfulness to no food product of domestic or export consumption, and it is with deep regret and pain that this Government has seen the failure of the hopes it has built on the good disposition of France in this regard and upon the efforts of the French cabinets from time to time to effect a friendly and equitable solution of the difficulty which the legislative features of the question in the chambers have thrown in the way of its adjustment.

The present memorial, coming as it does from the great pork producing and packing center of the United States, and representing important and widely diffused interests, as well agricultural as commercial, is worthy of careful consideration. Insistence upon what is firmly believed to be an unnecessary and unjust discrimination against our country can not but injuriously affect opinion here among the vast mass of producers and others whose interests are materially damaged. In no country of the world is the official machinery for the inspection of live-stock and for the stamping-out the first symptoms of disease more elaborate and efficient, and nowhere are more varied and effective interests concerned in securing the absolute healthfulness of the food products which form so large a part of the subsistence of our countrymen. Careful observation, continued over many years, has failed to disclose an authentic case of disease from eating American cured and packed pork products in foreign countries where their use is freely permitted; and it would be a result much to be deprecated if the widespread injury inflicted upon the farmers and merchants of a large area of our country should tend to weaken the strong and cordial sentiments of our population towards France and her people and beget resentment against what can not fail, if longer persisted in, to be regarded as a blind and unreasoning discrimination.

The correspondence on file in your legation will apprise you of the magnitude of this question, and you will lose no opportunity to impress the Government of France with the earnest desire and confident expectation of this Government that considerations of friendliness and justice may prevail in the treatment of this question by the statesmen and legislators of France.

At the same time it is proper to caution you against proffering suggestions of retaliation on our part. Acts founded upon resentment work grievous injury to international relations, and while the interests

affected in this country are doubtless exerting a potent influence among the representatives of the people, it may not be expedient to openly advert to the probability of Congressional action.

You are instructed to avail yourself of an early opportunity to recall the attention of the French foreign office to this subject, and to discreetly but earnestly press our remonstrances upon the Government of France against the unjust discrimination complained of.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 16.]

Mr. Stone to Mr. Blaine.

BOARD OF TRADE OF THE CITY OF CHICAGO,
SECRETARY'S OFFICE,
Chicago, June 4, 1889.

SIR: I have the honor to inclose herewith a copy of preamble and resolutions adopted by the board of directors of this board, with reference to the prohibition, by Germany and France, of the importation of American hog meats.

Very respectfully, yours,

GEO. F. STONE.

[Inclosure 2 in No. 16.]

Resolutions adopted by the board of trade of the city of Chicago.

CHICAGO, May 28, 1889.

The following preamble and resolutions were adopted by the board of directors of the board of trade of the city of Chicago at a meeting held this day.

Respectfully,

G. F. STONE,
Secretary.

Whereas the hog crop of this country is a source of great national revenue; and,
Whereas France and Germany prohibit the importation of American salted pork;
and,

Whereas such prohibition is based upon the unfounded allegation that American hog meats are unhealthful, which insults and circumscribes a great and beneficent industry; and,

Whereas the American hog product of England is not thus interdicted, and thereby a particular and offensive discrimination is made against the American hog product, to the great injury of our commerce; and

Whereas under this legislation our exportation of hog product has diminished in value from \$104,000,000 in 1881 to \$59,000,000 in 1888; and,

Whereas the American hog product is generally used in America by citizens of all nationalities, and in all foreign countries except France and Germany, without detriment to the health of the consumers, and therefore the existing decrees of prohibition can not truthfully rest on the basis of the unhealthfulness of the product;

Resolved, That the board of trade of the city of Chicago hereby respectfully represents to the United States Government the necessity of immediate and decided measures to the end that the disabilities herein recited be removed and the business in American hog meats no longer suffer under the stigma of false and injurious accusations, but be restored to its rightful place in the commerce of the world.

Resolved, That a copy of the above be sent to the honorable the Secretary of State and to the principal commercial organizations of the country.

Mr. Reid to Mr. Blaine.

[Extract.]

No. 21.]

LEGATION OF THE UNITED STATES,
Paris, June 28, 1889. (Received July 8.)

SIR: With reference to your dispatch No. 16 of June 11, transmitting a copy of resolutions adopted by the board of trade of Chicago as to the prohibition by Germany and France of the importation of American hog products, and instructing me to seize an early opportunity for recalling the attention of the French Government to the subject, I beg leave to suggest that any steps taken in this direction at this moment would seem inopportune.

As has been seen in the correspondence of my predecessor, it is no longer contended that the importation of American pork is prohibited in France on sanitary grounds. The French Government is not opposed to the removal of the prohibition. On the contrary it rather favors it and has tried to secure it not only to comply with our wishes, but also with a view of favoring the laboring classes for whom American hog products would furnish a cheap food. But it could not be expected to press a measure of this kind at a moment when its own existence is involved in the result of the pending legislative election. The exhibition, the trial of General Boulanger, and the preparation for the new elections engage all its attention.

For these reasons I respectfully suggest that any action having in view the removal of the prohibition of American pork be delayed until after the new chamber is elected in the autumn.

I have, etc.,

WHITELAW REID.

Mr. Reid to Mr. Blaine.

No. 79.]

LEGATION OF THE UNITED STATES,
Paris, October 19, 1889. (Received November 5.)

SIR: General Franklin having made known to me your desire that, with a view of removing the unfounded allegations upon which American hog products are prohibited in France, the French Government be invited to inspect the meats of that class now shown in the Universal Exhibition, it was agreed that we should call together on Mr. Spuller. We did so on the 15th instant, and I explained the object of our visit substantially as stated in the *note verbale* herewith, which was written at the request of the minister and sent to him the next day.

Mr. Spuller received our request favorably. He said it was a proper one to make and that he would confer about it with the minister of commerce, who had charge of matters of this kind. As far as he was concerned, he had no objection to re-opening the question of admitting salted meat in France, and he would like to settle it to our satisfaction. There were, however, difficulties in the way. Originally the meat was excluded purely on sanitary grounds; but since, the idea of protection to French producers of salt pork may have had its weight in maintaining the prohibition. He personally did not sympathize with the protectionist views, being a free-trader, and he would favor any measure tending to unrestricted commercial intercourse. But he was sorry to say the tendency of the new chamber seemed to be strongly in the op-

posite direction. I reminded him that there was a difference between protection and prohibition. I spoke also of the invidious discrimination in admitting the same class of products from other countries while prohibiting ours and of the impolicy of prohibiting cheap food. We parted after the renewed assurances of his good will.

His record on this question being in favor of the free admission of American pork products, I have no doubt he will again favor the measure. I do not expect, however, that he will meet the question as directly as it is put in the *note verbale* herewith.

I have, etc.,

WHITELOW REID.

[Inclosure in No. 79.]

Mr. Reid to Mr. Spuller.

LEGATION OF THE UNITED STATES,
Paris, October 16, 1889.

Mr. Reid presents his compliments to Mr. Spuller and in compliance with his request states here the object of the call made on him yesterday with General Franklin.

The United States Government, regretting that American pork products are still prohibited in France, while similar products from other countries are admitted, has instructed its minister at Paris, and its commissioner-general at the Universal Exposition, to co-operate in efforts for the removal of this unjust discrimination.

The only ground heretofore assigned for it was the alleged unhealthfulness of the meat. The United States Government respectfully asks if that charge is still maintained by the French Republic. If so, the United States commissioner-general is instructed to ask, through the United States minister, for an official inspection of the American pork products which have been admitted to the exposition, and have been distinguished by its highest prize. This exhibit is large and embraces every variety of pork. The whole of it is placed at the disposal of the French Government for such inspection. The American producers are so confident that this can only result in establishing the perfect healthfulness of the meat that they invite the most careful and scrutinizing investigation.

If, on the contrary, the exclusion of American pork is not maintained for sanitary reasons the United States minister respectfully submits that his Government, as a friendly one, is entitled to know why an important American product is alone singled out among all similar products from other nations to be made the subject of such unequal treatment.

Mr. Reid to Mr. Blaine.

No. 94.] LEGATION OF THE UNITED STATES,
Paris, November 15, 1889. (Received November 26.)

SIR: I have the honor to forward the application of Mr. Frank R. Blackinton for a passport.

Mr. Blackinton has been residing in Paris since 1871, although he claims that his legal residence is at North Adams, Massachusetts, where he has property and where he pays and has regularly paid taxes on real and personal property. He states that during his eighteen years' residence abroad he has returned to the United States at least nine times, remaining for a few months at a time for the purpose of attending to his affairs. As he declares that, although he expects to go back shortly on business, he does not know when he will return to the United States to reside permanently, and that he has at present no intention or desire to do so, I do not feel at liberty under the present instructions to give him a passport.

It is a fact with which you are of course familiar that there are in Europe a great many citizens of the United States, not a few of them extremely well known and prominent, who are practically in the same position with Mr. Blackinton. To refuse them passports would doubtless cause considerable outcry. I should therefore be glad to be advised whether in your judgment I have construed the instructions of the Department too rigidly in the matter of Mr. Blackinton's application; and it would be a favor if I could have your special instructions as to such cases in future.

I have, etc.,

WHITELAW REID.

Mr. Blaine to Mr. Reid.

No. 76.]

DEPARTMENT OF STATE,
Washington, December 2, 1889.

SIR: I have to acknowledge the receipt of your No. 94 of the 15th ultimo, in which you inclose a passport application of Mr. Frank R. Blackinton, a native citizen of the United States, and request instructions from the Department on the subject, the application having been refused.

It appears by the application that Mr. Blackinton was born at North Adams, Massachusetts, in 1851, and consequently is now thirty-eight years of age. He left the United States in 1871, at the age of twenty, and has since generally resided abroad. He has, however, in the period mentioned been nine times in the United States, remaining for "a few months at a time." He further deposes that his domicile is in the United States and that his legal residence is at North Adams, where he pays and has always paid real and personal taxes. These facts certainly indicate that although Mr. Blackinton has resided much abroad his domicile is in the United States, that he has not abandoned his American citizenship, and that he is entitled to a passport. The Department would therefore direct that a passport be issued to him without further question were it not for what follows in his application. The last clause of the form which is required to be filled up is—

That I intend to return to the United States within _____ with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of _____.

It is to be observed, in the first place, that no definite period is fixed during or at the end of which the applicant is required to declare his purpose to return to and reside in the United States, to perform the duties of citizenship therein. For reasons of business, or for other causes, the applicant may be unable to make a definite and positive statement on the subject. In such case the reasons why such a statement is not or can not be made should be disclosed for the judgment of the legation; and the fact, if it appear, that the applicant is domiciled in the United States, of which the payment of personal taxes here is evidence, and adheres to his American nationality, goes far to make out his case. But when Mr. Blackinton is asked to state his intention in respect to residing in the United States and performing the duties of citizenship therein in the future he replies "that at present I have no plan, intention, or desire to do so." This statement is specific and unequivocal, and, whatever his purposes and his conduct may have been in the past, is a clear declaration that Mr. Blackinton does not intend

to perform the duties of citizenship hereafter, and that, besides, he has no desire to do so. If this declaration is expressive of Mr. Blackinton's purposes it seems scarcely consistent that he should ask the protection of the Government of the United States. The laws of the United States enjoin upon its authorities the recognition of the right of its citizens freely to renounce their allegiance, and this injunction the Executive is not at liberty to disregard. At the same time it is forbidden to issue passports to any but citizens of the United States, which has always been held to mean not persons who may be able merely to produce evidence that at a certain time they were citizens of the United States, but those who at the time they apply for the protection of the Government are its loyal citizens, bearing, in the language of the oath which they are required to take, "true faith and allegiance to the same;" when, therefore, a person declares that he has "no plan, intention, or desire" to perform the duties of citizenship, he by his own acts excludes himself from the class of persons who, in bearing "true faith and allegiance," are entitled to the protection of the Government whose allegiance he renounces. It can not be said that a person bears "true faith and allegiance" when at the same moment he declares that he has "at present no plan, intention, or desire" to perform the duties of citizenship, which is about as broad and comprehensive a renunciation of those duties as could be expressed.

With this declaration before it, the Department finds itself unable to direct favorable action upon Mr. Blackinton's application. If the Department had been left to gather this intention from antecedent facts, it would have come to a different conclusion, although no positive statement as to his future residence in the United States had been made; but it is superfluous to say that it is not admissible to resort to such inference to attribute to a person an intention to perform the duties of citizenship in the future, when he declares that he has neither intention nor desire to do so.

I am, etc.,

JAMES G. BLAINE.

GERMANY.

Mr. Coleman to Mr. Blaine.

No. 818.]

LEGATION OF THE UNITED STATES,
Berlin, September 16, 1889. (Received September 28.)

SIR: I have the honor to transmit herewith a report which I have prepared of the so-called "military cases" requiring the intervention of this legation with the German Government, which have been decided between the date, October 11, 1888, of the last report of this character from the legation and the date of this dispatch. The cases reported herewith are designated with the numbers 188, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, and 205, being sixteen in all, ten of them relating to fines, six to threatened expulsions. All of the former class, with the exception of one, and all of the latter with the exception of two, have been decided favorably, the relief sought by the applicants having been granted. The exception in the first-named class, No. 188, in which only a moiety of the fine imposed has been remitted, is a case occurring in Alsace-Lorraine territory, with respect to which, according to the view advanced by this Government, none of our treaties regulating nationality, concluded with the various German states in 1868, have application. This case has been specially reported with the legation's dispatch, No. 720, of January 3, 1889, and the question of the principle involved has been heretofore discussed in a voluminous correspondence to be found on the files of the Department of State. The two exceptions in the second-named class, Nos. 198 and 199, relate to proceedings looking to the expulsion from the territory of Hamburg of native American citizens residing with their parents of German birth for periods of many years in that city without manifesting any definite intention of ever returning to the United States to perform the duties of citizenship there. In the one case, No. 198, the applicant for whom the legation intervened ultimately sought and obtained naturalization in Hamburg, and is now residing there as a German subject; in the other, No. 199, the applicant, when his continued residence in that city became impossible, simply removed to Bremen, where he now resides with his family.

The question of the expulsion of American citizens from this country, and of the principle upon which such action is based, heretofore stated by the German Government to be the inherent right of a state to expel foreigners from its territory when its interests and the public welfare dictate such course, has been also discussed at length in correspondence on the files of the Department, and especially in the "military case" report from this legation transmitted with dispatch No. 534, of November 8, 1887.

Recurring to the subject of military fines, I will briefly remark in conclusion that such fines are imposed, not because of the acquisition

of American citizenship by the persons concerned, but in the routine of military business by judicial proceedings *in contumaciam* upon all absentees, not known to be exempt for valid reasons, upon their attainment of the age when they are required to enter upon the performance of military duty, the fact of the acquisition of American citizenship being first brought to the attention of the authorities upon the return of the naturalized American citizen to his native place in Germany.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 818.]

“MILITARY CASE” REPORT.

188. *John Goldschmidt*.—Born at Leinbach, Alsace, November 16, 1857; emigrated in November, 1873, at the age of sixteen years, to the United States where he had ever since remained; naturalized March 10, 1887. The attention of the legation was first called to this case by Goldschmidt in a communication dated May 14, 1888, received the 30th of that month and answered on the same day, with a request for fuller information, to be supplied by filling in a “military case” form, inclosed for the purpose. Goldschmidt was at the same time informed that it was doubtful whether the removal of the attachment to secure a fine amounting, inclusive of costs, to 1,213.29 marks, imposed on him for alleged violation of military duty by a judgment of the land court at Mühlhausen, dated January 11, 1879, placed on an inheritance accruing to him from his parents at Taun, in Alsace, could be obtained, as the German Government contended, in opposition to the American view, that none of the various naturalization treaties with the German states, which secure immunity from such acts as he complained of, applied to Alsace-Lorraine. After a lengthy correspondence, made necessary by Goldschmidt’s confused statements, with him and his brother-in-law, residing at Taun, the legation was at length, on the 7th of August following, placed in possession of the necessary facts and evidence of his citizenship, and on the same day appealed to the foreign office in Goldschmidt’s behalf, inclosing with its note of intervention his certificate of naturalization, submitting his statements and complaint, and requesting that the attachment be removed, if upon investigation the facts should be found to be correctly stated. On the same day the legation notified Goldschmidt of the action taken in his behalf. In an answering note dated January 2, 1889, and received on the following day, the foreign office informed the legation that, in consequence of the intervention which had been made, one-half of the fine imposed had been remitted, assigning no reason for the non-remission of the entire amount other than that such course could not be recommended under existing circumstances. On the same day the legation notified Goldschmidt of the decision reached, and with dispatch No. 720, of January 3, 1889, fully reported the case to the Department. Goldschmidt thereafter, under date of February 2 following, expressed his thanks to the legation for the action taken in his behalf.

189. *Henry F. Jessen*.—(This case has been heretofore reported in annual report of military cases with dispatch No. 681, of October 11, 1888.)

190. *Valentine Goetz*.—Born at Gadern, Grand Duchy of Hesse, October 29, 1862. emigrated in November, 1880, to the United States; naturalized October 15, 1886. In a letter dated August 7, 1888, received on the following day, Goetz, writing from Frankfort-on-the-Main, informed the legation that while sojourning at Gadern a few days before he had been threatened with arrest for non-performance of military duty in Germany. He asked whether the evidence of his American citizenship which he inclosed would protect him from such arrest. The Legation answered on the same day, informing him that the naturalization treaty of 1868, of which a copy was inclosed with the advice to call the attention of the authorities to its provisions in case further threats were made, granted him immunity from arrest or other penalties on account of his non-performance of military service in Germany. On the 23d of August a letter was received from the United States consul-general at Frankfort-on-the-Main, conveying the following information respecting this case, which the legation submitted on the same day in a note of intervention addressed to the foreign office: “Having recently returned to his native country on a brief visit for the purpose of transacting some business for his mother residing at Gadern, he had, on August 9, been compelled under threat of imprisonment to pay a fine, amounting with costs to 211.10 marks, for alleged violation of military duty, under a judgment pronounced by the land court at Darmstadt, under date of July 28, 1885. The fine had, according to Goetz’s statements, been exacted of him by the authorities with a full knowledge

of the facts, their attention having been previously invited to the provisions of the treaty regulating nationality, concluded between the United States and the Grand Duchy of Hesse on August 1, 1868; Goetz having at the same time submitted to them his certificate of naturalization, accompanied by a translation which he had prepared for the purpose of preventing any misunderstanding of the contents of that document." The legation inclosed the evidence of Goetz' citizenship, together with the receipt for the fine, and requested in conclusion that the amount of the same should be returned to him if the essential facts in the case should upon investigation be found to be accurately stated. On the same day the legation informed Goetz, through the consulate-general at Frankfort-on-the-Main, of the action taken in his behalf. In an answering note, dated November 10 following, the foreign office informed the legation that the return to Goetz of the entire amount of the fine and costs had been directed. On the same day the legation notified Goetz, who had since returned to the United States, through the consulate-general, of the favorable decision reached in his case, returning his papers to him at the same time. Nothing has since been heard from Goetz.

191. *Marcus Goldschmidt*.—Born at Fuerfeld, Rhine, Hesse, April 22, 1863; emigrated in October, 1882, to the United States; naturalized November 22, 1887. In a communication, without date, received on July 9, 1888, Goldschmidt inquired of the legation, writing from Paris, whether he could safely visit his native country, and was informed on the same day that he was, pursuant to treaty provisions, entitled under the circumstances stated by him to visit Germany without liability to arrest or punishment for emigrating or avoiding military service or to being compelled to perform such service in that country. Having in the mean time come to his native place, Goldschmidt informed the legation in a letter dated the 19th, received the 21st of that month, that it was rumored he was to be arrested on account of his visit. He was on the same day furnished by the legation with a copy of the treaty securing him immunity from punishment therefor. On the 21st of August following, in a communication dated the 16th of that month, Goldschmidt informed the legation that he had under protest paid a military fine demanded of him by the local authorities, requesting that its recovery be procured. On the same day the legation transmitted to him a "military case" form, to be filled in and returned together with the evidence of his American citizenship. Having on the 23th, in a communication dated the 27th of August, received the necessary information, the legation on the same day addressed a note of intervention to the foreign office in behalf of Goldschmidt, inclosing his certificate of naturalization, and submitting the following complaint and further facts in his case: Goldschmidt had returned on the 13th of July, 1888, to Fuerfeld from the United States on a brief visit to his parents, with the intention of going back to his adopted country in September following, when he was compelled, on the 10th of August, to pay a fine of 213.07 marks under a judgment pronounced against him for evasion of military duty by the grand ducal land court at Mayence, under date of March 3, 1886, notwithstanding his appeal to his American citizenship, and the provisions of the naturalization treaty concluded between the United States and the Grand Duchy of Hesse and bei Rhein, under date of August 1, 1868. The return of the amount of the fine was requested in the event of the facts being found upon investigation to be correctly stated. Goldschmidt was on the same day informed of the action taken in his behalf, and requested to furnish his American address in case he returned home, in order that the legation might notify him of the result of the intervention and return his papers. With this request he complied. In an answering note dated November 10 following, received on the 12th of that month, the foreign office informed the legation that the repayment of the fine had been directed. Goldschmidt was immediately made acquainted with the fact, and his certificate of naturalization returned to him. In a communication received from him, from his home in the United States, to which he had in the mean time returned, he expressed his thanks to the legation.

192. *George C. Mueller*.—Born at Ovelgrüne, Grand Duchy of Oldenburg, June 5, 1860; emigrated at the age of nineteen, in August, 1879, to the United States; naturalized May 21, 1886. Mueller having called in person to present his case on November 3, 1888, the legation on the same day addressed a note to the foreign office in his behalf, submitting the following complaint and further statements made by him, together with the evidence of his American citizenship: Mueller returned on a visit to his native place on the 23d of October, 1888, ascertaining on his arrival that his brother, who resided there, and to whom he had intrusted the management of his affairs, had paid over to the German Government authorities, out of an inheritance accruing to him, the sum of 1,076.96 marks, being the amount of a fine, with costs, imposed on him for alleged evasion of military duty in Germany. The repayment of the fine was requested in the event of the facts being found upon investigation to be correctly stated. In an answering note received on the 8th of January following, and dated the preceding day, the foreign office informed the legation that its request had been complied with. This result was at once communicated to Mueller, who

expressed his thanks for the recovery of the fine which he had given up as a loss, in a letter to the legation written from Buenos Ayres under date of March 31, 1889.

193. *George Fink, alias Finkbeiner*.—Born at Breiten's, Wurtemberg, May 20, 1867; emigrated at the age of sixteen years, in August, 1883, to the United States; naturalized under the name of George Fink September 17, 1888, under date of September 24, 1888. Fink's agent in New York brought this case to the notice of the legation, inclosing the evidence of the citizenship of the latter. He was informed by the legation, in a communication dated October 8 following, that upon receipt of the necessary statement of facts called for in the inclosed "military-case" form, proper action would be taken in Fink's behalf. The necessary information having been received on the 5th of November following in a communication from Fink dated the 20th of the preceding month, the legation on the same day addressed a note of intervention to the foreign office, inclosing the certificate of naturalization and stating his complaint and the further facts as follows: Fink still resided in the United States, never having returned to Germany. On August 26, 1888, his father, Jacob Finkbeiner, residing at Mittelthall, in Wurtemberg, informed him by letter that the authorities at that place had imposed a fine on him amounting to about 700 marks and had attached an inheritance accruing to him to secure the payment of the same. The removal of the attachment was requested in case the facts should be found to be correctly stated. On the following day the legation notified Fink, through his agent, of the action taken in his behalf. In an answering note, dated May 2, 1889, the foreign office informed the legation that the attachment had been removed and the fine remitted. The legation at once informed Fink, from whom nothing has since been heard, of this satisfactory result of its action.

194. *Siegfried Schachne*.—Born at Grünberg, Silesia, January 15, 1860, emigrated at the age of fourteen, in March, 1874, to the United States; naturalized October 28, 1881. Schachne brought his case to the attention of the legation in a communication from New York, dated September 29, 1888, received on the 13th of the following month, which the legation answered two days thereafter, asking that the inclosed "military case" form be filled in with the necessary information and returned here together with the evidence of his American nationality. This having been done with a letter from Schachne dated October 26, received on the 5th of November following, the legation on the 7th of the latter month addressed a note to the foreign office in his behalf, inclosing at the same time his certificate of naturalization, and submitting his complaint and the following further facts: In July, 1888, Schachne returned to his native land on a visit, intending to remain there only two months, and went back to the United States on the 2d of September following. While in Berlin during that visit he was notified by the authorities that he must pay a fine amounting, with costs, to 245 marks for alleged evasion of military duty. Schachne informed the official who called on him several times that he was an American citizen and, under treaty stipulations, not liable to any punishment for such act. At the time of his departure for the United States, after the completion of his visit, the matter seemed to have been dropped by the authorities at Berlin, but thereafter, and soon after his departure, his family residing at that city were informed that further efforts to collect the fine had been officially made, with insistence on its payment. The remission of the fine was requested in the event of the facts being found, after investigation, to be as stated. In an answering note dated March 25 following, and received on the 27th of that month, the foreign office informed the legation that the fine in this case had been remitted as requested. On the latter date the result of intervention was communicated to Schachne, from whom nothing has since been heard.

195. *Hans P. P. Grosbol*.—Born at Osterlinnet, near Gramm, in Schleswig-Holstein, emigrated, with Government permit, in the year 1873 to the United States, where he was naturalized, residing there for seven years. The attention of the legation was brought to this case by Grosbol, under date of November 15, 1888. In an ensuing communication written on the 17th of that month, the day of the receipt of his letter, the legation, although provided with but meagre facts, the case being urgent, presented the same to the foreign office. On the same day it notified Grosbol that it had done so, and at the same time, with dispatch No. 694, reported the case to the Department. The further facts and complaint thus submitted to the foreign office were as follows: Grosbol had returned some three weeks before, with his family, to his native place with the intention of paying a visit of three months to his parents and relatives residing there, when, on the 13th of November, 1888, the local authorities notified him that he must leave his native place within a week. His naturalization appeared to be of an entirely *bona fide* character; he had resided at his native place a few weeks only, desired to remain there until the middle of January following; the condition of his child's health was alleged to be such that a return voyage would at the present time be impracticable. The legation expressed the hope that Grosbol's request would be complied with, the facts being upon investigation found to be as stated, and that in view of the urgency of the case which prevented the legation from submitting as full a statement of the facts as it desired, the time fixed

for Grosbol's departure being but three days distant, it was hoped that proceedings against him might be suspended before that date. The legation submitted with its note Grosbol's passport only, his certificate of naturalization being in his own keeping at his native place. In an answering note, dated November 21, received the following day, the foreign office notified the legation that action against Grosbol had been suspended as requested, and on the 23d of that month the legation addressed a communication to him, and dispatch No. 697 to the Department, conveying that intelligence. With instruction No. 392, of December 12 following, the Department acknowledged the receipt of the above-mentioned dispatch. On January 31 following, a further note, dated the 29th of that month, was received from the foreign office, which informed the legation that the facts as presented by the legation had not been known to the authorities who notified him that he must leave, and had not been disclosed by him at the time his statements were taken down by them. In view of the facts submitted by the legation his wishes as to a further sojourn in Prussia would be complied with. On the day of the receipt of this note from the foreign office the legation reported the result of its intervention to Grosbol, and to the Department with dispatch No. 736, the receipt of which was acknowledged with instruction No. 420, of February 20, 1889. The legation has heard nothing further from Grosbol since its intervention in his behalf.

196. *Louis B. Greenberg*.—Born at Schrimm, in the province of Posen, Prussia, October 2, 1866; emigrated in May, 1882, to the United States; naturalized July 2, 1885. Greenberg having, under date of November 25, 1888, submitted his case, the legation, on the 26th of that month, the day of its receipt, addressed a note to the foreign office in his behalf, stating the further facts and his complaint as follows: Greenberg returned to Germany on a visit to his parents and other relatives about the 1st day of August, 1888, and had since continued to sojourn with them at Schrimm, or at Berlin, demeaning himself, as he alleged, in an entirely peaceable, law-abiding manner. On the 24th of November following he was informed by the police authorities of Berlin that he must leave Prussia within fourteen days. Greenberg expressed the wish to remain in Prussia from four to six weeks longer when, his visit having been completed, he would return to the United States. The legation inclosed Greenberg's certificate of naturalization, and requested that his wish be complied with in case the facts were found to be as stated. On the same day the legation informed Greenberg of the action taken in his case, and on the following day reported the same to the Department with dispatch No. 700. After some intermediate correspondence between the legation and Greenberg relative to the time by which a decision would probably be reached in his case, the foreign office, in an answering note, dated December 14 following, and received on the 15th of that month, informed the legation that Greenberg's wish had, in consequence of the intervention made in his behalf, been complied with. On the same day the legation transmitted this intelligence to Greenberg, and with dispatch No. 708 to the Department. With instruction No. 399, of January 5 following, received on the 25th of that month, the Department expressed its satisfaction with the decision reached. Since the notification to him of that decision nothing further has been heard of Greenberg.

197. *Frederick Gastiger*.—Born at Walberg, near Ittenheim, Bavaria, February 25, 1858, emigrated in December, 1881, to the United States, naturalized January 27, 1887. The attention of this legation was first brought to this case by a communication from Gastiger, dated October 11, received the 13th of that month. After a voluminous intermediate correspondence between him and the legation, made necessary by his failure to state clearly what had taken place, the legation was enabled, by a communication received from Gastiger on the 29th of November, following, to address a note to the foreign office in his behalf, presenting his complaint and the further facts in the case, as follows: About the 1st September, 1888, Gastiger returned on a visit to his native country, making Unterleinleiter, Bavaria, his place of sojourn for such purpose. On the 7th of October following, the local authorities compelled him to pay a fine of 60 marks for unallowed emigration. The evidence of Gastiger's American citizenship was inclosed, with the request that the repayment of the amount of the fine be caused if the facts should upon investigation be found to be as stated. On the same day the legation notified Gastiger of the action taken in his behalf. In an answering note, dated February 21, received the following day, the foreign office informed the legation that the repayment of the fine had been ordered. On the same day this intelligence and his certificate of naturalization were transmitted by the legation to Gastiger, from whom nothing further has been heard.

198. *Edmund G. H. Thiele*.—This case was brought to the notice of the legation by a communication received from the American consulate at Hamburg, where Thiele was residing. After some intermediate correspondence, necessary to secure full information in the case, the legation was enabled on the 10th of December, 1888, to address a note in his behalf to the foreign office, in which the following facts and complaint as stated by Thiele were submitted. Thiele, the son of a naturalized American citizen, was born at New York City on January 23, 1864. In the year 1869 the father

returned with his family, including his son Edmund, to Altona, his former home (a suburb of Hamburg), where he had in the mean time inherited real estate, intending to return to America after the accomplishment of certain tedious formalities connected with that inheritance, which required much more time than he had anticipated. His return was, however, prevented by his death, which ensued on September 8, 1872. Thiele's mother had since continued to reside at Altona, but the son, on the attainment of his seventeenth year, in 1881, returned to the United States, with the purpose of remaining there permanently. Prompted, however, by the anxiety of his mother to have her son near her in case of an emergency, he returned in 1884 to Altona, where he had since resided. On the 4th of the current month Thiele was summoned before the police authorities of Hamburg, and offered the alternative of leaving the city or applying for German naturalization. Upon declining to renounce his native allegiance he was informed that he must leave Hamburg within eight days. Thiele had never owed allegiance to Germany, and could not, therefore, be considered to have sought in any way to avoid the duties, whether of a military or other character, which that allegiance entails, and his conduct having been as alleged law-abiding, it was hoped the withdrawal of the order complained of would be effected, if the facts were upon investigation found to be as stated. In proof of Thiele's American nationality, his certificate of baptism and the certificate of naturalization of his father were inclosed, with the request for their ultimate return.

On the same day the legation informed the consulate at Hamburg that intervention had been made, and reported the case to the Department with dispatch No. 707. On the 19th of December, in a note of the same date, the foreign office informed the legation that the Senate of Hamburg had directed that a new investigation of Thiele's case be made, and that for the time being his further sojourn would be permitted. This intelligence was on the same day transmitted to the consulate at Hamburg, and to the Department with dispatch No. 711. On the 12th of February following instruction No. 409, of the 31st of January preceding, was received, expressing approval of the action of the legation in the case, satisfaction with the suspension of the proceedings taken against Thiele, the opinion that he was not in Germany *animo manendi*, and the expectation that the case would be equitably treated. After some intermediate correspondence with the consulate at Hamburg touching Thiele's desire to have his papers returned to him, which could not then be complied with, those documents being still in the possession of the foreign office, the latter, with a note dated February 28, received on the 2d of March following, informed the legation that investigation of the case had shown that Thiele had the intention to settle permanently in Hamburg as a man of business, but without acquiring naturalization there, it being his purpose to wait to see whether the cigar business which he contemplated establishing there on his own account prospered, and whether he could be compelled to perform German military service. Under these circumstances the foreign office regarded the assumption as justified that Thiele, who, it is true, was by birth an American citizen, but was of German origin, whose mother was still living at Altona, and whose life relations all connected him with Germany, was availing himself of his American citizenship solely for the purpose of withdrawing himself from the performance of German military service. The Senate of Hamburg had not, therefore, considered the repeal of the order of expulsion practicable. It had, however, in view of the intervention made in his behalf, recommended to the appropriate police authority to accord to him a further sojourn of a short period at Hamburg. On the day of the receipt of this note from the foreign office the legation informed Thiels of its contents through the consulate at Hamburg, and fully reported the same to the Department with dispatch No. 747. In an answering instruction, No. 429, of March 20, 1889, received on April 3 following, the Department directed the legation to continue to watch the case and to report the time of Thiele's departure, and whether he returned to the United States. In compliance with this direction the legation has ascertained that Thiele, on the 2d day of September, 1889, informed our consulate at Hamburg that he had a few days before acquired German allegiance.

199. *Henry Clay Schmidt*.—Native citizen of the United States Schmidt addressed to the legation a communication dated December 17, and received December 19, 1888, inclosing the evidence of his American citizenship and furnishing such facts in his case that the legation was enabled to intervene in his behalf on the last-mentioned date, submitting to the foreign office the following statements and complaint: Schmidt was born at New York City on May 21, 1857, and came to Germany on a visit in the year 1870 with his father, Guido Schmidt, a native of the city of Hanover, Germany, who had been naturalized as a citizen of the United States, at New York City on January 9, 1857. The father, who had returned to America in 1874, had, it was understood, since died. The son, who had been residing in the city of Hamburg for the past ten years for business purposes, and who had recently contemplated the establishment there of commercial relations with the house of his brother, doing business in New York, had been ordered by the authorities of Hamburg to leave that city by the 22d of December, no reason having been assigned for such action. Schmidt in-

formed the legation that he was living with his family in rented apartments, contracted for until May 1, 1889, and that to be compelled to leave Hamburg before that time would expose him to very serious inconvenience and loss. As far as appeared Schmidt, a gentleman of good standing, means, and credit, had demeaned himself during his stay in Hamburg in an entirely peaceful and law-abiding manner. In conclusion the legation requested that the foreign office would kindly use its mediation to the end that the order issued against Schmidt be withdrawn, and he allowed to enjoy at Hamburg the hospitality and commercial privileges so freely accorded to citizens and merchants of that state throughout the United States. On the same day the legation informed Schmidt that it had intervened in his behalf and reported the case to the Department with dispatch No. 712. In a note dated December 25, received on the following day, the foreign office informed the legation that, in consequence of its intervention, further sojourn at Hamburg had been granted to Schmidt, adding that a further communication in the case would be made after the completion of the full investigation that was being made. On the same day the legation transmitted this intelligence to Schmidt, and to the Department with dispatch No. 715. Under date of January 18 following, in a communication received on the 19th of that month, Schmidt's agent at Hamburg expressed his thanks for the legation's action in Schmidt's behalf and its result, and with instruction No. 405, of January 16, received on the 5th of February following, the Department expressed its satisfaction with the result thus far reached. In a further note, dated January 19, received on the 21st of that month, the foreign office informed the legation that the expulsion of Schmidt had been decreed by the Hamburg police because of his irregular life and his inability to pay his numerous debts, and that the Senate of that city had not under those circumstances considered it feasible to wholly revoke the order of expulsion. It had, however, in consideration of the intervention that had taken place, directed the appropriate police authority to desist from carrying out the expulsion until the month of May following. On the day of the receipt of the above-mentioned note the legation transmitted this intelligence to Schmidt, through his agent at Hamburg, and reported the same to the Department with dispatch No. 730. Thereafter, under date of the 22d of January, Schmidt's agent expressed his thanks for the legation's action, and with instruction No. 413 of February 8 following, received on the 23d of that month, the Department acknowledged the receipt of the dispatch from the legation last referred to.

Upon recent inquiry at our consulate at Hamburg the legation has learned that Schmidt has changed his place of residence from Hamburg to Bremen, where he resides with his mother.

200. *Heinrich G. Lippold*.—Born at Grossfalka, Saxony, February 10, 1860; emigrated to the United States September 5, 1876; naturalized March 20, 1882. In a communication dated November 24, 1888, but not received until the 17th of December following, Lippold brought his case to the attention of the legation. Under the last-named date the legation replied, inclosing a "military case" form to be filled in with full facts, and returned. This having been done in a communication dated the 24th and received on the 28th of December, the legation on the last-mentioned date addressed a note in behalf of Lippold to the foreign office, submitting the following further facts and his complaint: After the uninterrupted residence in the United States since his immigration, Lippold returned, on the 9th of November, 1888, to Germany, on a visit, learning on his arrival that his father had, on the 18th of July of that year, been compelled to pay a fine of 250 marks out of a maternal inheritance accruing to his son, to satisfy a fine imposed on the latter by the Royal Amts Court at Weida, Saxony, for avoidance of military duty in his native country. The evidence of Lippold's American citizenship was inclosed, with the request that the fine be repaid if the facts were found to be as stated. On the same day the legation informed Lippold that intervention had been made. In an answering note, dated April 27, and received on the following day, the foreign office informed the legation that the fine complained of had been remitted, and its repayment ordered. On the same day the legation transmitted this intelligence, at the same time returning his certificates of naturalization to Lippold, who thereafter, in a communication dated the 1st, and received June 3 following, expressed his thanks to the legation for its action in his behalf.

201. *Nicholas Peters, alias Nickels Petersen*.—Peters brought his case to the notice of the legation in an undated communication received on February 11, 1889. Although the facts presented were meagre, the legation, in view of the urgency of the case, intervened on the same day, addressing a note to the foreign office, in which the following complaint and further statements were submitted: Peters, now thirty-four years of age, a native of the Island of Föhr (Schleswig-Holstein), was naturalized in the United States in 1876, presumably after the requisite length of residence there, as an American passport, which was inclosed, was issued to him by the Department of State on the 31st of October, 1888. His certificate of naturalization was, it was supposed, in his possession at Oevenum, Island of Föhr, where he was residing with his

wife, and where he owned a house and real estate. It appeared that Peters had paid repeated visits to his native country, and that his wife, a native of Prussia, who had never been in the United States, had finally refused to accompany him there, and it was not clear that Peters had not installed himself on the property he owned at Oevenum with the purpose of residing there permanently. It also appeared that he had suffered an imprisonment of four days at that place for an offense of the character of which he had not informed the legation. On the 10th of August, Peters, for reasons unknown to the legation, was ordered by the authorities to leave the country by the 15th of that month. While recognizing the fact that, in view of all the known circumstances, the case of Peters seemed but little meritorious, the legation nevertheless expressed the hope that the order referred to might be revoked in compliance with his wish, and he be allowed to continue to sojourn at Oevenum for the brief period intervening between the 15th of the current month and the 1st of April following, in order that an opportunity might be afforded him of disposing of his property, and attending to other important business matters before his departure for the United States. In conclusion, regret was expressed that the legation had not, in consequence of the circumstances that the order served on Peters was intended to take effect in a few days, been able to secure full information respecting the case. On the 14th of February the legation informed Peters of the action taken in his behalf, and on the 16th of that month reported the case to the Department with dispatch No. 741. In an answering note, dated the 29th of March following, the foreign office informed the legation that Peters' wish for a further sojourn at his native place had been complied with, and on the same day intelligence of this decision was transmitted to Peters, and reported to the Department with dispatch No. 759. Instruction from the Department, No. 437, of April 16, received on the 1st of May following, expressed satisfaction with this decision. Nothing has been heard at the legation from Peters since the day on which he called its attention to his case.

202. *Max Reese (otherwise Ries)*.—Born in the Province of Posen, Prussia, in the year —, emigrated at the age of sixteen years to the United States; naturalized September 14, 1838, changing the spelling of his name from Ries to Reese. The facts in this case were received in a communication from Reese (dated the 1st) on the 16th of February, 1839, and were, in addition to those above stated, on the same day submitted with his complaint to the foreign office, as follows: Reese, who had never visited his native country since his naturalization, had been summoned by the royal land court at Gnesen to appear on the 7th of March next, to show cause for absenting himself from military duty. His certificate of naturalization as a citizen of the United States was inclosed, with the request that if the facts should, upon investigation, be found to be as stated, the necessary steps should be taken to prevent any judgment being entered by the court at Gnesen on account of his non-performance of military service in Germany. On the same day the legation notified Reese of the action taken in his behalf. In an answering note dated April 1, and received on the 3d of that month, the foreign office informed the legation that the penal measures instituted against Reese for violation of military duty had been discontinued, by a decision dated the 14th of March, 1839, of the court above referred to. This intelligence was on the day after its receipt transmitted to Reese.

203. *Falle H. Skow*.—Born at Beck, Schleswig-Holstein, Prussia, November 7, 1855; emigrated on August 1, 1872, at the age of sixteen and one-half years, to the United States, provided with a discharge from Prussian allegiance; naturalized October 4, 1877. Skow called attention to his case in a letter dated the 12th and received on 16th of February, 1889, the legation answering on the latter date with a request for fuller information called for in the "military case" form which was inclosed. On the 22d of that month, with a communication dated the previous day, this information was furnished, enabling the legation to address to the foreign office on the same day a note of intervention in Skow's behalf, in which his complaint and the further facts in the case were stated as follows: Returning to his native country on a visit, Skow arrived at Beck on January 12 preceding. One month thereafter, on the 12th of the current month, he was notified by the "Hardsesvogt," at Hardsersleben, that the Royal Government at Schleswig had directed that he must leave Prussia by the 1st of March next, no reason being assigned for such order. Skow had informed the legation that the sole purpose of his return to his native country was the necessity of transacting important business connected with his father's estate, which could not well be concluded before the 15th of April following, at which time he would be quite prepared to return to the United States. The legation inclosed the evidence of his American nationality, and expressed the hope that his request would be complied with. On the same day the legation informed Skow that it had intervened and reported the case to the Department with dispatch No. 704. In a communication from Skow, dated the 9th of March following, and received on the 12th of that month, he informed the legation that the local authorities at Beck had notified him that his request would be complied with, which intelligence was confirmed by the foreign office in an answering note dated the 23th and received on the 29th of March. On

the same day the legation formally transmitted this intelligence to Skow, and reported, with dispatch No. 758, the decision reached to the Department which, with instruction No. 437, dated April 17, received May 1st following, expressed gratification at the result of intervention in this case. Nothing further has been heard of Skow.

204. *Hermann Abraham*.—(Case of military fine, unfinished.)

205. *Nicholas Bodenschatz*.—This case, as No. 148, will be found heretofore reported in Annual Military Cases, with dispatch No. 534, of November 8, 1887. Bodenschatz had been informed that it would only be necessary for him to produce before the local authorities the evidence of his American citizenship in order to procure the return of the fine he had been compelled to pay for alleged violation of military duty in Germany. On June 12, 1889, the legation learned, from instruction No. 444, dated the 23rd of the preceding month, that Bodenschatz had not yet adopted such course, and was directed to transmit Bodenschatz' inclosed certificate of naturalization to the foreign office with a request for repayment of the fine.

This the legation did under date of the 17th of that month, and was informed in an answering note, dated the 16th and received on the 17th of August following, that in compliance with its request the fine in question had been repaid to Bodenschatz' father. On the same day the result was reported, with the return of the evidence of his citizenship, to the Department with dispatch No. 807.

Mr. Phelps to Mr. Blaine.

No. 16.]

LEGATION OF THE UNITED STATES,
Berlin, October 10, 1889. (Received October 26.)

SIR: The Department already has a large collection of papers in the case of Albert Bernhard.

Mr. Reid has kindly forwarded a copy of one found in the archives of the Paris legation, which seems to have a peculiar value. The paper in question, dated August 19, 1887, is from the *Ligue des Patriotes*, in answer to certain inquiries made by our legation in Paris concerning Bernhard's connection with that society. A copy is herewith inclosed. It seems to show clearly, in spite of his many denials, that Bernhard had actually joined the *Ligue* "in the quality of an Alsatian," in March, 1883.

I have retained a copy for our files, which are already fairly weighted with Bernhard papers.

I have, etc.,

WM. WALTER PHELPS.

[Inclosure in No. 16.—Translation.]

Mr. Sansbœuf to Mr. Vignaud.

LIGUE DES PATRIOTES,
22 Rue St. Augustin, Paris, August 19, 1887.

SIR: In the absence of Mr. Deroulède, who is now traveling, the following is the information which I am able to give you concerning Mr. Bernhard's connection with the Patriotic League.

Mr. Albert Bernhard, a merchant, residing at Mulhouse, Alsatia, was enrolled as a member of the Patriotic League in March, 1883. He paid an entrance fee of 5 francs, as provided by article 5 of the by-laws.

Since Mr. Bernhard is an American citizen, he had no right to become a member of the Patriotic League (see article 1 of the by-laws).

As Mr. Bernhard made no declaration of the kind at the time of his enrollment, in 1883, he was admitted by the committee, at his request, as an Alsatian.

I think it proper for me to add that, as Mr. Bernhard paid no dues subsequently to the year 1883, his name was, on the 1st day of April, 1884, erased from the list of members of the League.

This was done in pursuance of article 30 of the inclosed by-laws.

Hoping that this information will be satisfactory,

I beg you, etc.,

F. SANSBŒUF,
President of the Patriotic League.

SAMOAN AFFAIRS.

Mr. Bayard to Mr. Coleman.

No. 384.]

DEPARTMENT OF STATE,
Washington, November 21, 1888.

SIR: On Monday morning last, the 19th instant, I was waited upon at this Department by Count Arco, the German minister at this capital, who began his statement with the assurance that his Government desired to act in relation to Samoan affairs in a spirit of friendliness and comity towards the United States. He then said that in this spirit he had been instructed by Count Bismarck to inform me that, owing to the unsettled condition of affairs in the islands, the Imperial Government had ordered the German fleet to return to Samoan waters. I inquired whether there was any specific object in this action. On this point Count Arco stated that he was not in possession of any definite information. He stated that certain injuries had lately been committed by the warring natives to German subjects and property, and intimated that the American vice-consul at Apia, who at present is in charge of the consulate during the absence of the consul-general on leave in this country, had not abstained from interference in the local disputes. But when I asked him whether he was informed of any specific acts of improper interference on the part of the vice-consul, he was unable to state any.

I am therefore uninformed as to the instructions of the German fleet, and assume that they are not inconsistent with the assurance of the Imperial Councillor Holstein as to the desire of the German Government to protect German interests without seeking to control or thwart the action of the Samoan people in respect of their choice of a King.

In this relation you will recall my telegraphic instructions of the 1st ultimo, in which it was stated that our Samoan advices reported the overthrow of Tamasese by Mataafa, who had been declared King by nearly the whole population and was gaining accessions constantly; and in which you were instructed to ascertain whether such news had been also received at the foreign office. I further said that it was assumed that the treaty powers would, in conformity with their joint understanding, respect the choice of the Samoan people, as this Government intended to do.

To this you replied, on the 3d ultimo, that you had seen Privy Councillor Holstein, at the time in charge of the foreign office, who stated that substantially the same news had been received by his Government, and that the chancellor of the Empire had telegraphed the German consul at Apia to confine himself to the protection of life and property of German subjects, and to telegraph if they were threatened. Privy Councillor Holstein added that he himself was quite satisfied that it was a matter of indifference to the German Government who was King of Samoa, if the interests of Germany were protected.

These statements were received by me with satisfaction, as being in entire accord with this Government's understanding as to the policy to be pursued by the treaty powers in request to Samoan affairs.

Since it is expected that our consul-general, Mr. Sewall, will soon return to his post, it is proper to advert to the fact that in the course of our conversation Count Arco referred to an alleged newspaper interview with Mr. Sewall since he had been in the United States, in which he was reported to have expressed sentiments of ill-will towards Ger-

many. I informed Count Arco that Mr. Sewall had disavowed to me the sentiments attributed to him in the publication referred to, which had been brought by me to his attention, and assured me that he had not employed the language imputed to him. I have every reason to believe that Mr. Sewall is animated with a sincere desire to exert himself in every proper way to facilitate and promote the termination of the unhappy disorders in Samoa and the establishment of a more desirable condition of affairs, and that he would always be found disposed to lend a frank co-operation with his consular colleagues to that end.

It should be unnecessary to repeat what has been so often stated heretofore, that the desire of this Government is to see a lawful and orderly condition of affairs established in Samoa, under a government freely chosen by the Samoan people. As to what chief may be at the head of that Government, it is to this Government a matter of indifference.

In concluding my conversation with Count Arco, I requested him to inform his Government of my desire that, if any cause of complaint should arise out of differences between the consuls at Apia, the matter should be taken up by their respective Governments and settled at once directly between them and not be left to be the subject of contention in Samoa.

I am, etc.,

T. F. BAYARD.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, November 21, 1888.

SIR: In consequence of the verbal communication made to me by you yesterday under the instructions of your Government in relation to the interests of Germans and of Americans at Samoa, I have communicated the purport of your statements and our conversation to the American minister at Berlin, in order that a complete and amicable understanding may be had between the representatives of the two Governments in relation to Samoan affairs.

I have informed our representative in Berlin, and shall similarly instruct the United States consul at Samoa, that every endeavor is to be made to avoid all friction or conflict of interests between the citizens of the two Governments in their business operations in those islands.

In case of any question arising which can not be promptly and satisfactorily arranged between these officials, then the points in dispute shall at once be remitted for decision to Berlin or to this capital.

I believe it was clearly understood between us that the present condition of affairs at Samoa had been reported similarly to the foreign office in Berlin and to this Department, and that when the dispatch from this Department was read to Baron von Holstein he stated he had received the same account from the German representative, and that his Government was indifferent as to the choice of their King by Samoans, only requiring that German interests should not be injured.

Certainly this would be also the wish of this Government, and being thus agreed I hope you will recommend to your Government that its officials in Samoa should be instructed to co-operate with the officials of the United States for the peaceable conduct of affairs in those re-

gions, and if any cause of difference should arise which could not be arranged by their joint efforts, in such cases resort should at once be had to the home Government of either party, in order that an amicable result can be reached.

Accept, etc.,

T. F. BAYARD.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, November 26, 1888.

SIR: With reference to my note of the 21st instant, touching a conversation between us in relation to affairs in Samoa, I have the honor to inform you that Mr. Sewall, the United States consul-general at Apia, is expected to leave San Francisco on his return to his post on or about the 15th proximo, and will probably reach Apia about the 1st of January next.

As being in the line of your statement of a desire on the part of your Government that all misunderstandings and complications should be avoided, and it appearing to me desirable in order that friction between the citizens of different nationalities in Samoa should be prevented, and that there should be friendly conference and co-operation between the consuls to that end, and as Mr. Sewall has been instructed, and has assured me of his wish to contribute to that important result, I should be glad to know that the Imperial German consular representative at Apia has been made cognizant of these facts so that there may be no misunderstanding in regard to them when Mr. Sewall returns.

Accept, etc.,

T. F. BAYARD.

Mr. Coleman to Mr. Bayard.

[Extract.]

No. 699.]

LEGATION OF THE UNITED STATES,
Berlin, November 26, 1888. (Received December 10.)

SIR: In connection with the subject of Samoa affairs I transmit herewith, together with a translation which I have prepared for the purpose, a narrative of events in Samoa purporting to come from the pen of a German long resident there, taken from the Berliner Tageblatt of the 20th instant.

The inclosure you will, I believe, read with interest, and the statements of facts therein, which have a strong flavor of truth, may hereafter prove useful. In this narrative the author appears to leave nothing to be desired with respect to frankness.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 699.—From the Berliner Tageblatt, November 20, 1888.—Translation.]

THE SITUATION IN SAMOA.

From a German who has been long living in Samoa we have received the following communication:

“The dissensions which have been raging among the Samoans since about the year 1860 have been almost always fought over on the Upolu, the principal island of the

group. At that time the German Commercial and Plantation Society at Apia, or rather its predecessor, the firm of Godefroy, of Hamburg, which at that period encountered no considerable competition in the South Sea, stood on the side of Malietoa, a chief belonging to one of the most distinguished families of Samoa, who had acquired, in conflicts of former times, the honorable title 'Malietoa,' that is to say, brave warrior. Although Malietoa was never in reality ruler over the whole group of islands, he nevertheless assuredly had the expectation of the first place in the country, and the royal title was formerly willingly given him.

"Throughout the next twenty years, which passed with continuous dissensions among the natives, the Europeans who had gradually settled in Samoa, Germans, Englishmen, and along with them Americans, found abundant opportunity to meddle in the quarrels of the inhabitants, which they also did in the fullest measure. They sought by taking sides with or against Malietoa to strengthen respect for their nation, and thereby increase their commerce. I need only recall the affair of Steinberger, who even played the rôle of dictator, and almost brought the country into the possession of the United States. While England and America on their part remained consistent, and throughout the whole period recognized Malietoa as the legitimate ruler, the policy of the Germans, who, after all, enjoyed the most influence in the islands, showed curiously enough a wonderful wavering. At one time they would recognize Malietoa as king, at another they would take sides with the opposing king, until finally in late years the Germans placed themselves in an attitude of absolute hostility to Malietoa, and elevated his opponent Tamasese to the position of ruler of Samoa.

"True, it can not be denied that Malietoa had latterly stood entirely on the Anglo-American side, often brusquely opposed the Germans, and on many occasions refused to listen to their just demands; it must, however, at the same time be remembered that Englishmen and Americans always stood by him, and that he may have formed too high an estimate of the power of those nations. Moreover, the Germans might have been more friendly with him if they entertained such purpose. In any case the Germans had resolved upon elevating Tamasese to the throne, and the well-known New Year affair of 1887 only furnished the desired occasion for the measure. In the autumn of 1886 the Mr. Brandeis whom you have so often mentioned came to Apia, who, formerly a Bavarian captain, had some time previously been employed at the consulate-general at Sydney in order to prepare himself for his political mission. Before the public it was of course given out that this gentleman stood in the service of the German Commercial and Plantation Society; it was, however, at the same time, among the employés of that firm, a public secret that he had been selected to be the minister of the rival King, Tamasese. Mr. Brandeis, an extremely amicable and intelligent gentleman, set himself energetically to study local conditions, worked at times at the German consulate, made himself familiar with the business and social relations of Apia, and then went to Leulumoega, near Molefema, the home of Tamasese, in the near vicinity of which Le Utu Sao Bao, the great cotton and cocoa plantation of the German Commercial and Plantation Society, lies. There a house was built and furnished by this society for Mr. Brandeis, and there he staid, without it being publicly known, however, as the adviser of Tamasese, and perfected himself in the Samoan language, which it was absolutely necessary he should master. At that time Tamasese already had his own flag (black, white, and red, resembling the German war flag) flying; and I have also seen him a number of times, his flag flying and accompanied by Mr. Brandeis, sailing through the harbor of Apia, although Malietoa was then still recognized as King.

"Tamasese and his adherents were then amply supplied with arms and munitions. I know that at the beginning of 1887, within a brief period, hundreds of muskets were sent through the German Commercial and Plantation Society to the Le Utu Sao Bao plantation, from where they were easily transferred to the hands of Tamasese's party.

"It sounds, therefore, to say the least, funny, when the Germans now accuse the Englishmen and Americans of supplying arms and ammunition to Malietoa's party. That the latter have not, as it is said, yet been paid for, may well be possible, for payments of larger sums are not made with great rapidity in that country; on the other hand, I am inclined to doubt whether the German Commercial and Plantation Society have received and hold in their strong box the money for the arms, etc., supplied through them. I believe Tamasese will for years to come have to turn over the cocoa crop of his district to the German Commercial and Plantation Society at Apia before his account with it will be balanced.

"At New Year, 1887, the well-known events occurred at Apia which led to the German declaration of war against Malietoa, to his capture, and deportation from Samoa, as well as to the placing in power of Tamasese as King—matters of general notoriety.

"Mr. Brandeis is now premier minister, and in reality the possessor of all power, under the protection of the German guns, of course, for Tamasese is as much of a

puppet in the hands of the Europeans as Malietoa has always been. The conflict between the native parties has reference less to whether the one or the other person be King than to the question of whether Germany or England-America shall retain the upper hand.

"Unhappily, the conditions in Samoa have, owing to all these occurrences, become almost untenable; while in former times the dissensions among the natives left the Europeans unaffected, the latter have now been involved in the complications by the course the nations have pursued of arraying themselves on one side or the other. The conditions are so insecure, and the relations between the subjects of the different powers have become so unpleasant, that even Englishmen and Americans wish that Germany, if it really wants Samoa, would at least make a complete job of it, and take possession of the islands; for this half-way condition of things can not be maintained in the long run, and it is not possible that Germany contemplates stationing a squadron there forever to keep the natives in terror, and to afford protection to the Germans there; that is to say, to the German Commercial and Plantation Society. For it is the latter only that it is worth considering in connection with commercial interests in that quarter, and which needs the protection of the Empire all the more since it enjoys but little sympathy on the part of the people settled there, for this society has in the course of years managed to fall out with all the Europeans; so that, even among the Germans who are independent of it, hardly one can be found who would assist it in time of trouble, without considering other nations, with whom envy of and ill-will against the Germans know no bounds, and who would with malicious joy see Germany forced from its position in Samoa.

"These little groups of islands can not, however, remain independent forever, and it is therefore to be urgently wished that Germany should not exhibit too much delicacy with respect to Samoa, but take it while it is to be had, which can hardly be the case for a long time to come. America would have no serious objection to such a course, for her motto is, 'Trade, no dominion,' and England would joyfully give her assent, if she were permitted, in payment therefor to lay her hands on the Tonga Islands."

* * * * *

The gun-boat *Eber* and the cruiser corvette *Olga* have received orders to proceed to Samoa; both vessels have probably arrived at Apia by this time.

Mr. Coleman to Mr. Bayard.

No. 710.]

LEGATION OF THE UNITED STATES,
Berlin, December 19, 1888. (Received January 7, 1889.)

SIR: In the course of a discussion on colonial affairs, on the 17th instant, in the House of Commons, the British parliamentary under secretary of state for foreign affairs, Sir J. Fergusson, made, as you will have been informed, certain utterances with respect to Samoan affairs in response to an inquiry from Mr. McArthur, a member of that body, who took her Majesty's Government sharply to task, asking whether they had made a deliberate bargain with the German Government to hand over Samoa to them, and otherwise severely criticising British action with relation to Samoan affairs.

Commenting on the utterance of Sir J. Fergusson the *Voss'sche Zeitung*, an organ of the advanced liberal party, published in this city, says in its morning edition of the 18th instant:

In the course of the discussion yesterday on colonial matters in the English House of Commons events in Samoa and the question of indemnification connected with the same were also touched upon. In the course of the discussion Fergusson declared that he hoped that many of those who had suffered losses in Samoa would be indemnified for the same, but that it was not in his power to say what the future of Samoa would be. For a long period his Government had pledged themselves to preserve a neutrality in Samoa between the parties existing there. The Germans were everywhere the best settlers in British colonies, and it was not surprising that Germany should have an eye on that island; in England people should not look with jealousy on the movements of other nations with respect to colonization.

In these suggestions from an official source an intimation may perhaps be perceived that in case the Samoan question should presently take a turn which, in consonance with the existing commercial interest in those islands, should be directed to the establishment of a predominant German political influence also, the British Government would offer no opposition thereto. Whether the same could be expected from the Government at Washington is not yet manifest in the same degree.

The conclusion arrived at by the *Voss'sche Zeitung* would seem to be not unwarranted by the official utterances upon which it is based, utterances to which only a certain definite significance can well be attached in view of the circumstances that the United States Government is notoriously not seeking to acquire colonial possession.

The text, taken from the *London Times* of the 18th instant, of the statements by Sir J. Fergusson, and of the inquiry which elicited them, to which the above-cited comment relates, is herewith inclosed.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 710.]

EXTRACT FROM LONDON TIMES OF DECEMBER 18, 1888.

Mr. W. McArthur asked for information with regard to the position of affairs at Samoa. He wished to know whether it was true that two years ago the Government made a deliberate bargain with the Government of Germany practically to hand over Samoa to them, and whether last year the information furnished by the British ambassador to the conference which met at Washington was to the effect that nothing was settled. He hoped that the under secretary for foreign affairs would state what the Government proposed to do with regard to Samoa. Did they intend to allow Germany to take it?

What they wanted was a responsible government there. A King was set up who was nothing more nor less than a puppet of Prince Bismarck. Her Majesty's Government recognized this ruler. Since then, however, there had been a revolution, the puppet king had been bundled out, and a brother of the old King had been elected by the people. He wanted to know whether Her Majesty's Government had recognized, or would recognize, the elected King. Those who were interested in the Australian colonies desired to ascertain whether it was safe any longer for English people to invest capital in the Pacific; whether they would be backed up; whether diplomatic engagements would be respected; and whether in the future when British interests came into conflict with German interests, British subjects would be passed over and the advantage given to Germans. (Hear, hear.)

* * * * *

Sir J. Fergusson said that the honorable member for the St. Austell Division (Mr. W. McArthur) represented some who had suffered most undeserved losses by the troubles in Samoa. Those losses were undeserved, and he hoped some compensation and amends might be made to many who had so suffered. The honorable member very justly touched upon the question in a broader sense than any question of losses, and he challenged the conduct of Her Majesty's Government in relation to the Samoan conference at Washington as compared with the declarations they had made to the colonial conference.

It was impossible for him to answer the honorable member's categorical question. He could not tell him what passed in the conference, because that conference, though suspended, was not closed, and it was not open to any of the powers concerned to make public statements on the case; neither could he tell the honorable member what would be the future of Samoa. He could, however, tell him that nothing her Majesty's Government did at Washington in connection with that conference was inconsistent with the declarations they made at the colonial conference. There was no secret or improper arrangement made between Her Majesty's Government and Germany; their conduct was straightforward and open to the other powers, and he regretted very much that no arrangement for the permanent good government of Samoa was arrived at.

Her Majesty's Government had always pledged themselves to preserve a neutrality in Samoa between the different classes, and it was earnestly to be wished that there might be such a settlement as would put an end to all further civil wars. Her Majesty's Government were fully sensible of the duties which devolved upon them in connection with these islands, especially in consideration of the great interests and

just demands of the Australian colonies. His honorable friend was aware that some time ago an arrangement was made with other Governments by which our influence in the Pacific was to a great extent limited, the object being to place each group of islands under one European power, to whom the traders might look for the maintenance of law. He hoped it would not be long before the troubles at Samoa were healed. [Hear, hear.]

A word fell from the honorable gentleman as to the presence of Germany in those seas. Our own country had been engaged in the work of colonization. He did not think we could expect that other nations which had a similar desire for expansion would not also seek to find colonies. The German people formed some of the best colonists in our own possessions, and he did not think it so surprising that the Government of Germany, with people spread all over the world, should have settled to some extent in colonies of their own, rather than altogether in those of Great Britain and the United States. [Hear, hear.]

He did not think we ought to view with jealousy the advent of the civilized powers to colonies to some extent adjacent to our own. [Cheers.] If we sought to do so we should be pursuing a selfish policy, which would neither increase our influence nor the safety of our own possessions; but he quite agreed that we should be mindful of the interests of the subjects of Her Majesty wherever they might be, and always demand justice for them according to the country where they lived. He hoped that the policy he had shadowed in relation to Canada would, in the future, be attended with better results than we had obtained in the past, and that before long no one would establish any good ground of complaint of the neglect of English interests in the Pacific. [Cheers.]

Mr. Bayard to Mr. Pendleton.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 5, 1889.

Mr. Bayard informs Mr. Pendleton of the receipt of a telegram from the first lieutenant of the United States ship *Nipsic*, who had been sent by Commander Mullan to New Zealand. The telegram stated that an armed force had been landed from three German vessels of war for the purpose of cutting off the retreat of Mataafa's forces; that an engagement had followed with serious loss to the Germans; that they, in revenge, were shelling the native villages in disregard of neutral rights and of protests made, and that the lives and property of foreigners were placed in the greatest danger.

Mr. Pendleton was directed to represent this immediately to the minister of foreign affairs, and to report to the State Department his reply.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, January 5, 1889.

MY DEAR COUNT ARCO: It is with great regret that I have to inform you of the news just received at this Department of the dangerous and deplorable condition of affairs at Samoa.

The commander of the United States naval forces in those waters has sent Lieutenant Hawley to New Zealand, who has telegraphed thence to-day on behalf both of the United States vice-consul-general at Samoa and of the naval commander there to the effect that three German war ships at Apia had threatened to disarm Mataafa, and had landed at Lalengo to prevent Mataafa's retreat; that an engagement

had followed in which the Germans were defeated with a loss of twenty killed and thirty wounded; that the Germans in revenge were shelling and burning native villages; that neutral property was not respected; that all protests were unheeded; that the lives and property of foreigners were in danger, and that the Germans did not respect the neutral territory. Lieutenant Hawley, the officer sent to New Zealand, will remain at Auckland three weeks awaiting orders.

Of course, I have promptly informed our ministers at Berlin and London of these reports and instructed them to communicate them to the German and British foreign offices respectively.

I am, etc.,

T. F. BAYARD.

Mr. Pendleton to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,
Berlin, January 7, 1889.

Mr. Pendleton states that he was shown by Count Berchem, under Secretary of State in temporary charge of the foreign office, a telegram sent on January 7 to the representative of Germany at Washington, which would be submitted by him to Mr. Bayard; that the representations of the United States would not be answered until full details had been received by Germany, and that Count Berchem informed him that men landed from one ship only were engaged in the fight.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, January 12, 1889.

SIR: The instructions of your Government to make known to the Government of the United States their version of the late deplorable circumstances in the Samoan Islands were executed by your very kindly reading to me the following statement, which I re-write literally as received from your verbal dictation on the 10th instant, and which was in substantial accord with your previous announcement of the same information:

The German forces were landed (in Samoa) after the German commander had given notice of his intention to the commanders of the American and British men-of-war, the reason for landing being that some German plantations were in danger.

Upon so landing the Germans were attacked by the Samoans, under the command of Klein, an American citizen, and lost fifty men killed and wounded. A state of war with Samoa is therefore announced by Germany, and as an American is alleged to have been in command of the attacking Samoan force, Count Arco is instructed to make complaint to the United States.

Count Arco is also ordered at the same time by his Government to say that the treaty rights of the United States shall be respected under all circumstances, and all the rights of the treaty powers.

The German Government also begs the United States to join them in an active way to restore calm and quiet in the island—equally for the three treaty powers.

In pursuance of the joint understanding under my proposition of June 1, 1886, for defined and co-operative action in Samoan affairs, which was formally accepted by Germany and Great Britain, I had the

honor to transmit to you, by my personal note of the 5th instant, the reports on that day received from New Zealand, from the first lieutenant of the U. S. S. *Nipsic*, who had been sent by his commander from Apia to Auckland to communicate, in relation to Samoan affairs, by telegraph with this Government.

At the same time I informed you that I had at once transmitted the intelligence so received to our ministers at Berlin and London, and all this in order to maintain a clear and satisfactory understanding between the three treaty powers in relation to their respective intentions and proceedings in Samoa.

I at once stated to you, on becoming aware of the allegation that the armed force of Samoans, which so lately came into collision with the forces landed from the German ships of war, had been led or commanded by an American of the name of "Klein;" that I had no knowledge whatever, nor reason to believe, that the said Klein was a citizen of the United States, and that I was certain he was not, and never had been, in any way connected with its public service, nor acting under color or pretense of its authority.

The instructions given to officials of this Government at Samoa have never deviated from those made public, and which were well known to Germany and Great Britain, and in effect were scrupulously to maintain neutrality in Samoan affairs, and confine their action to good offices in the maintenance of peace and order in those regions, and securing protection for American citizens and their interests under treaty stipulations and the comity of civilized nations.

Before I had the honor of having read to me, on the 10th instant, the memorandum of instructions received by you, orders had been given by the President looking to the relief from danger of citizens of the United States resident in Samoa, and for the protection of their property; and it was with entire readiness that I accepted the invitation of your Government, as conveyed through your instructions, that the United States should "join in an active way to restore calm and quiet in those islands."

I received also with expressed satisfaction your assurance of the intentions of your Government to maintain and carefully respect the treaty rights of this Government under all circumstances, and this, as I stated to you, necessarily included respect for the existence of Samoan autonomy and independence, which is the basis of the three treaties made with the United States, Germany, and Great Britain, the first-named being earliest in date.

The protocols of the conference on Samoan affairs, held in this city, in the summer of 1887, by the representatives of the United States, Germany, and Great Britain, will disclose that, although the conference did not produce an agreement as to a complete plan of government for that community, nevertheless on certain points all three Governments coincided; and one of these was the free election by the Samoans, according to their own will and custom, of a king. It would seem most opportune if such an election could now practically be held, and I feel assured that it would do much towards ending the turbulent and bitter discontent which has led to the shocking internecine warfare among these islanders, and finally involved them in a deeply regrettable conflict with German forces, which is sincerely deplored by the United States.

Rear-Admiral Kimberly, commanding our naval forces in the Pacific, has been ordered to proceed in his flag-ship, the *Trenton*, to Apia, and I have great confidence in his wisdom and benevolent discretion, as well as in that of the naval commanders of the other national vessels which

have been sent by their respective Governments to the Samoan waters, to promote a satisfactory arrangement—and I take it for granted that the same spirit of comity and perception of the equal rights of all three treaty powers, which induced your Government to invite the active co-operation of the United States in restoring law and order in Samoa, will cause instructions embodying the same principles of friendly justice and considerate moderation in framing a plan of settlement to be sent to the German officers in command of the imperial naval forces in that region.

There is no obscurity in the several treaties, and none whatever in the understanding proposed by the United States, and first arrived at between the treaty powers in June, 1886, and since then from time to time set forth in their correspondence.

On January 17 last the views of this Government were fully conveyed to the Government of Germany by my instruction of that date to our minister at Berlin, and have since that time undergone no change, and no intimation of dissent therefrom by the Government of Germany has since that time been received.

Accept, etc.,

T. F. BAYARD.

*Prince Bismarck to Count von Arco-Valley.**

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Berlin, January 13, 1889.

I have already notified your excellency that, according to telegraphic communications from Apia on the 18th December of last year, a detachment of German naval forces which had landed, at the requisition of the imperial consul, for the protection of the German settlements which were endangered by the conflicts between the native parties there, was attacked by armed Samoans belonging to the party of Chief Mataafa. This unprovoked attack is said to have taken place under the leadership of an American named Klein. On this occasion more than fifty German soldiers and officers were killed and wounded.

In consequence of this we have been transplanted from the territory of mediatorial negotiations, by which the imperial consul in Apia was trying to reconcile the contending parties, and for which he had sought the co-operation of his English and American colleagues, into a state of war with the assailants, to our regret.

We shall carry on the contest which has been forced upon us by Mataafa and his followers, with the utmost consideration for English and American interests. Our military measures have in view only the punishment of the murderers of German soldiers and the protection of our countrymen and their property. As they, on their part, are at war with Tamasese, our interference will necessarily assume the character of assistance to Tamasese.

In the endeavor for the just punishment of a murderous crime we hope for the co-operation of the treaty powers in Samoa in friendship with us, and we ask the Government of the United States to be good enough to furnish the consuls, and the commanders of its ships of war in Samoa, with suitable instructions. Our armed forces there are in-

* Left at the Department of State, January 23, 1889.

structed to avoid and to prevent all injury to neutral commerce and property, and to adopt measures of reprisal and destruction only against the followers of the party which initiated the contest against our troops by a murderous attack.

We shall, of course, abide by the agreements with America and England with respect to Samoa, and pay due regard under all circumstances to the rights of those powers as established by treaty.

I beg your excellency to bring this communication to Mr. Bayard's knowledge by reading it to him, and to leave a copy of it with him, if he requests it.

VON BISMARCK.

Count von Arco-Valley to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,

Washington, January 15, 1889. (Received January 16.)

The Imperial Government has been pleased to see, as it has by the honorable Mr. Bayard's notes to the undersigned bearing date of November 21 and 26, 1888, that the United States Government recognizes the importance of preventing conflicts between subjects of the German Empire and American citizens on the Samoan Islands, and that Consul-General Sewall is instructed, on returning to Apia, to co-operate with the Imperial consul there. It has by repeated instructions, been made the duty of the latter officer to settle, by means of amicable arrangements with his American and English colleagues, all differences that may arise relative to matters in which the interests of foreigners residing in Samoa are concerned. This task has been rendered difficult by the fact that the officer in charge of the American consulate and the commander of the American war vessel have during the present revolution on the Samoan Islands openly taken part against Chief Tamasese, who is recognized by the Imperial Government, and have supported Chief Mataafa. The rule of the latter, according to the best information in possession of the Imperial Government, offers no guaranties for the protection of the rights, or for the security of the lives and property of the Germans on the Samoan Islands. So far from this being the case, the depredations committed by Mataafa's adherents on the German plantations still continue, according to the latest advices, while Mataafa has neither the disposition nor the ability to bring the guilty parties to trial and punishment.

The undersigned has the honor, in pursuance of instructions received, to bring the foregoing to the notice of the honorable Mr. Bayard, Secretary of State, and he avails, etc.

ARCO.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,

Washington, January 18, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, in which you are pleased to convey the approval by the Imperial German Government of the notes I addressed to you under date of November 21 and 26, 1888, touching the importance of preventing conflicts between subjects of the German Empire and American

citizens in the Samoan Islands, and in which I communicated to you the instructions which the consul-general would carry on his return to Samoa, to observe neutrality in the unhappy conflict between the native factions and to provide protection for the property and interests of American citizens there when endangered.

I am glad to receive from your Government the gratifying assurance that it has, by repeated instructions, been made the duty of the Imperial German consul to settle, by means of amicable arrangements with his American and English colleagues, all differences that may arise relative to matters in which the interests of foreigners residing in Samoa are concerned. You add that—

This task has been rendered difficult by the fact that the officer in charge of the American consulate and the commander of the American war vessel have, during the present revolution on the Samoan Islands, openly taken part against Chief Tamasese, who is recognized by the Imperial Government, and have supported Chief Mataafa.

Since my notes above referred to, of the 21st and 26th of November, full reports of the situation in Samoa have been received from the American vice-consul in charge at Apia and from the United States naval commander in Samoan waters; from none of which can it be discovered that either of those officers has assumed, on behalf of the Government of the United States, to recognize Chief Mataafa, or to do any act contrary to the rival claims of Chief Tamasese other than to take necessary steps to protect Americans and their interests in those islands from any injurious acts of either of these chiefs or of their respective adherents.

My recent notes to you, and in particular my communication of the 12th instant, will establish the entire consistency of the course which for more than two years has been pursued by the Government of the United States regarding the deplorable internecine strife in Samoa. Ever since the principle of neutrality and concert between the three powers was advanced by the United States, and assented to by the Imperial Government in June, 1886, this Government has enjoined its agents in Samoa to abstain from any action recognitory of the *de jure* rights claimed by either chief, and has sincerely endeavored to obtain such peaceable expression of the will of the natives in a choice of their king as would insure the respect and command the cordial support of all three of the powers.

Deep as is the regret felt by this Government for the lamentable conflicts which have lately taken place between Germans and the adherents of one of the native factions in Samoa, and however sincere our hope that the unfortunate occurrence may be satisfactorily settled, this Government continues to feel it to be its duty to maintain its attitude of consistent neutrality, and not abandon the belief professed and acted upon for three years or more, that the best assurance of peace and guaranty for the equal protection of the rights of the three treaty powers in Samoa will be found in permitting and assisting the natives freely to choose their own king, who should be recognized by the three powers and assisted by them in the administration of good government.

The objection to Tamasese is wholly on the part of the preponderating number of his own countrymen who deny that he was ever chosen by popular will, or that he is acceptable to them; to insist therefore upon his rule is to substitute the will of foreigners for the Samoan native government for which the majority have manifested their strong desire and which the treaty powers had certainly agreed to respect.

Accept, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Pendleton.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 31, 1889.

Mr. Bayard instructed the minister of the United States at Berlin to inform the German Government that advices from Apia stated that the German consul had declared Germany to be at war with Mataafa and Samoa to be under martial law.

Mr. Bayard informed Mr. Pendleton that the German minister at this capital, under instructions of Prince Bismarck, had already acquainted this Government of the declaration of war by Germany against Mataafa, and had accompanied the notification with the statement that Germany would of course abide by the agreements with America and England touching Samoa, and observe, under all circumstances, the rights of those Governments established by treaty.

But, in view of the advices from Apia, Mr. Bayard instructed Mr. Pendleton to say that this Government assumed that the German officials in Samoa would be instructed carefully to refrain from interference with American citizens and property there, since no declaration of martial law could extend German jurisdiction so as to include control of American citizens in Samoa. Such a pretension could not be recognized or conceded by this Government.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, January 31, 1889.

SIR: I have the honor to inform you that this morning I received a telegram dated this day at Auckland, from Mr. Blacklock, the United States vice-consul at Apia, as follows:

AUCKLAND, *January 31.*

BAYARD, *Washington:*

German consul declares Germany at war with Mataafa and Samoa under martial law.

BLACKLOCK.

And not knowing what construction might be given to his authority by the German consul at Samoa under such proclamation of martial law, I deemed it expedient at once to communicate with our minister at Berlin, informing him of the precise language of the telegram from Mr. Blacklock, and stating that a declaration of a state of war by the German Empire against Mataafa and his party in Samoa had been previously communicated through you, and that Prince Bismarck in his instruction to you also stated that the German Government would "of course abide by the agreement with America and England with respect to Samoa, and pay due regard under all circumstances to the rights of those powers as established by treaty."

Our minister at Berlin was therefore instructed to make it known at the German foreign office that the United States assumes that German officials in Samoa would in this sense be instructed scrupulously to abstain from all interference with American citizens and their property in Samoa, and that no increase or expansion of German jurisdiction

over American citizens or their property would be caused by the German declaration of martial law, nor would such jurisdiction be recognized or conceded by the United States.

Accept, etc.,

T. F. BAYARD.

Mr. Pendleton to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,

Berlin, February 1, 1889.

A telegram from Mr. Pendleton on February 1, 1889, informed the Department that the reported action of the German consul at Apia, who, it appeared, against the protest of the British consul, had declared foreigners under martial law, was contrary to instructions, was regretted, and had been rebuked, and that the German Government would adhere strictly to treaty status. Mr. Pendleton added that this statement from the German secretary of state for foreign affairs anticipated the representations Mr. Pendleton was instructed to make, and he would therefore withhold them for the present.

Communication by Count von Arco-Valley to Secretary of State under instruction of the Prince Chancellor.

FEBRUARY 1, 1889.

When the state of war was declared against Mataafa the commander of the German squadron issued a proclamation by which the foreigners established in Samoa were subjected to martial law. International law would, to a certain extent, not prevent such a measure, but as Prince Bismarck is of the opinion that our military authority has gone too far in this instance, the military commander has received telegraphic orders to withdraw the part of his proclamation concerning foreigners.

In negotiation with Mataafa our consul at Samoa has asked that the administration of the islands of Samoa might be temporarily handed over to him, which demand not being in conformity to our previous promises regarding the neutrality and independence of Samoa, Mr. Knappe has been ordered by telegram to withdraw immediately his demand.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,

Washington, February 1, 1889.

MY DEAR COUNT ARCO: Referring to my note of yesterday, I have now the pleasure to inform you that a telegram just received from Mr. Pendleton, at Berlin, states that the object of my instruction to him in reference to the declaration of martial law by the German consul at Apia had been anticipated, and at the foreign office he had been in-

formed that the assumptions of the German consul at Apia were disavowed, and that such action, if it had been taken, was regretted and rebuked by the German Government.

This was wholly in the line of the note verbale you read me this morning.

Believe me, etc.,

T. F. BAYARD.

Prince Bismarck to Count von Arco-Valley.

[Memorandum of instructions of Prince Bismarck to the minister of Germany, read by the latter to the Secretary of State February 4, 1884.]

The present situation in Samoa regarding the interests of the three treaty powers renders it necessary to renew the attempt to bring the future of those islands to an understanding.

The position of the three treaty powers in the civilized world makes it their duty to stop the bloody combat accompanied by barbarous customs of those not numerous tribes, for whose welfare, according to the judgment of the civilized world, it is a duty of the treaty powers to provide.

Prince Bismarck, in consequence, considers it a duty of the participating governments to put an end, by the agreement of the treaty powers, to the troubles which have originated in Samoa, and by restitution of peace among the Samoans themselves, and so make an end of future bloodshed and the horrors of a civil war conducted with barbarous cruelty among the natives.

The best remedy seems to be a resumption of the consultation which took place between the representatives of Germany, England, and the United States in the year 1887 at Washington, and at that time adjourned without any possibility of their representatives coming to any agreement.

In consequence, I have been requested by Prince Bismarck to propose to you to resume with Germany and the British Government the consultation regarding the Samoan question.

The last conference took place at Washington. According to the equal rights of the three treaty powers it seems proper that the place for the negotiations should change in regular turn. Based upon this opinion, I am directed to invite the Government of the United States to a conference regarding Samoa to take place at Berlin, and a similar invitation has been sent to the British Government.

I am also directed to declare that any supposition that Germany would not feel satisfied with a neutral position in the Samoan Islands is unfounded, as we have already declared in the last conference (of 1887) it is neither our intention to put in question the independence of the island group nor the equal rights of the treaty powers. We simply desire to create a condition which offers permanent security for bringing to an end bloodshed and decapitation, and which grants permanent safety to the commercial interests of the three treaty powers in Samoa.

Mr. Bayard to Count von Arco-Valley.

DEPARTMENT OF STATE,
Washington, February 5, 1889.

SIR: The President having been made acquainted fully with the tenor of the instructions received by you from Prince Bismarck and read by you yesterday for my transcription, he requests me to say that he fully shares in the desire expressed by the prince chancellor to bring the blessings of peace and order to the remote and feeble community of semi-civilized people inhabiting the islands of Samoa; and that he clearly recognizes the duty of the powerful nations of Christendom to deal with these people in a spirit of magnanimity and benevolence.

On behalf of the United States Government, the President instructs me to express his acceptance of the proposal of the Government of Germany to resume the consultation held in this city between the representatives of the United States, Germany, and Great Britain, which was suspended on the 26th day of July, 1887, such consultation to be renewed, as it was undertaken, for the purpose of establishing peace and an orderly stable government in the Samoan Islands, on the basis of their recognized independence and the equal rights of the three treaty powers. The resumption of such conference as it is now proposed by Prince Bismarck upon the general lines advanced by each of the three powers, as set forth in the protocols of the conference as far as it has progressed, and embracing certain points of agreement, appears to present a hopeful prospect for securing the welfare of the Samoan people, and such a neutralization of territorial jurisdiction as will prevent preponderant control by any nation and secure equal rights of commerce and navigation to all.

The sooner this conference can be resumed the better. And in view of the late deplorable scenes of bloodshed which have been exhibited upon Samoan soil, entailing deeply regrettable loss to Germany, it appears to be essential that a truce should be forthwith proclaimed and further armed action should be arrested. A contention of arms by such a scanty band as the Samoans against the vast armaments of Germany has, of course, but one result assured in advance, and would be manifestly futile. There is no feature of equality in such a struggle.

As the assurance of Prince Bismarck that the pacification of the Samoan group and the occupation of a neutral position are his only objects is as frankly accepted by the United States as it is tendered by Germany, it is suggested in furtherance of the desired result of the conference that instructions to suspend belligerent action and await the action of such conference should at once be telegraphed to their respective officers in Samoa by the three treaty powers.

To continue to prosecute a war of destruction and reprisal, even upon admitted provocation, would surely not consist with the objects of any of the three powers. It is hoped, therefore, that orders of the nature indicated will be forwarded to Samoa without delay.

The announcement of the conference between the treaty powers, it is confidently expected, will at once cause a cessation of hostility among the natives; and their speedy election of a king would certainly be a long step towards harmony. Except as the condition may be changed by a free election of a king by the natives, it is deemed essential that affairs in Samoa should remain *in statu quo* pending the conference.

If we may indulge the hope which the adoption of these suggestions promises for a successful issue of the conference, the Government of the United States will at once take steps to be properly represented at the meetings of such conference in Berlin.

The statements you read to me as emanating from the German consul at Samoa, in which he finds fault with the conduct of Captain Leary, of the *Nipsic*, and of Mr. Blacklock, the United States consul, as violative of the instructions of this Government to maintain an impartial attitude in the conflicts in Samoa, do not appear to be substantiated by an averment of any personal knowledge of the facts, but must have been based upon information and belief only, or are reported at second hand, and must be classed as merely hearsay evidence.

These conflicting statements of the German consul will be brought to the attention of Captain Leary and Mr. Blacklock, and their reply will be communicated. Much allowance must be made for the excitement prevailing in Samoa, which is not favorable to accuracy or moderation of statement, especially of those concerned as actors.

Accept, etc.,

T. F. BAYARD.

Mr. Blaine to Messrs. Kasson, Phelps, and Bates.

DEPARTMENT OF STATE,
Washington, April 11, 1889.

GENTLEMEN: In giving you instructions as to your conduct in the conference at Berlin, for which you have been appointed commissioners, it will be impossible to anticipate all the questions which may arise in the course of its deliberations. My object now is to impress upon you the general principles which will govern the opinions and control the decisions of the Government of the United States, and which will enable you to judge how far any special conclusions will commend themselves to your Government, and within what limits it will be proper to confine yourselves.

As you will communicate promptly and specifically the protocols of the proceedings, fuller and more specific instructions will, from time to time, be sent you. You will carefully examine the protocols of the first conference and the report of the special commissioner to Samoa which are inclosed, and you will find in them a clear statement of the position occupied upon this whole subject by the administration to whose hands the former negotiations were intrusted.

In the discharge of your duties you will be governed by the most earnest assurance that the Government of the United States desires a speedy and amicable solution of all the questions involved, and that while it will steadily maintain its full equality of right and consideration in any disposition of those questions, it is as much influenced by an anxious desire to secure to the people of Samoa the conditions of a healthy, prosperous, and civilized life as it is bound by its duty to protect the rights and interests of its own citizens wherever their spirit of lawful enterprise may carry them. In the co-operation of the United States, of Germany, and of Great Britain in this attempt to establish a beneficial and stable government in these islands, the President hopes and believes that while a frank and friendly consultation will strengthen their respect for each other, the result will prove that it is not the wish of any of them to subordinate the rights of this amiable and dependent people to the exigencies of a grasping commerce, or to the political ambition of territorial extension on the part of any one of the treaty powers.

In consenting, at the request of His Imperial Majesty, to re-open the adjourned proceedings of the conference of 1887 at Berlin instead of Washington, the President is anxious to manifest his entire confidence in the motives and purposes of the German Government. But it must be borne in mind that it is an adjourned conference, in continuation of the conference at Washington of 1887, and not the initiation of a new one on another basis; for at that time there were existing conditions directly influencing its deliberations which the Government of the United States can not admit to have been changed by any subsequent occurrences in the South Pacific.

Mr. Bayard, my predecessor, wrote thus to Count Arco on February 5, 1889:

The President, having been made fully acquainted with the tenor of the instructions received by you from Prince Bismarck and read by you yesterday for my transcription, requests me to say that he fully shares in the desire expressed by the prince chancellor to bring the blessings of peace and order to the remote and feeble community of semi-civilized people inhabiting the islands of Samoa, and that he clearly recognizes the duty of the powerful nations of Christendom to deal with these people in a spirit of magnanimity and benevolence. On behalf of the United States Government the President instructs me to express his acceptance of the proposal of the Government of Germany to resume the consultation held in this city between the representatives of the United States, Germany, and Great Britain which was suspended on the 26th July, 1887, such consultation to be renewed, as it was undertaken, for the purpose of establishing peace and an orderly, stable government in the Samoan Islands on the basis of their recognized independence and the equal rights of the three treaty powers.

In attempting to define the scope and purpose of the present conference it is fortunately unnecessary to enter minutely into the history of the Samoan difficulties in the past. It may be proper, however, to advert to the fact that peace and order were promoted in Samoa by the municipality convention of 1879, and by the treaty of peace of July, 1881, celebrated on board of the United States steamer *Lackawanna* between the warring Samoan chiefs in the presence of Commander Gillis and the consuls of the three treaty powers. By virtue of these conventions a neutral territory was established in and about Apia, and a government provided therefor. From the information before the Department, I have no reason to doubt the correctness of the statements made by Mr. Bates, the special agent of the United States, that—

The peace thus established continued unbroken until January, 1885, when it was disturbed by the incidents which have been the subject of recent diplomatic correspondence. * * * Concerning this period of three and a half years I have been careful to make the most searching inquiry of many persons who were resident in Apia during that period. The universal testimony has been that the adjustment of July, 1881, known as the "Lackawanna peace," was remarkably successful, and that the government then established was fully acknowledged throughout the islands. Malietoa the King, and Tamasese the vice-King, with the other officers and members of the Taimua and Faipule, lived together at Mulinuu, and on most, if not all, of the official documents of that period will be found the signature of the vice-King as well as that of the King.

Nor is it deemed necessary at present to enter upon detailed examinations of the transactions of 1885, for the obvious reason that so far as individual injury may have ensued it can be more profitably reserved for future discussion, while so far as questions of public right or interest may be involved both the Government of his Imperial Majesty and the Government of the United States have taken very positive and similar positions. Both governments have disavowed the irregular action of their consuls.

On January 16, 1886, Count Bismarck made the following statement to Mr. Pendleton, United States minister at Berlin :

While, therefore, I can give you no information as to the facts, only conjectures which may be entirely without foundation, I can say to you as I said already a week ago to the British Ambassador, that whatever may have occurred we intend to maintain the status as it has heretofore existed. We have been satisfied with that; it has been satisfactory to the three Governments; we have neither interest nor desire to change it. But if we had, we would take no step, make no movement without frankly consulting in advance the United States and Great Britain. If any wrong has been done it shall be righted and reparation shall be made and nothing shall be allowed to change the relative position of these Governments.

On June 1, 1886, Mr. Bayard cabled Mr. Pendleton as follows :

Claim of American protectorate at Samoa by consul of the United States wholly unauthorized and disapproved. No separate protectorate by any nation desired. Suggest that German minister here be authorized to act with British minister and me, and arrange that order be re-established; a competent and acceptable chief be chosen by natives and upheld by three powers. Three new consuls to be appointed and continued presence of a war vessel for two years provided for by the three powers. Joint declaration to be made against annexation or protectorate by any of the three powers.

Following this exchange of opinion, the three treaty powers agreed to send special commissioners to Samoa to examine and to report upon the actual condition of affairs in the islands. These commissioners made full and elaborate reports to their respective Governments, and in June, 1887, by formal agreement, a conference of these powers was opened at Washington, represented respectively by the Secretary of State of the United States, the minister of Germany, and the minister of Great Britain.

After a very full and able discussion of the business before it, in the course of which some points of agreement were reached and certain points of difference developed, the conference, on July 26, 1887, adjourned, in order, as stated in the proposition of adjournment, that further instructions should at once be obtained by the representatives of the treaty powers from their respective Governments, with a view to the re-assembling of the conference in the ensuing autumn.

By an agreement between the treaty powers, this conference is now to be resumed, the place of its meeting, however, having been, at the request of the German Government, transferred to Berlin.

It would be a source of great satisfaction to the President if the only duty incumbent on him now were to review the proceedings of the first conference, and, with proper regard to the views of Germany and Great Britain, reach such modified conclusions as would be entirely satisfactory to the honor and interests of all the treaty powers, and at the same time secure for the Samoan people a stable and orderly Government. He firmly believes that such a result is possible, but since the adjournment of the conference certain events have occurred which require explanation.

Within a very short period, less indeed than a month from the adjournment of the conference, without previous intimation of any such serious complication, the Government of his His Imperial Majesty notified the Government of the United States that Germany had declared "war" against "Malietao, personally." In the course of this hostile proceeding he was taken on board of a German man-of-war and deported to various places, and is now reported to be in the Marshall Islands, in the custody of German officials. While the President is unwilling to consider this action as intentionally derogatory either to the dignity or the interests of the other treaty powers, yet he can not but consider it, under all the circumstances, as an abrupt breach of the

joint relations of the treaty powers to each other and to the Government of Samoa. He finds it impossible to reconcile such action with this frank and friendly language of the German Government preliminary to the meeting of the conference :

We intend to maintain the status as it has heretofore existed. We have been satisfied with that. It has been satisfactory to the three Governments. We have neither interest nor desire to change it. But if we had, we would take no step, make no movement, without frankly consulting in advance the United States and Great Britain.

The President is painfully apprehensive that the forcible removal of Malietoa, who, so far as the information in his possession goes, is without doubt the preferred sovereign of the Samoan people, and the failure to restore that condition under which only, it seems to him, a free choice could be made by the Samoans, will not only seriously complicate, but may possibly endanger that prompt and friendly solution which all the treaty powers so earnestly desire, and which is vital to the safety and prosperity of Samoa itself.

The President hopes that these opinions will receive the consideration to which he thinks them entitled. You will submit them to the conference with temperate firmness. If it be urged, as it may be, that this forcible intervention has had consequences which practical good sense can not disregard, because they can not be undone, you will say that the restoration of the *status quo* is necessary to place the treaty powers upon their footing of equality, and does not prevent the treaty powers and Samoa from making any changes in the future which justice and an unselfish interest may suggest as necessary. The desire of the Government of the United States to see the *status quo* re-established as the basis for future deliberation and action in no way commits it to the partisan support of any plan or any person.

You will not submit this proposition as an ultimatum which would close the conference or prevent the President from considering any plan which may be suggested as a substitute. But should the proposition be rejected, you will not accept such conclusion except *ad referendum*. You will communicate such result as promptly as possible, and the President will then decide upon the course which he deems it his duty to adopt, and you will be instructed accordingly.

Should the representatives of Germany and Great Britain deem it wiser to postpone the decision of this question until further conference shall have ascertained the probability of agreement upon a final solution of the Samoan question, you are authorized to proceed with such discussion, although the President would much prefer its preliminary settlement.

Upon the acquiescence of the conference in the proposition of the President to restore the *status quo*, or upon its postponement to the determination of the discussion of the general question, it becomes necessary to instruct you as to the views and wishes of the President upon the conclusions reached and the differences developed in the deliberation of the first conference. The principles and the purposes of that conference have been stated with great clearness by the commissioners of the three treaty powers which composed it.

Mr. Bayard, on behalf of the United States, said :

In the plan for the establishment of peace and civilization in Samoa (under the cooperative support of the Governments of the United States, Germany, and Great Britain), submitted by me on behalf of the United States, I expressed my conception of the purpose of the present conference in the following language :

“(1) The independence and the autonomy of the kingdom composed of these islands are to be preserved free from the control or from the preponderating influence of any foreign Government, and it was in pursuance of this understanding that commission-

ers were recently sent by the three powers, respectively, to investigate and report upon the condition of the islands, and that the respective consuls of the three powers at the islands were changed."

Immediately after this declaration, and as a necessary inference therefrom, I stated the following propositions:

"(2) It is the desire of the United States, and equally of Germany and Great Britain, to assist the natives of Samoa to form and administer their own Government."

In respect to the principal object of the conference—the maintenance of the independence and autonomy of the Samoan Islands and the co-operative support of a native government—I am pleased to notice that my understanding is confirmed by the respective declarations of the German and British ministers. The memorandum by the German minister, read at the first meeting of the conference, began as follows: "The unsettled condition of affairs in the Samoan Islands having gradually become more and more injurious to the foreign residents and to the commercial interests of the three treaty powers, the latter had to take into serious consideration the means by which lasting peace and order could be restored there. With this view and the understanding that the independence of Samoa under a native government was to be maintained, and that no monopolies should be created there by any foreign powers, the three treaty powers have agreed to the proposition of the United States of America to hold a conference of plenipotentiaries. It was further agreed that in order to get complete and reliable information on which the conference would have to base its deliberations, special commissioners should be sent and instructed by the respective governments to report on the condition of the islands." The memorandum read by the British minister at the same meeting was as follows: "It is understood that the three powers have no desire to found colonies in Samoa, or to obtain commercial monopolies. Their sole wish is to establish the right and equality of commerce and navigation for their respective subjects and citizens. Assuming, then, that the three powers have no desire to destroy the independence of Samoa, but only seek to establish the right and equality of their commerce and navigation, a declaration to this effect might be made by them as a preliminary step."

Assuming for the present that this co-operative action was in harmony with the interests and policy of the United States, and that the two principles—the independence of the native Samoan Government and a perfect equality of commercial rights and privileges between the three treaty powers—were sound and sufficient basis for such co-operative action, it is disappointing to find that all the plans and all the discussion by which it was sought to give practical effect to this co-operative action ended in what appears to the President to be an irreconcilable difference.

Avoiding a too minute review of these discussions, which will be found fully set forth in the protocols and which I am glad to recognize were conducted with admirable temper and great force and frankness on all sides, their differences may be summarized in a brief statement of the two plans, one of which was submitted by the German Government, supported by the Government of Great Britain, and the other prepared by the Secretary of State of the United States.

The German proposition, after providing for a new election of king of Samoa, declares, Article III:

The treaty power which, for the time being, has the preponderating interests in Samoa shall, with the concurrence of the two other powers, appoint a representative to be invested with the functions of adviser to the Government of Samoa.

He will be first appointed for a term of five years, and after the expiration of this period a new nomination shall take place for the same time and under the same conditions.

The representative, as the mandatary of the three treaty powers, will be charged with the duty of controlling the measures necessary for the efficacious maintenance of peace and order in general, and especially for the security of the plantations, dwellings, and other property of foreign subjects in Samoa.

And this article is to be interpreted in connection with the following declaration of the German minister:

As the German interests in Samoa outweigh actually those of the two other powers, Germany is entitled to nominate the first adviser, in accordance with the provisions established above.

Supported by the declaration of the minister of Great Britain :

Since Mr. Thurston, Mr. Travers, and Mr. Bates (the three special commissioners whose reports were before the conference) all seem to concur that this preponderance is possessed by Germany to a greater or less extent. Her Majesty's Government are therefore prepared to consent to the mandatary powers being exercised by the German representative for the first term of five years, absolute equality of treatment in respect of commerce, navigation, and jurisdiction; and all other matters whatsoever to be secured to the three Powers and to their subjects and citizens.

It is unnecessary here to repeat the objections to this plan which were made by the representative of the United States in the conference with great acuteness and force, and which have the entire approval of the President. It is sufficient in this instruction to say that the President can not accept this plan as satisfactory. In constituting a foreign "adviser" with unlimited or at least unrestrained power, both of legislation and administration, the President finds it difficult to see the friendly desire to maintain a native and independent Samoan Government which all the treaty powers have so earnestly expressed. Giving to Germany the right to nominate such "mandatary" for the first five years, especially when that priority is claimed in virtue of its supremacy in population, in property, and in commerce, would be simply encouraging that power to maintain and extend such supremacy, and to make it the basis for a perpetual re-appointment and ultimately of absolute possession.

The President is altogether unable to see how the appointment of this "mandatary" by one of the powers, upon the avowed ground of its supposed greater interests, can either preserve that absolute equality of consideration which would alone justify the co-operation of the treaty powers, or could protect with adequate security the commercial interests of the separate powers, which are, in fact, the motive and the purpose of any co-operation. In the exercise of such great power as is given to the "mandatary" the superiority of German power and interest would naturally direct his influence, first, to the preservation, and then to the extension of his supremacy. And in any dissent or remonstrance on the part of the other powers, they would be brought into direct controversy, not with the friendly native authority, but with what would really be the German Government, speaking in the name of the King of Samoa. It would be far simpler, and conduce more to final and well-understood relations, to recognize this assumed superiority as real, and to hold direct communication with Germany in our transactions with what would be practically her colonial possession.

The obligation of the Government of the United States in the South Pacific is to protect the rights and interests of our citizens who may be residents there and engaged in any lawful pursuit. We have no desire to dominate, and every wish to develop a stable and just government. If there have been trouble and annoyances, they have not proceeded from any groundless hostility of the Samoan Government or the Samoan people. They have arisen and been fostered into mischievous activity by the avarice and eagerness of competing merchants and land speculators, and the irregular conduct of foreign officials who are, perhaps naturally and excusably but most injudiciously, sympathetic with the prejudices and interests of their immediate constituents, the resident foreigners. To convert the assumed supremacy of any one of these contesting interests into a legalized government of these islands does not, in the opinion of the President, promise any relief from the embarrassing dissensions which at present disturb the orderly condition of things.

But there are other reasons why the Government of the United States can not accept this scheme of subordination. The interests of the United States require the possession of a naval station in these remote parts of the Pacific, and by a treaty with the lawful authorities of Samoa they have been put in control of the harbor of Pago Pago for these purposes. We can not consent to the institution of any form of government in Samoa subject directly or indirectly to influences which in the contingencies of the future might check or control the use or the development of this American right. Nor can the Government of the United States forget, what we are satisfied the other treaty powers will cordially recognize, that our interest on the Pacific is steadily increasing; that our commerce with the East is developing largely and rapidly; and that the certainty of an early opening of an Isthmian transit from the Atlantic to the Pacific (under American protection) must create changes in which no power can be more directly interested than the United States. And in any question involving present or future relations in the Pacific, this Government can not accept even temporary subordination, and must regard it as inconsistent with that international consideration and dignity to which the United States, by continental position and expanding interests, must always be entitled.

It only remains to consider the proposition as formulated by the representatives of the United States Government. Stated briefly, it is, as far as possible, the preservation of the native government which has hitherto existed with the addition to the king and vice-king of an executive council, consisting of three secretaries, who, with the king and vice-king will form the executive government; these three secretaries to be appointed by the king on the recommendation of each of the three treaty powers. Although foreigners, these secretaries are to be officers of the Samoan Government and paid by that Government. The consuls of the treaty powers are still to retain their ex-territorial jurisdiction as the citizens and subjects of their respective Governments.

This scheme itself goes beyond the principle upon which the President desires to see our relations with the Samoan Government based, and is not in harmony with the established policy of this Government. For if it is not a joint protectorate, to which there are such grave and obvious objections, it is hardly less than that and does not in any event promise efficient action.

It would seem that if the existing troubles were the result, not of any action of the Samoan Government, but of the rivalries and misunderstandings of foreign consuls and residents, the presence in the government of three officers representing the same differing nationalities and interests would only transfer the scene of dispute to the executive council, and that these three secretaries, being officers of the Samoan government, would not be less partisan, but would be only further removed from the control of the treaty powers than are the consuls whom it is now found so difficult to keep within their strict line of duty. It is evident, moreover, that the different views which the representatives of colonial powers like Great Britain and Germany and a representative of the United States would hold towards the natives and a native government, scarcely promises as a result the harmonious co-operation of the varied and variant interests.

At the same time, while holding different views, the President can not deny the serious impression which has been made upon him by the consenting opinions of the German and English ministers, and the strong support given to that opinion by the very able reports of all the special

agents sent to Samoa to examine into its present condition. Mr. Bates, the special agent of the United States, says:

The material question now to be determined is the character, extent, and methods by which the expressed desire of the three powers to co-operate in the establishment of stable government in the islands may be most effectively carried out. My own conviction is doubtless already apparent, that the extent of this intervention, to be effective and successful, must be more systematic and comprehensive than seems to have been contemplated by my instructions.

The central government must be, for a time at least, administered by the three treaty powers, or through such agencies as they may select.

Under these circumstances, and in view of the opinions of those best qualified to judge, the Government of the United States can not refuse to give weighty consideration to whatever plan the conference may suggest. While, therefore, as already intimated, I can not undertake to instruct you on such details as may become the subject of discussion, you will bear in mind, throughout the whole deliberation:

(1) That, if it shall become absolutely necessary in the present complication that the three treaty powers should administer the government of Samoa, it is the earnest desire of the President that this intervention should be temporary; that it should be confined within those limits in which such action is necessary to conciliate and compose present difficulties, and that it shall be avowedly preparatory to the restoration of as complete independence and autonomy as is possible in the islands.

(2) That the intervention of the three treaty powers must be on terms of absolute equality, and the nearest approach to that normal condition of things in which the consular officers of the Government can be the most efficient intermediaries between the treaty powers and the native government, will be the most acceptable.

(3) In any arrangement for the establishment of order and civilization in Samoa, the President is of opinion that too much importance can not be given to the subject of the adjustment of claims and titles to land. The claims of foreigners to land titles in the islands amounted three years ago to more than the whole area of the group. Many of these claims are conflicting and, as the correspondence of the last three years discloses, they are continually giving rise to disputes. It is believed that upon investigation many of the alleged titles would prove to be groundless. It is unnecessary to emphasize the importance, both to foreigners and to natives, of a final settlement of these questions. To the former it would give security and confidence in their efforts to promote agriculture and to add to the wealth and commerce of the country. To the natives it would bring the twofold advantage of being rescued from that deplorable condition in which, being unjustly excluded from their lands, they must, to employ the significant phrase of the British Commissioner in 1886, either "pilfer or die;" and of being protected from those acts of interference and oppression to which the cupidity of foreigners has heretofore exposed them. It is believed that the disturbance of the "Laekawanna Peace," as well as many other unfortunate facts in the recent history of Samoa, may chiefly be attributed to the encouragement and fomentation, by interested foreigners, of dissensions and strife among the natives, with a view to take advantage of the disorder so created to obtain possession of their lands. It is desirable that the ownership of all the lands in the islands should be ascertained and registered; that rules for the transfer of title should be established, and safeguards devised against transfers for improper or insufficient considerations; and that, if necessary, a composition should be effected whereby a reasonable proportion of the territory may be

saved to the natives. It is believed that the settlement of the land question on this equitable and comprehensive basis would give the best possible assurance for the stability and success of any government that may be established, simply by removing the principal incentive to its disturbance.

(4) The consideration of the subject of land claims naturally suggests that of the prohibition or regulation of the importation and sale of fire-arms and alcoholic liquors. Many of these claims have, without doubt, been obtained by ministering to the weaknesses and passions of the natives by furnishing them with the articles above mentioned. It is thought that this reproach to civilization should be removed by each of the treaty powers adopting stringent regulations on the subject.

It is not anticipated that any proposition will be submitted to the conference either by Germany or by Great Britain referring to any other subject than the one covered by this instruction. Should any attempt of the kind be made, you will courteously, but firmly decline all discussion.

I do not desire to embarrass your discussion of the restoration of the *status quo* by reference to the incidents which accompanied the declaration of martial law by the German authorities. But these incidents can not be passed over in silence, if such silence is to be interpreted as acquiescence either in the rightfulness or the necessity of that measure. Such a declaration appears to the President to have been in direct violation of that equal and friendly co-operation which had been previously recognized as the principle of action for the treaty powers, and equally contradictory of the conditions upon which the conference was instituted. But, aside from these considerations, the manner and the method by which the German naval authorities proclaimed their intention of carrying this declaration into effect, could only tend to evoke irritation and bitterness over questions which might well be the subject of grave international discussion. So trenchant were the invasions of the rights of American citizens in Samoa, and so apparent was the purpose to disregard the dignity of the flag which protected them, that, if immediate resentment of such treatment had culminated in forcible resistance, this Government, while deeply regretting so unfortunate an occurrence, would have found it impossible not to sympathize with the natural indignation which prompted such a course.

To subject the citizens of the United States to the police inspection of the German navy; to require reports from each household as to arms kept for its necessary protection; to make permission from the German authorities a needed prerequisite to the natural right of American citizens to guard themselves from danger; to inquire into the character of even their rumored conversations, and hold them amenable therefor to the summary proceedings of a German court-martial—all these were trials and indignities to which they ought never to have been subjected, and to which, I trust, the results of this conference will make it certain they shall never be subjected again.

Had not the Government of the United States believed that these objectionable proceedings were due to the hasty and too pronounced zeal of German naval officers, and not to the orders or the wishes of the authorities at Berlin, an earnest and vigorous protest would have been made against the assumption of such power. In this belief, the President is content to overlook the offense, and refers to it now lest silence on his part should be misconstrued by the German Government. You will, therefore, be careful, in any reference which you may make to the

subject, to employ a friendly tone, and to assume that the proceedings referred to were at no time authorized by the Imperial Government.

Any conclusion you may reach will be referred immediately to this Department, and you will be further instructed, from time to time, as your reports indicate more specifically the plan which meets the approbation of the conference.

I am, etc.,

JAMES G. BLAINE.

[Inclosure 1.]

Protocols of the Conference held at Washington in 1887.

PROTOCOL OF FIRST SAMOAN CONFERENCE.

Confidential.]

DEPARTMENT OF STATE,
Washington, June 25, 1887.

The conference was formally opened by Mr. Bayard inquiring whether the British and German ministers had received his note inclosing a draught of a plan for the settlement of Samoan affairs, and whether they had prepared any comments upon it. Both had received it.

Mr. von Alvensleben then stated that he had made a memorandum, which he would read, but could not give out of his hand. His Government had sent him general instructions before knowing Mr. Bayard's suggestions, and those instructions, therefore, did not cover all the different points suggested. He was, however, willing that the views of his Government should be put down in the protocol of the conference as he read them.

Mr. Bayard said the conference was suggested a year ago; that the three Governments had sent out commissioners to make investigation and report; that reports had been made and exchanged; that an expression of the views of the United States had been desired; that an informal conference had been held, which ended in the request by the ministers of Great Britain and Germany that those views should be reduced to writing; that this had been done, and the plan placed in their hands, and that it seemed proper that the views of the other two Governments should be handed to him in the same way.

This, however, Mr. von Alvensleben declined to do, and for this reason Sir Lionel West decided not to give a copy of the memorandum which he had prepared; but they agreed that their statements, as read by them, should be taken down by stenographer and embodied in the protocol of the conference.

The plan previously submitted by Mr. Bayard on the part of the United States, and which is to be taken as if read at the conference, is as follows:

PLAN FOR THE ESTABLISHMENT OF PEACE AND CIVILIZATION IN SAMOA UNDER THE CO-OPERATIVE SUPPORT OF THE GOVERNMENTS OF THE UNITED STATES, GERMANY, AND GREAT BRITAIN.

"(1) The independence and autonomy of the kingdom composed of these islands are to be preserved free from the control or preponderating influence of any foreign Government, and it was in pursuance of this understanding that commissioners were recently sent by the three powers respectively to investigate and report upon the condition of the islands, and that the respective consuls of the three powers at the islands were changed.

"(2) It is the desire of the United States, and equally of Germany and Great Britain, to assist the natives of Samoa to form and administer their Government.

"(3) The due and orderly commencement of the new government will be the recognition of a native king; and a respect for native customs and traditions, which the three powers have recognized by their several existing treaties, would seem to require the continuance of Malietoa Laupepa as King, and of Tamasese as Vice-King. The kingship of the islands has for many years been filled by the election of the head of Malietoa family, of Malietoa Talavoa, until his death in 1880, and of Malietoa Laupepa in March 1881, in which same year Tamasese was elected Vice-King. These voluntary native elections and the governments so established were severally recognized by the United States, Germany, and Great Britain, and the treaties now existing between these powers and Samoa should have all the binding force attendant upon such formal obligations.

"(4) A written constitution of government should be adopted and on the following lines: An election by the native inhabitants should be held at once for chiefs from several districts of Samoa, who are to be the council of the King. The number of these chiefs may be as follows: From Aana, 2; from Atua, 2; from Apolima and Manono, 1; from Savaii, 6; from Taumasaga, 2; from Tutuila, Mauna, Olosega, Ofa, and Anuu, 2. By the King and these chiefs the constitution should be adopted and proclaimed. This constitution should provide for a legislature, which should, as heretofore, consist of a King's Council or Timua, and a legislative assembly or Faipule. The former should consist of the King, the Vice-King, three ministers to be nominated by the three treaty powers, and chiefs from the several districts of Samoa, the latter to be elected for life. The Faipule should be elected by the people in the ratio of one representative for every 2,000 of the population and for the term of three years. Those chosen at the first election should be divided into three classes, so that one-third thereafter be elected in each year.

"(5) The chief secretary and ministry of foreign affairs, the treasurer, and the minister of the interior, should be appointed by the King upon the nomination of the three treaty powers, and should serve for a term of — years, unless removed by the King upon the application of the three treaty powers. These ministers should have seats on the floor of the Faipule and take part in the debates.

"(6) A municipal government shall be formed for Apia without interference by the foreign consuls. The government of the municipality shall consist of a council with local legislative powers, and a mayor or chief executive officer, to be appointed by the King and council.

"(7) Foreign consuls shall retain criminal jurisdiction over their own countrymen, respectively, as heretofore.

"(8) A court for the administration of justice among the natives shall be constituted, the judges to be appointed by the King and council without regard to their nationality, and the police officers and minor officials of the court shall be selected from the natives.

"(9) The constitution should prohibit the imposition of pecuniary fines upon natives, and sentences for criminal offenses should be terms of imprisonment with labor on the public roads, buildings, and grounds.

"(10) The sale of deadly weapons, or ammunition therefor, should be prohibited, as well as the sale of intoxicating liquors.

"(11) A land commission should forthwith be organized, before whom all claims of title to land by foreigners shall be submitted, and whose judgment shall be final.

"This commission shall consist of five members appointed by the King, of whom three shall be nominated by the three treaty powers, *i.e.*, one by each of the said powers, and the remaining two selected by the King. They shall obtain the services of a competent engineer and assistants, who shall make correct survey and plots of the land respectively claimed, the cost of which survey and plots shall be paid by the claimants respectively. The said land commission shall inquire into the nature and extent of each and every land claim by foreigners, and whether good or valuable consideration was paid therefor, and no land shall be awarded to any claimant unless it be proved that at least value to the extent of — per acre had been paid therefor, and in all cases where an illegal or immoral consideration has been given, where liquor or fire-arms, or weapons of any description form the consideration such claims shall be declared invalid and the land shall forthwith be restored to the control of the Government of Samoa.

"(12) The judges of the land commission shall receive a salary of — per annum, to be paid out of the revenues of the Kingdom, and shall appoint a clerk who shall duly keep the records of their proceedings.

"(13) It shall be the duty of the said land commission to survey and set apart of the unclaimed or unoccupied land one-tenth part thereof, to be rented for the use and support of the public schools.

"(14) To assist in raising revenue for the support of the Government, customs and tonnage dues shall be levied at the several ports of entry, and to this end each of the treaty powers will negotiate identic treaties with Samoa in which the rates of said duties shall be established.

"(15) Each of the treaty powers will alternately keep four months in each year a man-of-war in Samoan waters to assist in maintaining the Government so to be established and to preserve peace and order."

Mr. von Alvensleben then read his memorandum, which was as follows:

"The unsettled condition of affairs on the Samoan Islands having gradually become more and more injurious to the foreign residents and the commercial interests of the three treaty powers, the latter had to take into serious consideration the means by which the lasting peace and order could be restored there. With this view and the understanding that the independence of Samoa under a native government was to be maintained, and that no monopolies should be created there by any foreign power, the three treaty powers have agreed to the proposition of the Government of the

United States of America to hold a conference of plenipotentiaries. It was further agreed that, in order to get complete and reliable information on which the conference would have to base its deliberations, special commissioners should be sent and instructed by the respective Governments to report on the condition of those islands. These reports having shown that the weakness and incapacity of the actual government are the principal causes of the present untenable state of affairs in the Samoan Islands, the Imperial German Government is of the opinion that an agreement upon the following points would be apt to lead to the intended result:

"(1) King Malietoa having notoriously violated his treaty obligations toward Germany, and having even among the natives comparatively but few partisans, while a completely organized counter-government has been formed under Tamasese, a new election of king will have to take place according to the customs of the country. This election is to be freely made by the chiefs and the people of Samoa. This would meet the suggestion made by the honorable Secretary of State to the two other powers when this conference was proposed. It was said in those instructions 'the three powers to uphold a competent and acceptable chief, to be chosen by the natives.' The same proceeding has been observed previously when several chiefs arose as pretenders, and the treaty powers then recognized as king the one who had been elected by a majority of the population. As to the actual number of Maliefoa's partisans, a statement drawn up by Mr. Travers shows that the party of Tamasese is four times as large as Malietoa's. The whole population of the Samoan Islands, except Manua, numbers 33,450, of which 5,800 comprise the party of Malietoa, 7,400 are indifferent, and 20,250 stand by Tamasese.

"(2) As far as merely Samoan affairs are concerned, the administration of the country to be carried on, as was hitherto the case, by the king assisted by the native council, composed of the most prominent chiefs. The competence of the king and the co-operation of the native council will have to be defined by special agreement.

"(3) Experience having shown the incapability of the Samoans to maintain order and peace in their country, a foreign representative to be appointed as adviser to the King in order to strengthen the latter's authority.

"This adviser, who is to act as the mandatary of the three treaty powers, will have to discharge, under the nominal responsibility of the King, the Government affairs. He will have to control all necessary measures with regard to the maintenance of public order in general, and especially to the security of any kind of property of foreign residents. This adviser, whose position would be virtually that of a prime minister, to be nominated by the treaty power having for the time being the preponderating interests in Samoa. The nomination needs the approval of the two other powers. The first appointment to be made for the term of five years in the first instance, and at the expiration of that period a fresh appointment to be made on the same terms and conditions. In the event of the appointment becoming vacant during the said term of five years, through the death, resignation, or removal of the adviser, another person shall be similarly appointed to hold the office for the remainder of the said term.

"(4) In order to avoid every misapprehension of the situation by the placing of the representative of one of the treaty powers in the most prominent position of the Samoan administration, it will be expedient to formally acknowledge anew the principle, already contained in the existing treaties with Samoa, of absolute equality of treatment in respect of commerce, navigation, jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens.

"(5) The irregularities which are known to have occurred in regard to the acquisition of land, and the disputes to which they have led between foreigners and natives make it appear expedient to consider the establishment of a special international court for the decision of claims and disputes relating to land. For the composition of this court due consideration will have to be given to the nationality of the parties.

"(6) It will have to be one of the principal tasks of the new administration to regulate the finances and to draw up a budget in accordance with the needs of foreigners and natives. For this purpose, and in order to raise the requisite funds for the proper administration of the islands, as well as for promoting foreign trade and commerce, the question of levying taxes on foreigners with the consent of the three treaty powers will have to be considered.

"(7) As the German interests in Samoa outweigh actually those of the two other powers, Germany is entitled to nominate the first adviser in accordance with the provisions established above under No. 3.

"(8) The existing treaties with Samoa to be maintained, and the declarations made previously by Germany, the United States, and Great Britain with regard to the independence of Samoa to be confirmed, in order to avoid the appearance as if the present interference in the Samoan administration implied an intention of the annexation of Samoa by a foreign power."

Sir Lionel West then read his memorandum, which was as follows:

"It is understood that the three powers have no desire to found colonies in Samoa or to obtain commercial monopolies. Their sole wish is to establish the right and equality

of commerce and navigation for their respective subjects and citizens. Assuming, then, that the three powers have no desire to destroy the independence of Samoa, but only seek to establish the right and equality of their commerce and navigation, a declaration to this effect might be made by them as a preliminary step. It was, however, deemed expedient to ascertain the exact state of affairs in the islands by sending special commissioners who should report thereupon. The reports are now before the plenipotentiaries of the three powers assembled in conference, and their general tenor leads to the conclusion that the Samoan natives are incapable of forming independently a stable and efficient administration for preserving their own independence and for securing to each power full freedom of commerce, navigation, and jurisdiction of all matters affecting their respective subjects and citizens. Under these circumstances Her Majesty's Government are prepared to advocate an agreement between the three powers on the principle that one of them should, as the mandatory of the other two, exercise as adviser of the Samoan Government supervision and control over the native affairs for a limited time, and should be charged with the duty of controlling the measures necessary for the better maintenance of public order in general, and especially for the security of the property of foreign subjects and citizens. Such a course seems indicated in Mr. Bates' report when he says: 'The real function of the intervening powers in Samoa will of necessity be actual administration of government. Nothing short of this, at least for a time, will remedy the existing condition of things.'

"Such seems to be also the opinion of Mr. Travers and Mr. Thurston.

"All three commissioners seem to recognize also the difficulty of tripartite control, such as more or less has been hitherto exercised; while at the same time they deprecate the establishment of the exclusive control of either one of the three powers. Assuming that the establishment of a native government, to be carried on by the king, who may be elected, assisted by a native council, is necessary to preserve the autonomy and independence of the islands, and which can only be established under foreign control, and assuming that tripartite control is impracticable, the solution of the difficulty would seem to be an alternate control for a limited period of either one of the three powers. In the event of coming to this agreement the question naturally arises as to which power should be chosen the mandatory of the other two in the first instance, and Her Majesty's Government consider that preponderating commercial interests should be taken into consideration in deciding it.

"Since Mr. Thurston, Mr. Travers, and Mr. Bates all seem to concur that this preponderance is possessed by Germany to a greater or less extent, Her Majesty's Government are therefore prepared to consent to the mandatory power being exercised by the German representative for the first term of five years, absolute equality of treatment in respect of commerce, navigation, and jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens.

"In view of conflicting statements and disputes relating to land and land claims, Her Majesty's Government advocate the establishment of an international land court to take cognizance thereof, and they also propose that the question of levying taxes on foreigners for revenue purposes shall be taken into consideration. In order to facilitate the working of the international land court, they propose that the existing land claims of foreigners should be disposed of by a commission previous to its establishment. The reports of Mr. Travers and Mr. Bates point to some such arrangement as necessary for the adjustment of pending disputes. Mr. Bates recommends a specially constituted court to take cognizance of land claims.

"As far as consular jurisdiction is concerned, it seems to be expedient that it should remain unaltered, and only, therefore, requires the reassertion in any final convention or agreement concluded.

"The conflicting claims to the sovereignty of the islands seem to render it necessary that a fresh appeal should be made to the native population for the election of a king. Since 1879-'80 King Malietoa has been recognized by Germany, Great Britain, and the United States as King of Samoa. Tamasese was appointed vice-king, and is now in open rebellion against Malietoa. War has only been averted by urging upon King Malietoa to await the decision of the three treaty powers; and a proclamation was subsequently issued by the three consuls denying recognition to Tamasese as king; but as it appears that he is not disposed to submit to Malietoa, a new election seems therefore imperatively called for before the Government can be properly constituted, and Her Majesty's Government express no opinion, favorably or adversely, to the election of Malietoa.

"Under any circumstances, in the opinion of Her Majesty's Government, existing treaties should be maintained. These treaties, it may be remarked, are not signed by Malietoa, but are in the name of the Government of Samoa."

Sir Lionel West said he was ready to discuss the various points suggested in the memorandums.

Mr. Bayard said he would not be ready to discuss them until an opportunity had been given him of reading the British and German views as taken down by the stenographer.

The conference then adjourned to meet at a time subsequently to be agreed upon.

T. F. BAYARD.

ALVENSLEBEN.

L. S. SACKVILLE WEST.

PROTOCOL OF SECOND SAMOAN CONFERENCE.

Confidential.]

DEPARTMENT OF STATE,
Washington, July 2, 1887.

Mr. Bayard said he understood that all agreed upon the following points: That there should be no annexation of the islands by any of the treaty powers; that the independence and autonomy of the islands were to be preserved with equality of rights of commerce and navigation for the citizens or subjects of the treaty powers; that a native government was to be established and assisted to maintain itself; that the present jurisdiction of consuls over their own countrymen should be preserved; that the present treaties be maintained, so far as the rights of the three powers under them are concerned; that means of raising revenue for the support of the government should be devised, and that the question of taxing foreigners should be considered; that impost and tonnage duties should be established by identic treaties between the three powers and the Samoan Government; that a land court should be formed to settle titles and holding of lands in the group.

It had been admitted that the claims of foreigners to lands exceeded the entire area of the islands, and this was the best proof that the claims required overhauling by a court whose decision should be final.

Mr. Bayard further said that while it had been agreed that a native government should be established and assisted to maintain itself, the powers were not agreed as to its details. Great Britain and Germany proposed that there should be only a king and a council of chiefs. The United States suggested a king, a council of chiefs, and a legislative assembly, composed of representatives elected by the people of the islands. He was, however, inclined to believe that the greater the simplicity of the frame-work of the government the better, and he was disposed to place among the points of agreement that the native government should consist of the king and his council of chiefs.

Mr. von Alvensleben said if there was such a legislative assembly as Mr. Bayard had proposed it should have a consultative and not a deciding vote, and that with this understanding he was not opposed to such an assembly.

Mr. Bayard replied that Germany had proposed its omission, and that it was in order not to stand upon form, but to get a substantial agreement that he had deferred to that proposal. He desired to facilitate agreement, and at the same time thought it not unadvisable to simplify the government as much as possible.

Sir Lionel West said he did not think his memorandum referred to the subject of identic treaties respecting impost and tonnage duties. He saw, however, no objection to the idea of identic treaties. After some further discussion it was decided that this should be taken as agreed upon in conference.

Mr. Bayard said there were some other points on which the propositions of the powers did not run so closely together. The first was as to the kingship. The United States, in view of existing treaties and of the declarations continuously made until within a very few months by the consuls of three treaty powers, had proposed the continued recognition of Malietoa Laupepa as king and of Tamasese as vice-king. The British and German Governments proposed a new election. In this, for the sake of coming to an agreement, he was disposed to concur. The United States would not object to a new election, but it should be a native election, free and unawed. The customs of the Samoans should prevail in it, and the result of the election should be announced to and declared by the three consuls, who should not otherwise participate in the proceedings.

Mr. von Alvensleben inquired whether that could be prevented?

Mr. Bayard replied that that comment would apply to the whole of the transaction. The islands were very remote from the countries whose representatives were now considering their government, and unless the agents of the three governments were actuated by a sense of absolute fairness to each other, and a desire to carry it out, there would be little hope, and he proposed that the agent of the United States should do nothing inconsistent with its action in the matter.

Sir Lionel West said he could assent to that proposition. The natives must elect the king, and the election must be free.

Mr. von Alvensleben inquired whether they should take into consideration the probability of the natives not arriving at an election. Malietoa's party might say they had elected their man; Tamasese's party might say: "We have our man; we won't proceed to an election." It was not unlikely, according to report, that the natives would not proceed to an election. Should not a certain time be fixed within which the election should take place? If it should not take place within that time, then the three powers should agree on a king.

Mr. Bayard said he did not anticipate the failure of the election; but it was in order to avoid any difficulty that he had proposed to let Malietoa remain as king, to which Germany and Great Britain objected.

Sir Lionel West said his Government had expressed no opinion hostile or adverse to Malietoa.

Mr. Bayard said he had not the slightest objection to the election of Malietoa if the people of Samoa should choose him. At present, however, there seemed to be no chance for him, if the statement made by Mr. von Alvensleben, that he was in a small minority, was just. But there was a difference of opinion on that subject.

Mr. von Alvensleben asked whether the newly-elected king should not be approved by the powers?

Mr. Bayard answered, no; that, on the contrary, there was to be a free election.

Mr. von Alvensleben inquired whether he would not have to be recognized by the powers?

Mr. Bayard said, yes; but that the election should be free and not interfered with.

Mr. von Alvensleben said the people might nominate the king and the powers confirm him.

Mr. Bayard said that would virtually give the powers the control of the choice of a king. It would not be a native selection if it had to be made subject to the approval of somebody else. The object of the present arrangement was not to obliterate the rights of the islanders, but to assist them in forming a civilized government; that a virtual neutralization of this group of islands was desirable, and this was to be secured by the abstention of the three powers from seeking any special control. This principle should underlie all that they were proposing. There had been a proposition from Germany, which had met with a certain degree of recognition from Great Britain, that the power having a preponderance of present commercial interest should exercise a preponderating influence.

Mr. von Alvensleben said, not commercial altogether, because the Germans had also the greatest land interest.

Mr. Bayard said that was the claim. It would be this: that because Germany has a preponderance of numbers, of land, and of commerce she should therefore have a preponderance of weight in the counsels. It seemed to him that that proposition was in conflict with the principle upon which they propose to proceed, and that it was one that would increase as they progress. That is to say, that the ultimate result of admitting such a principle as that, and proceeding upon such a basis, would be to reduce the islands into a Germanic possession. Now that is certainly in conflict with the idea of virtual neutralization of the islands with which they set out, and not in accordance with the agreed plan, even upon the agreed points of the plan, and he referred to it now because they were approaching the question of the appointment of the chief executive officers, who would have more actual or practical power in controlling affairs there than any others. He could illustrate it better by saying that Germany proposed to have one prime minister. The United States proposed three ministers—a minister of foreign affairs, a minister of finance and treasury, and a minister of the interior—who should manage questions of lands and the like, and that they should be associated with the king and one native, making a council in that way of odd numbers, in which the three powers should have a majority, but that those officers should be separate and be appointed by the king, the idea being native appointment on foreign nomination. The German idea was that they should have a prime minister who should be the great executive, and control all, a depository of executive power, and that because Germany had more land, people, and commerce than the other two.

Sir Lionel West said only for a time.

Mr. Bayard said for five years as a basis, and a renewal again on the same terms. The suggestion was inconsistent with the principle with which they propose to conduct this arrangement, because it was at once starting upon a road that can lead but into one direction, and that is the complete domination of one power.

Mr. von Alvensleben said the Imperial Government wanted to nominate and have the appointment subject to the approval of the other two powers, and therefore they gave every guaranty that was possible.

Mr. Bayard said he wished to draw attention to the fact that the importance of these islands is mainly because of their geographical position. They lie in the pathway of a commerce that is just being developed. The opening of the west coast of North America to civilization and commerce by means of the transcontinental railways had

given to this group of islands an interest which they never had before, and moreover, we all hope for the penetration of the isthmus in some way or other. If that occurs a new feature of interest will be added to them. Great Britain, and Germany, and Spain, and France, at this time hold the island groups in Polynesia, and something more than mere islands. Great Britain owns Fiji and New Zealand and other islands. He said nothing of the continent of Australia. Great Britain has her settlement on New Guinea. Germany has the Marshal group and the Solomon Islands. She also has a settlement, and a very important one, on New Guinea. Spain has the Carolines; France makes claims to the New Hebrides. With a great ocean front on the Pacific, the United States have not acquired a foot of land in that region, but they were the first as a power to make a treaty with the Samoans. Our treaty antedates the rest and there was in it no special privilege of any kind. There was a cession to the United States for their use for a naval and coaling station of the harbor of Pango-Pango, which remains now as it was at the time it was ceded. It seemed to him that it was equally important to Germany and to all the other commercial nations and to the United States, that there should be a general line of action tending to secure the neutralization of that group of islands. There is something beyond the mere material present value of the land or the products, and it was for that reason the United States desired to see that group of islands maintained for the common use of nations, and the United States should receive the ready support of Great Britain and Germany in endeavoring to impress upon Samoa its counsels in favor of the proposed government. He would not go into a comparison of the relative importance of the Pacific commerce to the United States or to others. The interest of the United States was very great and quite equal to any other, and perhaps in some aspects greater, because less remote from the United States than from Great Britain or Germany, and because anything that is needed there as outposts these two countries have already acquired. The political policies of the United States are not such as to give the slightest alarm to the commercial interest of any other country. The policy of this Government in respect to acquisition of remote points has been pretty well defined, and it was for that reason that the Government of the United States was more disinterested by reason of its policies and by reason of its position in this matter than perhaps any other government equal in importance and having the same prospective interests in the commerce of the Pacific. Germany had proposed to take the nomination because at the time they had a greater amount of land, people, and money. He did not know what would be the result of the land commission upon German claims to title.

Mr. von Alvensleben said that if there was any change it would be a very slight change, because all the German land titles had been surveyed by surveyors sent out from Germany. The whole amount of German property in cultivated land exceeded six times the land owned by other nations.

Mr. Bayard said he had an impression from all accounts that the cultivation of the land had been done largely by the Germans. What their title was to it he did not mean to say, because he had no knowledge. He meant to say that the reason of the principle they started upon was logically in favor of the nation not disposed, and which could not be disposed by its politics, to gain a preponderating influence in the islands.

Referring to the land question, Mr. Bayard further said that, out of respect for native customs, he had proposed that the land court should consist of three foreigners, one to be nominated by each of the powers, and two natives; but the plan submitted by Mr. von Alvensleben proposed only three foreigners.

Mr. von Alvensleben said that was only a land commission to prepare for the court.

Mr. Bayard did not perceive the utility of this.

Mr. von Alvensleben said the object of the commission would be to investigate.

Mr. Bayard said he did not see the necessity of that. The land court proposed by him could send for papers, examine witnesses, and give judgment.

Mr. von Alvensleben said the commission was intended to examine all the deeds, and, so far as possible, settle questions of title, leaving only such titles as they were not satisfied with to the court.

Mr. Bayard thought both functions germane to the same object, and that a single body would be more simple, and could with equal certainty and justice deal with the business, as if there were a commission to examine and a court subsequently to decide.

Sir Lionel West said it was intended to facilitate the action of the court by the creation of the commission.

Mr. Bayard said it was not an intricate matter, and if there was the right kind of court, with fair-minded men, who would deal with each other with justness between themselves and the people, they would move with more celerity and with more stability than if there were two bodies. There would be two rules of decision by having two different bodies.

Mr. von Alvensleben thought that general principles should be established, and that there should be an appeal from the land commission to the land court, whose decision should be final. He also asked how investigations could be made.

Mr. Bayard said the area to be gone over was not extensive, and that there was no function a board of commissioners could perform that the court could not equally perform.

Mr. von Alvensleben inquired what Mr. Bayard proposed in place of the German proposition of an adviser to the king, and read, in support of the proposition of his Government, the following remarks:

"The opinion of the Imperial German Government that a lasting improvement of the condition of the Samoan Islands can not be expected from the actual existing native government, but only by foreign intervention, has been strengthened by the reports of the special commissioners, which are now before the conference. Such intervention can not be carried out with prospect of success in the way that the consuls of the three treaty powers at Apia attempt to assert simultaneously their influence with the Samoan authorities. The history of the last ten years shows that this only leads to rivalry between the foreign representatives, and to increase the weakness of the power of the native government. For the same reason it would be without any chance of success to try to strengthen the existing condition of affairs by calling the three consuls simultaneously into the Samoan administration. There is only one course left for asserting foreign influence with the Samoan Government, which is so necessary for the general interest, and this is to place one foreign officer at the head of the administration and to invest him with sufficient rights and powers to take the measures required for the maintenance of peace and order, as well as for the prosperous development of commerce and intercourse. As the authority of this official is to be noticeable in an unequivocal way to the foreigners as well as to the natives, it is commendable that the appointment should not be left to the Samoan Government, but be made by agreement between the treaty powers. At the same time it would appear that the power having to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government. That Germany is the power having the largest interests is questioned by nobody. Taking into consideration the dimensions and the value of the German interests represented in Samoa, and the great credit which Germany essentially deserves for having brought the Samoan Islands to their actual importance, it can not be fairly contested that Germany must be recognized by the other powers as being entitled to receive this mandate. Germany, or better, her subjects, pay alone half of all the taxes. The value of the German commerce with Samoa, without including the South Pacific, doubles the English and American commerce together. German subjects own in Samoa nearly double as much uncultivated land and nearly six times as much cultivated land. It can not therefore be expected that she should consent to remain more or less excluded from the efficient control of the country and have it pass to one of the two powers who have less interests."

Mr. Bayard thought there was a misapprehension on Mr. von Alvensleben's part as to any design of exclusion. On the contrary, perfect equality as to all was proposed. That would not affect in the least the question of the rights of German subjects or their property. The idea of the United States was that there should be one law for all, and that no one power should be more than another in the control of those questions.

Mr. von Alvensleben thought it more natural that the power that had the largest interests should also, after giving all the guaranties to the other powers, be nearest to control and the most responsible for it.

Mr. Bayard said it seemed to him that that reasoning forgot entirely the principle upon which the whole movement proceeded; that is, the native Government to preserve its own existence, while the contrary is that contended for by Germany. The idea of the United States was that there should be an equality of rights between the powers.

Mr. von Alvensleben said that was intended. The powers ought to have equality of rights.

Mr. Bayard said another feature in the proposition submitted by him was that there was no suggestion of continuance of interference by the consuls in the government of that country, except with regard to the persons or interests of their individual citizens.

Mr. von Alvensleben said he introduced the three consuls for the purpose of showing that Mr. Bayard's proposal of three ministers would be equivalent to the three-party government; that the three representatives would almost come to the same thing.

Mr. Bayard said that up to the present time the three consuls had been recognized as three equals co-operating for an end, and under that Germany certainly could not find fault with the result, because her preponderance had been continually increasing, and the interference of the German consul with the affairs in Samoa had been very

marked, if he could take the accounts of the dispatches of the American vice-consul. There had, however, been no suggestion in his plan that there should be anything more of a consular government. He desired something to do away with the injustice which, it is said, has been done these people. It is not becoming that the three powers should be in a group of islands where the land claims of their citizens exceed the whole territory of those islands. Mr. Thurston, the British commissioner, had put that with complete force when he said they were absolutely punishing these people for acts which were the necessary result and consequence of the kind of government they had endured.

Sir Lionel West said his Government seemed to incline to a foreign control because they thought without it there could be no stable government. Mr. Bates distinctly states it in his report. Mr. Thurston states it that without this intervention it is impossible to establish a stable government, and his Government were willing that this control should be exercised by a person appointed by one of the powers as the mandatory of the other two.

Mr. Bayard inquired what were his views about the native courts and the abolition of pecuniary fines.

Sir Lionel West said he thought they should agree as to those points.

Mr. Bayard inquired the views of the representatives of Germany and Great Britain as to his proposition as to titles to lands founded on the sales of fire-arms, etc.

Sir Lionel West said his Government were inclined to support that proposition.

Mr. von Alvensleben said he did not think the proposition should have been stated so widely. The words "immoral" and "illegal" consideration had been used. It was difficult to define what was immoral.

Mr. Bayard said he had no objection to defining it.

Mr. von Alvensleben said if it meant the sale of fire-arms it did not touch the Germans altogether.

It might, however, have happened that those people really would not take any money if they could get fire-arms. If it was shown that they really gave the land away, they ought to get an additional sum. He suggested that what had been paid should be taken into consideration, and if it was too small an additional sum could be fixed by the land commission or the land court.

Mr. Bayard inquired as to his proposition to intrust minor offices, those that touch the natives themselves, to natives instead of foreigners.

Sir Lionel West said it was a difficult matter, but the principle ought to be that they should be natives.

Mr. Bayard said it would be a great means of native education, and that the natives should be educated in self-government.

Sir Lionel West asked whether he did not think that a very good reason for establishing foreign control.

Mr. Bayard said foreign assistance and native government should be combined. Hence he had proposed that in the council of the king there should be three foreigners, a minister of foreign affairs, of the interior, and a treasurer. These ministers would doubtless have a paramount voice, but they would be associated with two natives. One might be a German, another an Englishman, and another an American. Their functions would, in a great measure, be independent, and ought to be.

Mr. von Alvensleben asked whether they would be chosen by the foreign powers?

Mr. Bayard said, yes.

Mr. von Alvensleben said it would be difficult to find three such persons in Samoa not identified with what had been going on there, and that if they were so chosen he was afraid they would not be able to withdraw from the influence of their nationality.

Mr. Bayard said if there was only one man he would not be able to overcome the influence of his nationality, but if there were three men, with distinct, different functions, they would act as a check upon each other. But if the nominee of one of the powers acted merely as a partisan, his Government should remove him. There should be the readiest disposition in this regard, and the United States had already shown its disposition to act promptly.

Mr. von Alvensleben said he had been instructed to lay before the conference, in order to facilitate its work, a draught of a convention between the three treaty powers, a memorandum on the land disputes, and a memorandum on the financial question. These were, respectively, as follows:

[Translation.]

DRAGHT AGREEMENT BETWEEN GERMANY, ENGLAND, AND THE UNITED STATES OF AMERICA CONCERNING THE SAMOAN ISLANDS.

The Governments of His Majesty the Emperor of Germany, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of the United States of America, inspired by the desire of establishing a better settlement of affairs on the Samoan Islands, have agreed upon the following dispositions:

ARTICLE I.

A new election of a king shall take place in Samoa, with which object a meeting of the chiefs of all the districts entitled thereto in the Samoan Islands shall be summoned within two months from the day of the conclusion of this agreement.

The king can be nominated either for life or for a certain number of years; his nomination must be confirmed by the three treaty powers.

ARTICLE II.

The administration of the common affairs of the Samoan Islands shall be conducted by the king assisted by a council composed of representatives of the different districts; the convocation and composition of the latter in detail shall be reserved for a subsequent arrangement.

ARTICLE III.

The treaty power which for the time being has the preponderating interests in Samoa shall, with the concurrence of the two other powers, appoint a representative, to be invested with the functions of adviser to the Government of Samoa.

He will be first appointed for a term of five years, and after the expiration of this period a new nomination shall take place for the same time and under the same conditions.

In the event of the appointment of the representative falling vacant during the five years period, by death, resignation, or any other cause, another official shall be similarly appointed, to hold office for the remainder of the said term.

The representative as the mandatary of the three treaty powers will be charged with the duty of controlling the measures necessary for the efficacious maintenance of peace and order in general, and especially for the security of the plantations, dwellings, and other property of foreign subjects in Samoa.

ARTICLE IV.

The agreement as to the establishment of a municipality in Apia concluded between Germany, England, and the United States, on the 2d September, 1879, and prolonged for an indefinite period on the 29th September, 1883, shall cease to be in force on and after the—

ARTICLE V.

Absolute equality of treatment in respect of commerce, navigation, jurisdiction and other matters shall be secured to the three treaty powers and their subjects and citizens in Samoa.

ARTICLE VI.

With the view to the examination and decision of disputes relative to land, a commission shall be established, before which all disputed land claims are to be lodged within a fixed period. There shall be an appeal from the decision of the commission to a special court of land disputes within a period not exceeding three months. The composition and jurisdiction of the commission and of the court are defined in Annex I.

ARTICLE VII.

In order to raise the necessary funds for the proper administration of the Samoan Islands and for the development of foreign trade, commerce, and navigation, the Government of Samoa shall have the right to levy the dues and taxes specified in Annex II.

ARTICLE VIII.

The existing treaties of friendship, commerce, and navigation between the three powers and Samoa shall be maintained, and no alteration with regard to them shall take place without the consent of the treaty power thereby affected.

ARTICLE IX.

The Governments of the three treaty powers renew and confirm on this occasion their former declarations in regard to the maintenance of the independence and neutrality of the Samoan Islands.

[Translation.]

LAND DISPUTES.

The disputes relating to real estate and the acquisition of land in Samoa demand a special treatment.

This sort of dispute is to be withdrawn from the cognizance of the consuls and from the jurisdiction of the English high commissioner, respectively. It is consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of the dispute is situated. In the present case, however, it must further be taken into consideration that in the absence of any sort of legal provision as to the conditions, requirements, and formalities necessary for the valid transfer of land, and in consequence of the utter complication existing in the ownership, irregularities, and, it may be, acts of injustice, have occurred which absolutely demand an impartial decision based upon a thorough examination and investigation of the matter. Such disputes are to be settled in a uniform procedure and according to uniform principles, to be previously laid down by the treaty powers with the agreement of the Samoan Government, by an authority to be specially instituted, and in the last instance by a land court to be specially created. For this purpose it would seem advisable, after establishing the general principles on which the decision as to the validity of land transfers are to be based, first, to appoint a commission composed of three members, each of the three treaty powers naming one. Before this commission all claims which are raised by foreigners with regard to land in the Samoan Islands must be filed within a certain period, the claims must be accompanied by the titles and other documents, or duly authenticated copies, relating thereto.

The members of the commission are appointed by the Samoan Government on the proposal of the treaty powers and receive their salaries, the amount of which is to be fixed beforehand, from the former. A part of the expenses caused thereby will be covered by fees to be levied by the commission for their work according to a fixed tariff; the remainder will be defrayed out of the general cost of the administration, since it would not be fair that real estate should have to bear alone the whole of the not inconsiderable cost, amounting probably at least to a sum of more than \$30,000.

The presidency of the commission would, according to the state of affairs, be assigned to the representative of the power which has the most extensive interests in the country.

As far as the title deeds do not in themselves offer room for doubt as to the legality of the acquisition, all lands acquired before the conclusion of the German-Samoan and English-Samoan treaties, respectively, that is, before the 24th January and 23rd August, 1879, respectively, and also under the same conditions, all lands which, within the last two or three years, have been put under cultivation by the new owner shall be registered as validly acquired without prejudice to the claims of third persons. On the other hand, the acquisition shall not be regarded as legal, and registration shall be provisionally refused in cases where the claimant is only in a position to produce as a proof of his legal acquisition of the land a so-called promise of sale, as well as in cases where the land has not been surveyed within two or three years following the conclusion of the sale, or where the deed of sale contains no precise description of the boundaries of the land sold, or where at the time of the conclusion of the contract the price of the land has not been paid in full to the seller, without prejudice, however, to the claimant's right to demand a judicial decision. The commission shall be invested with the right of citing before them, through the local authorities, for examination, and of hearing, as witnesses, the sellers and any other persons whom they may think fit to supply information. A very important question, especially touching land disputes between foreigners, concerns the determination of the right of ownership and disposition of the land sold, on the part of native sellers. Numerous cases will present themselves in which one and the same piece of land has been sold by different persons styling themselves the owners to different parties, or in which pieces of land have been sold by persons whose right to the ownership and disposition of that land is disputed on the part of other Samoans. In this case the commission shall be empowered, through the local government of the district in which the disputed land lies, to institute a native commission to determine the seller's right of ownership and to lay the result of such investigations, together with the underlying motives, before the foreign commission; this decision, however, shall not be binding on the latter. Such native commissions would have also to be charged with the examination, and, if required, with the decision of land disputes existing between the Samoans themselves. Pieces of land which for ten years or more have, without dispute, been cultivated, or at least made use of, by foreigners, shall, without further inquiry, be regarded as property legally owned or acquired by prescription.

Claims of third parties to such pieces of land shall be brought to judicial decision only then and in so far as, in accordance to the dispositions with regard to the interruption of the prescription, the claim to the land has been presented to the actual

holder in written form at least once within the period of ten years. The foreign commission must further be authorized to give a provisional decision as to disputes relating to possession and ownership of land or to effect an amicable arrangement. The litigant shall have the right of appeal from the decisions of the commission, or of demanding a judicial decision by the land court. Whenever Samoans are involved as parties in such disputes, the foreign commission shall invoke the co-operation of a Samoan chief to be nominated by the government of the district where the land lies, or of the Samoan judge in Apia.

The final settlement of the land disputes takes place by the judicial decision of the land court. The latter is composed of a judge, to be nominated by the Samoan Government, and of the consul or of one of the prominent countrymen of the litigant.

There is no appeal from the decision of this court.

FINANCE.—ESTIMATE OF YEARLY BUDGET.—REVENUE.

1. Capitation tax on Samoans	\$37,500
2. Property tax on boats (250, at \$4)	1,000
3. Property tax on fire-arms (500, at \$2)	1,000
4. Tax on houses and on land used for commercial purposes, 1 per cent. ad valorem—	
(a) Present yield of the municipality	2,600
(b) Increase to be expected at once	1,300
(c) Houses and property outside of Apia	2,000
5. Controlling dues on all sorts of plantation laborers (1,000, at \$2)	2,000
6. Import dues on laborers (250, at \$5)	1,250
7. Charges for registry of deeds of sale, $\frac{1}{2}$ per cent. of the selling price	500
8. Stamp-tax on documents relating to transfers of property, 1 per cent of the selling price	1,000
9. Trade tax—	
I. Commercial enterprises—	
(a) Yield of the municipality	720
(b) Expected increase	1,000
(c) Businesses outside Apia (50, at \$40)	2,000
(d) Trading ships—	
A. Present yield of the municipality	120
B. By increase of existing duties	480
II. Artisans, clerks, and liberal professions—	
(a) Present yield of the municipality	420
(b) Increased yield through immigration	800
III. White laborers—	
(a) Domestic servants and factory hands (100, at \$5)	500
(b) Independent workmen (100, at \$5)	500
10. Taxes for tavern licenses—	
(a) Present yield of the municipality	775
(b) Increase and immigration	1,000
11. Statistical commercial dues—	
(a) General dues on imports of merchandise, 1 per cent, ad valorem in 1885, \$4,686	4,686
(b) From the increased imports to be expected, about 20 per cent.	937
(c) General dues on exports—	
A. Copra, 3,000 tons, at \$1	3,000
B. Cotton, 200,000 lbs., at 50c. per 100 lbs	1,000
C. Coffee, 15,000 lbs., \$7,500, 2 per cent	150
12. Customs—	
(a) Import tax on spirituous liquors:	
A. 2,000 cases of beer, at \$1	2,000
B. 3,000 gallons of brandy, at \$2	6,000
C. 1,500 gallons of wine, at \$2	3,000
(b) Import tax on arms, 200, at \$2	400
(c) Import tax on powder and ammunition, 1,500 lbs., at 25c	375
13. Pilot dues—	
(a) Present yield of the municipality	2,400
(b) Expected increase	600
14. Quarantine dues—	
(a) Present yield of the municipality	250
15. Judicial fees	2,000
16. Fines—	
(a) Present yield of the municipality	800
(b) Expected increase within the municipality	400
(c) Outside the municipality and in the whole of Samoa	2,000
17. Postal receipts	1,000
Total	89,463

FINANCE.

In drawing up the inclosed budget of receipts the principle has been followed of leaving Samoa the charter of a free-trade country. Quite apart from the fact that in Article III of the treaty of commerce between the United States of America and Samoa provision is made for the exemption of the cargoes of all American ships from duties of every sort, the introduction of merely financial duties (Finanzzölle) seemed undesirable in the interest of a free and unrestricted development of Samoan commerce. On the other hand, no objection could be raised to taking into consideration a small statistical duty at the rate of 1 per cent. ad valorem on merchandise imported into the islands, as well as a duty at about the same rate on products exported from Samoa. At present only copra cotton, and, to a small extent, coffee are in question. Only for spirituous liquors, arms, and ammunition real import duties have been introduced into the budget. The consumption of brandy, especially on the part of the natives, shall be checked thereby. For the sake of uniformity an import duty will also be imposed upon beer and wine, both articles of consumption which are used only by the better-situated classes, and which can easily bear a comparatively not very high tax. Also the import of arms shall be restricted by the duties imposed. It may well be taken for granted that the Government of the United States would also give their consent to the proposed taxes and statistical duties.

Moreover, the budget of receipts has been drawn up on the model of the existing arrangements, and the greater number of the items have been based upon the taxes hitherto levied by the municipal administration of Apia. Great care has been taken with regard to the calculation of an increase to be expected to result from a more developed commerce, and it may be said in general that the items have been fixed at a very low rate. The taxation of the natives has similarly been based on the model of existing institutions. More than \$20,000 has been raised by the Government of Samoa alone by a capitation tax paid by districts. The government of Malietoa has also attempted to exact a capitation tax, it is true, without success. The fault, however, lay neither with the system of taxation nor with the rate of the tax, but exclusively with the weakness and inactivity of the Government and the want of the necessary administrative apparatus. The taxation of the natives seemed the less objectionable, as the native element, it would appear, is called to be the first to participate in the advantages of the new government, and as, besides that, by the plan proposed a considerable part of the taxes raised shall be expended on the salaries and fixed remuneration of Samoan officials.

With regard to the several items of the receipts the following remarks may be made. *Ad. 1.*—Capitation on Samoans, \$37,500. The population of the Samoan Islands, with the exception of the Manua group, may now be taken as between 33,000 and 35,000 souls. The sum total of the capitation tax represents, therefore, about \$1.10 per head of the whole population, and about \$3 per head of the adult male portion thereof. The Samoans are perfectly conscious of their obligation to contribute to the public revenue in the way of a capitation tax. It has practically been introduced for many years, even though, as already observed, it has not been regularly levied. In 1872 a capitation tax of \$1 for adult males, 50 cents for young people, and 25 cents for male children, without distinction of age, was imposed in order to defray the expenses of buying arms. The fixing of the rate per head served only as a measure for the calculation of the tax. The Government in Leulumoega has twice during the last year imposed a tax of \$1 per head on the male population. The tax was levied by districts and handed over to the Government. The ambition of the several districts to contribute as large sums as possible led to the result that the total sum of the taxes actually paid was considerably in excess of the sum calculated for according to the rate fixed of \$1 per head of the male population.

If the Government there has now actually raised in its districts alone already more than \$20,000 a year by a capitation tax, the figure set down in the budget for the whole of Samoa of \$37,500 can hardly be regarded as excessive, all the less so, as the islands, not counting the yield of the German plantations, produce now in copra alone 3,000 tons, and could yield, with a moderate increase of activity, to which the obligation to pay the taxes may well give the necessary impetus, a considerably larger quantity, on the proceeds of which the population does not rely for its sustenance.

In Tonga, for instance, with a population of 20,000 souls, a capitation of \$60,000 a year is raised.

In practice it would be advisable to apportion the whole tax among the several districts according to the number of the male population and to charge the Government with the task of levying it.

The taxes are to be paid in cash. Payments in kind would necessitate a complicated organization, which would be better avoided at the first establishment of an administration. The system of money payments which exists in Tonga has, besides, worked satisfactorily, while in Fiji the system of payment in kind has afforded less good results. Moreover, the Samoans are accustomed to pay their taxes in money.

From political reasons the payment of taxes by giving arms in lieu of money might perhaps be taken into consideration.

Ad. 2 and 3.—Boats and fire-arms are suitable objects for a tax on property. The rates provided for are fixed at an exceedingly low figure. It may well be assumed that there are over 2,000 guns in the country. At first, however, payment of the taxes will be frequently eluded.

Ad. 4.—

LAND TAX.

The land taxes on houses and other real estate, serving for commercial purposes, which are already in force in Apia, can be maintained at the same rate of 1 per cent. ad valorem; as yet they have given no cause of complaint. The revenues will be considerably increased by a valuation representing more accurately the real values, as well as by the increased activity in building on the part of foreigners who may be expected to flock in in consequence of the establishment of an orderly state of affairs. The value of the houses and other establishments outside Apia is put, after a careful examination, at \$200,000. A direct taxation of the plantations is not intended, as they are already affected indirectly by other taxes, such as the dues for the control of laborers (Arbeitercontrollgebühren) or those levied on the importation of laborers, and the exportation of products, and as, besides, it would seem to be in the interest of the Government to encourage the cultivation of plantations.

Ad. 5 and 6.—Controlling dues (Kontrollsteuern) on all sorts of plantation laborers and import dues on laborers. It seems appropriate that a tax should be raised for the control exercised through the authorities over the laborers; in the same way a tax on each imported foreign laborer is justified.

Ad. 7 and 8.—A valuation of the revenue to be derived from the dues levied for the registration of contracts of sale, as well as from stamp-tax levied at the rate of 1 per cent. ad valorem on all documents relating to the transfer of property is almost impossible; but in any case the figures set down are estimated at a very low rate.

Ad. 9.—

TAXES ON TRADES (GEWERBESTEUER.)

The municipality of Apia levies a trade-tax on all commercial businesses, on ships engaged in trade there, on artisans, and commercial clerks. It is advisable to maintain these taxes. A more accurate valuation, the immigration of foreigners, and the taxation of all trades pursued outside Apia, will probably result in greater increase of revenue than that estimated in the budget. Special mention must be made of the ships calling at the harbor of Apia for commercial purposes (trading vessels). They have not approximately the same expenses of business that the resident merchants have; they turn over their capital more quickly, and have, by existing regulations, only to pay a single tax of \$10. For the protection of native industry it is desirable that ships of this sort should be subjected to a due five times as great.

Under 9, III, provision is also made for a trade-tax on white laborers.

Ad. 10.—The license tax for taverns now yields to the municipality a return of \$775. By raising the rate of this tax itself as well as by an increase in the number of taverns, which is to be expected in consequence of the greater influx of foreigners, an increase of revenue to the amount of \$1,000 may be reckoned on, and all the more so as the taverns established outside Apia will now be subject to the tax.

Ad. 11 and 12.—The rates set down under the items "statistical commercial dues on imports and exports," and "import duties," have been arrived at after careful investigation of the statistics hitherto known, and by following the principle that as small a burden as possible shall be laid upon commerce. For imports a duty of 1 per cent. ad valorem seems appropriate; the tax on exported products will be about $1\frac{1}{2}$ to 2 per cent. In the budget drawn up by an American, Mr. Moors, provision was made for a tax of 3 per cent. The smaller rate of 1 per cent. here set down relieves the Government of all the apparatus of customs officers. The collection of the tax can be left to the harbor-master. This is taking for granted that Apia should be declared the only port of entry, an arrangement which will not be found burdensome by anybody, and which will also prove useful for the control of navigation.

Ad. 13 to 17.—With respect to the pilot dues, it is believed that they will undergo a small increase. This has in fact been already effected by the new German steamer communication, and will be still more the case in consequence of the increase of shipping which is to be expected. The judicial fees and fines can not be approximately calculated. The figures set down appear very low. The revenue to be derived from the postal service has been calculated on the statistical returns of the municipal postmaster in Apia.

Mr. von Alvensleben inquired what length of time the King should be chosen for, and suggested that that might be left for the natives.

Mr. Bayard said he thought so; he preferred to follow the Samoan customs and traditions.

Mr. von Alvensleben said he thought his Government might not object to a vice-king, but he wished for the present to reserve his opinion on that subject.

Sir Lionel West said his Government might object.

Mr. Bayard said he had suggested it in his original proposition in order to enable the Samoans to gratify their recognition of their leading people, as well as to provide for a succession in case of the death of the King.

The conference then adjourned to meet again at such time as should be agreed upon.

T. F. BAYARD.

ALVENSLEBEN.

L. S. SACKVILLE WEST.

PROTOCOL OF THIRD SAMOAN CONFERENCE.

Confidential.]

DEPARTMENT OF STATE,

Washington, July 9, 1887.

Mr. Bayard said that at the last meeting Mr. von Alvensleben seemed to withdraw or qualify his objection to the Faipule. With a view to simplicity in the Government, and with a disposition to concede everything that might be done for coming to an agreement, he had not stood upon that point, and he desired to know what ideas Mr. von Alvensleben would approve in relation to the Faipule.

Mr. von Alvensleben said it had been agreed that there should be a king and a council of native chiefs. It might be well, instead of keeping the whole Taimua as a council, to take the principal chief, or such as may be appointed from the Taimua into the king's council, and thus do away with the Taimua as such. The Taimuas really do the business, not, however, without conferring first with their Faipules. By taking some members into the king's council from the Faipule these also might be done away with. But the Faipules might as well be kept, with only a consultative vote on Samoan matters.

Sir Lionel West said then it would not be a legislative body.

Mr. von Alvensleben said they might be a legislative body, but would only have a consultative vote. Their powers should be limited. They ought to have the right of accepting or rejecting the propositions made to them by the King and the council. The more you limit this body the more easily it will be managed.

Sir Lionel West asked whether they might not do away with it altogether?

Mr. von Alvensleben said he had no objection, but he thought its preservation might bring the Samoans more readily to accept this arrangement. If it was thought better to do away with it, he had no objection. And perhaps the Taimuas might also be called together every year, only to select a certain number out of their body who should for a certain time—for a year, or two, or three—belong to the King's council. This would still reduce the number.

Mr. Bayard said he understood that Mr. von Alvensleben's suggestion was that their duties should simply be consultative, and that he did not propose to give legislative power.

Mr. von Alvensleben said: To the King and council, yes; but not to the Faipule.

Mr. Bayard said that was the only one they had under consideration—the legislative branch which he proposed, but which was rejected by both the other members of the conference.

Mr. von Alvensleben said that if Mr. Bayard thought it better to do away with the Faipule he had no objection.

Sir Lionel West said he also had none.

Mr. von Alvensleben said if it was thought to be in the interests of the whole settlement, and of disposing of the matter favorably, he had no objection to keeping the Faipule.

Mr. Bayard said his idea of the whole matter was that the simpler their scheme for the government of this people the better; but he would be strongly disposed to respect their traditions and customs as far as may be, and let them have those governmental bodies that they have been accustomed to, and if the Faipule was one, to maintain it.

Mr. von Alvensleben thought there was no difficulty. There would be no objection to keep them on. It would perhaps be well to reduce them in number and to limit their legislative powers. They should only be allowed to accept or to reject what was submitted by the king's council. They could then do no harm.

Mr. Bayard inquired whether he meant that their consent should be essential to the enactment of measures.

Mr. von Alvensleben replied, yes, in native affairs. He should like to repeat that he was quite ready to do away with it if that was preferred.

Mr. Bayard then referred to the land question. His suggestion was that a land court should be formed, before whom all claims for lands in the islands should be

brought and whose decision should be final; but it had been suggested that a land commission should precede the land court, so that there should be an appeal. His comment upon that was that it was an unnecessary complication of duties and a reduplication of officials, costly, and tending to conflict, and opposed to that simplicity in the affairs of this very simple people that he thought one of the wisest features of his suggestion. There was no complex system of landlaws in Samoa.

Sir Lionel West said there was not even a basis of a land system.

Mr. Bayard said consequently no great learning in land laws was required by the adjudicators. What was needed was substantial justice, of which the first element was honest dealings between the persons who had acquired these lands and those who were the prior owners or controllers of them. He could not perceive any necessity whatever, but, on the contrary, a good deal that was useless and embarrassing, in having two sets of men to act upon these questions. International commissions had been frequent, before whom had been brought questions of boundary between adjacent countries and questions of losses growing out of claims mutually against the parties, but he had never heard in any case that it was necessary to precede the tribunal of arbitration and settlement by another commission to sift out in advance, and he thought it would be difficult to find a precedent for it.

Sir Lionel West then read to the conference the following observations:

With regard to the proposed land commission, Her Majesty's Government are strongly of the opinion that it will be found necessary to facilitate the labors of the land court when established. Land claims in Samoa are of a very complicated nature, and it will be absolutely necessary to collect such preliminary evidence in order to facilitate the final decisions of the special court. The obtaining of such evidence and the adjustment of existing disputes by mutual concessions could not properly be confided to a final court of appeal, whose judicial competency might be thereby impaired. It appears to me that the labors of the commission which it is proposed to appoint should be directed to the collection and classification of all existing claims, which can not be adjusted by compromise, for submission to the land court, which, after pronouncing upon them, would, for the future, be free to deal with all land questions arising upon their own merits. It must be borne in mind that not even a basis of a land system prevails in Samoa at present, and it is this basis which it is sought to establish by the preliminary labors of the commission. If this principle is admitted, the composition of the commission and the nature of its labors will have to be defined.

Sir Lionel West said that was the opinion of his Government, which they strongly recommended.

Mr. Bayard said he did not precisely understand what the question of complication of title was when it is admitted that there was no system under which the titles had come. It was agreed upon as a fact that more land was claimed by foreigners in this group than the islands themselves contain. That alone shows the necessity of examining the base of claim by foreigners to any land at all in Samoa.

Sir Lionel West said: But not by a judicial court in the first instance.

Mr. Bayard said it was merely a question whether the means was appropriate to the end. His experience in the United States in dealing with land questions led him to believe that they could remedy the scandal of crowding these people out of existence on their own soil.

Sir Lionel West. In the future, yes.

Mr. Bayard said it was done already, according to these claims. Those people are asked to give up all their land absolutely, and yet to live honestly. The best thing they could do was to rectify so gross a condition of things as that implied, and they all agreed as to that. The question was merely of appropriate means to that end. In his judgment, if a competent court was established under the influence of the three treaty powers, such court to consist of three foreigners and two natives, and it was agreed that upon the fact being made known that they are duly commissioned and sworn to do justice in these land cases, that all of the land claims, without exception, should be brought before them—what use and what part a commission could play in that he could not see. The court could cause to be filed before them within a stated period the claims of every foreigner to land in Samoa, accompanied by his muniments of title, whatever they may be. There was no necessity for a commission to summon people to file their claims. If notice was given of the appointment of a land court and proclamation is made that before them were to be filed all the claims for land in Samoa, those who did not make the claim to land would be supposed not to have any, and those having claims would come forward and support them with proper testimony. It would not be a question of the commission hunting up claims.

Sir Lionel West said there were a good many cases which might be settled by a commission and not go to the court at all.

Mr. Bayard said a court was just as simple in its operation as a commission could be, and all the results of substantial justice would be reached by single adjudication, which with a single body could be speedily had. Many of the claims were no doubt

honest and would be readily established. In other cases, of persons having large amounts of land improperly obtained for improper considerations under fictitious or constructive grants, the land court could pass upon them instantly and decide upon them justly without the interposition of a land commission. The commission, in other words, could do nothing the court could not.

Sir Lionel West. In your opinion the commission will not facilitate the court.

Mr. Bayard. On the contrary, it would embarrass it, and would increase our difficulty in finding the number of competent persons for these tribunals.

Sir Lionel West said his government were strongly in favor of the commission, and Mr. von Alvensleben's government was also.

Mr. von Alvensleben said the intention of his government is also to facilitate, and the commission should be organized principally for the reason that it would make the settlements easier. He had been told that there were very many claims, and that there was not one spot of Samoa that was not claimed either by foreigners or by Samoans, or by both, and there were many lands which have been sold two or three times to different people, and he knew from very good authority that such cases would be presented where one Samoan sold it to one foreigner, another Samoan came and sold the same to another foreigner, and thus the claim stood. It had, perhaps, been surveyed by the one and not by the other, so that the claimants' cases would be easily settled as soon as they saw that the commission only wanted to act with fairness.

Mr. Bayard said he was still unable to perceive what function the commission could perform that the court could not equally and more efficiently perform, nor could he see any use of passing these proceedings through two tribunals. The court should be invested with power to call on every man who claims to own and hold land in Samoa to lay before them the groundwork of his title, and he must come and uphold it, otherwise he would be without that validation of his title which is essential in Samoa. International commissions had been many, arbitrations had been many, and such a thing as preceding the judgment of arbitration by the finding of a commission was unheard of.

Sir Lionel West said, not the finding of the commission but the collection of evidence.

Mr. Bayard said the object of the commission appeared to be only to make business for the court, which could, however, call all the cases into its cognizance and settle them.

Another matter he desired to mention was the question of the creation of a single mandatory, or the placing of powers in the hands of three chief executive officers, who should represent the three treaty powers, the King being the fourth and a native to be the fifth. The effect of such a tribunal would be to give the three powers combined a majority and the decision. He could not see how the principle upon which we have agreed for the establishment of government in Samoa could be accomplished under the German plan.

Sir Lionel West. Which is approved by my government.

Mr. Bayard said he did not understand that it was approved. He did not understand that Sir Lionel had any definite proposition on that point. It seemed to him very plain that if the German plan was followed it would necessarily result in creating those islands, whatever might be their nominal government, into a German possession, and that was not in accord with the plan on which they had all agreed in the beginning of this conference.

Sir Lionel West then read the following paper in regard to the mandatory scheme: "It is admitted by the three powers that foreign intervention can alone insure the stability of the native government which it is sought to establish in Samoa, and that the tripartite control which has heretofore been exercised has proved abortive. The mandatory scheme does not involve the recognition of any preponderating interests which, as the Secretary of State has justly remarked, ought not to be taken into account in dealing with the matters before the conference. The German Government, as well as Her Majesty's Government, moreover, do not assert preponderance of interests as an argument in favor of the scheme. Indeed, they have asserted that there shall be absolute equality of treatment in respect to commerce, navigation, and jurisdiction, should it be adopted, but Her Majesty's Government are willing, seeing the great interest Germany has in Samoa, to accord to the German representative the first term of five years as the mandatory of the other two powers. Her Majesty's Government do not see that any exclusive control is involved in this arrangement, as under any circumstances the mandatory power can only be exercised with the consent of the other two powers, and it seems, therefore, a matter of small importance which power should be the first to exercise it. The argument in favor of the mandatory scheme is that it will prevent the control from falling into the hands of those connected with local interest and do away with the tripartite control which has been the cause of so many disputes, and which has, in fact, led to the present conference. It is to this end, therefore, that Her Majesty's Government favor it as the only measure of establishing a salutary foreign control. I would submit that the scheme, proposed under

No. 5 of the Secretary of State seems to fall short of this object, inasmuch as it leaves the door open to the same local influences that have hitherto prevailed owing to the difficulty of insuring impartial nominations in the king's council."

Mr. Bayard said he observed Sir Lionel spoke of the government that was first to take the mandatory office. Did he mean that there was to be an alteration, and that the power taking it first, after a term of years, was to be succeeded by another?

Sir Lionel West said it would be alternative, with the consent of the other two.

Mr. Bayard inquired what was the object of saying first? Why not say perpetual?

Sir Lionel West said it must be alternative if it came once to each.

T. F. BAYARD.

ALVENSLEBEN.

L. S. SACKVILLE WEST.

PROTOCOL OF FOURTH SAMOAN CONFERENCE.

Confidential.]

DEPARTMENT OF STATE,
Washington, July 16, 1887.

Sir Lionel West said that, as there was some misapprehension about the phrase "alternate control" in the memorandum which he submitted at the first conference, he desired to present the following paper:

"There seems to be some misapprehension as to the meaning of the phrase which occurs in the memorandum which I submitted to the first conference, and of the remarks thereupon in the last conference. The phrase "alternate control for a limited time" does not imply the representative of each power shall be elected the mandatory in rotation, but merely indicates that the mandatory scheme bears an alternate character; for should German preponderance cease at the end of the first five years the next power possessing it in succession would, according to the German plan, exercise the mandatory power. It is distinctly understood that under the German plan prepondering interests for the time being should be taken into consideration in deciding the question as to which power should designate the representative under the approval of the other two powers."

Mr. von Alvensleben then read the following paper:

"Concerning the nomination of the adviser of the King as the mandatory of the three treaty powers to be appointed with the concurrence of the two other powers by the power whose interests are prepondering there for the time being, Mr. Bayard repeated at the last meeting an intimation he had already made at the former meeting, that whatever may be the nominal government of the Samoan Islands it seemed to him very plain that if the German plan was followed it would necessarily result in creating them into a German possession. I presume that by referring to Germany in this association Mr. Bayard intended merely to exemplify his objection to the mandatory scheme in general, and that if, for instance, under the proposed conditions and terms the United States were called upon to make the nomination, Mr. Bayard would raise the same objections, for the reasons that these islands could not be prevented from becoming an American possession. I am, however, satisfied that the Imperial Government would readily concur in such appointment, not entertaining any apprehension of the kind alluded to by Mr. Bayard, a similar result being beyond any doubt excluded if the guaranties contained in the German proposition be secured. I desire at the same time to express my regrets that the sudden end put to our last meeting prevented my making these remarks already then."

Mr. Bayard said the papers read by Sir Lionel West, and also by Mr. von Alvensleben, in some degree anticipated the very matters he wished to bring before them. The proposition, as he understood it, of Germany was that a preponderating interest in land and commerce should determine the selection of the chief executive officer of the proposed new government, who should hold that power for a term of years; and then came the question at the end of that term what was to become of the office and powers so exercised? Perhaps the best answer he could give to his proposition was that the exercise of this power should alternate. There was in his mind what he supposed to be the admitted basis of this entire discussion, that is, the equality of the three powers; and it mattered not whether the mandatory was an American, or a German, or an Englishman, the result of perpetuating power in the hands of either would have the same result. There was not the slightest meaning in the illustration made by him of the deposit of this power in the hands of the German which would not have been equally applicable to the vesting of the power in an American on the same principle. He had understood Sir Lionel West's former statements to propose that the exercise of the mandatory power should be alternate, but owing to Germany's great interests she should have the appointment for the "first term of five years." That, however, seemed to be qualified by the paper just read by him.

Sir Lionel West said that the power might be exercised in alternation; but there was a great difference between alternation and rotation.

Mr. Bayard said he had not the slightest desire to see the American influence preponderating over the German or English; but he did desire to see the native influence upheld by all three equally and for a common purpose. The effect of exercising mandatory power in alternation would be to impose a wholesome check upon a disposition to abuse it. If an American should be chosen as the mandatory (he would not say German, because it seemed to have led to criticism), the reflection that at the end of his term he would have to hand the power over to an officer of another Government would greatly lessen the inducement to be partial toward his own countrymen and their commercial interests. The selection of any power because it had the preponderating interest seemed necessarily to tend to make that which was strong still stronger, and that which was not so strong still weaker. The effect of the mandatory power in the islands would not be confined to the interests of the three powers. This is not the case of the unopposed occupation of an empty country. It is the case of a community, primitive people, whose existence and rights the three treaty powers have separately and voluntarily recognized by solemn treaty. He did not think any arrangement permissible that would allow the Samoans to be crowded out of their natural and native homes.

He desired, also, to advert to the importance of the practical neutralization of the islands, both to the safety of the islanders and their commerce. The recognition of a preponderating commercial interest, and the power of political control in any one foreign power, would certainly endanger that neutrality if that power should become involved in war.

Mr. von Alvensleben inquired whether Mr. Bayard still maintained No. 5 of his original proposition, or whether he made a new proposition that the mandatory should be chosen by the powers alternately.

Mr. Bayard said he still believed in the subdivision of powers; that if there were only two ministers, one of foreign affairs and commerce and the other of the interior and treasury, there would still be a check upon the disposition to misuse power.

Mr. von Alvensleben then read, in relation to Mr. Bayard's proposition No. 5, the following paper:

"By adopting Mr. Bayard's plan to put the executive power into the hands of five, the powers would follow precisely the same course of policy which has led, as is generally acknowledged, to the most unsatisfactory results in Samoa. A co-operative assistance of the three powers in the sense of Mr. Bayard's suggestion has hitherto taken place only in the municipal board at Apia, but it has been proved that such a threefold co-operation is not only ineffectual but injurious to the utmost degree to all foreign interests, as well as to those of the natives. After such an experience, fully confirmed by the reports of the special commissioners, especially those of Mr. Travers and Mr. Bates, who, in plain terms, assert that the three-party control would be inappropriate means to arrive at the solution of the task of this conference, it ought, under all circumstances, to be avoided to take a similar scheme into consideration, with a view of assisting the Samoans in their management of government affairs. According to Mr. Bayard's plan, the tripartition existing, as stated, at present only in the municipality of Apia shall be extended to the executive power of the new government, with the only difference that not the three consuls, but the same number of foreigners, one of them to be nominated by the three treaty powers, shall be invested with the respective functions of the three highest officials. Without dwelling upon the obviously very considerable difficulties of finding among so small a foreign population persons fit to hold so important offices, I think it necessary to point out another serious objection to which Mr. Bayard's plan gives rise. The latter, as I understand it, can aim only at such persons who have not been involved or compromised in any way in the events of the last years. On the other hand, it may well be assumed that all prominent foreigners, and the very persons who would alone have the qualifications for such officers, have been obliged, in the course of events, to support one party or the other in the disputes or political strifes, and it would seem to be demanding a superhuman self-denial that those persons should suddenly break with their entire political past. In my opinion, it would be in direct opposition with the object of this conference that a rivalry of the influence of the three powers, which, as they themselves acknowledge, is the principal cause of the unsound condition of the state of affairs in Samoa, and which, consequently, ought to disappear, should again be solemnly sanctioned and revived in the new organization of the Government, although in a somewhat different shape from what it is in the municipal board. The purpose of this conference is to secure lasting peace and order, and in this respect the interests of the natives and the foreigners are identical. However, by adopting Mr. Bayard's plan the conference would lay the germ of death at the very bottom of its reformatory work and incur the grave responsibility of having done so deliberately; that is to say, without paying due attention to the experiences made in Samoa, nor to the warnings which are contained in the reports of the special commissioners, forming

the basis of our negotiations. It being acknowledged that the natives in Samoa are unable to create or maintain any government without the support of the powers, assistance must be lent them in the most efficient manner. The first step in this direction must be that the powers keep a united position towards the Samoans and that this united position finds expression in their common organ, the recognized adviser of the Samoan Government. Only in such a way it will be possible to elude all party intrigues from the very beginning, as the natives would then be aware that no political party whatever could count upon any assistance from one single power. I may be allowed to quote from Mr. Thurston's report, giving a characteristic of the Samoan people. Under 109 it is said: 'The great object of a Samoan party when seeking to gain an ascendancy is to intrigue for foreign support, and hence much of the trouble that has arisen.'

"The proposition of the Imperial Government, according to which the power having for the time being the preponderating interests in Samoa shall have the right of nominating the adviser, is now before the conference. The co-operation provided for by the two other powers with regard to the nomination, the limitation of the term of office to five years, the proposed expressed declaration to secure to the three treaty powers and their subjects in Samoa entire equality of treatment with regard to commerce, navigation, and jurisdiction, and other matters, are sufficient guaranties to remove from the very beginning the danger that by transferring that mandate to one power a political monopoly would be established in favor of the latter. A further very efficient guaranty of the same kind is to be found in Article IX of the draught convention which I had the honor to lay before you, suggesting that an express and repeated declaration should be made of the independence and neutrality of the Samoan Islands. I therefore conclude that it is not the German but the American plan which is inconsistent with the principles of this conference."

Mr. Bayard said he would like to say another word about the question of having both a land commission and a land court. The Samoans were the natural owners of the soil, but suddenly, in the course of ten years, a lot of claimants had sprung up from foreign lands who actually demanded more than the soil itself contained. For that reason he thought it the right of the Samoans as a people to have citation made by the land court to all the foreign holders of land on the islands, in order that their titles might be brought before that court for examination. He did not understand what compromises the land commission could make or approve that the court could not equally approve. But it would be very little satisfaction to the Samoan natives to have a compromise adjusted by this land commission between two foreigners, neither of whom had any right to the land they were disputing about. The court, upon its organization, could issue its proclamation calling for all claimants of title in Samoa to file in that court by a given day a statement of their claim to title, whence derived, with plats and surveys, if any, so that the court could pass upon them. If there should be a question of conflict of title between the two claimants, involving questions of fact, it would be in the power of the court to appoint commissioners to ascertain facts; but that was not the thing meant by the word commission in the proposition of either of the other members of the conference.

Mr. von Alvensleben said it was a board, which is a beginning, and which is entirely temporary, intended to cease after the general claims have been looked into and those settled which could be settled by the land commission. Then it will cease and there will be left a land court.

Mr. Bayard said he should not stand in the way of this piece of machinery if it was considered, upon reflection, desirable to the end. If it was proposed that the commissioners should have some duty in connection with the settlement of land questions, which was not final, but that in the end there was to be final control in the land court, his object would be reached, because it would be provided that every land title in Samoa should be subjected to the examination of that court, and that claimants of title should be capable of being summoned in the public interest and not in that of the rival claimants. Claimants should not rest undisturbed in the possession of land that belonged to Samoan people, and for which the present occupants had never given a valuable consideration. If these simple, primitive people have no other means of support than agriculture, and their lands are taken from them, no matter how, there is nothing left for them but to be subjected to the most wretched servitude or else to die. He thought against that the most substantial provision should be made by electing a tribunal who could call before them everybody holding land in Samoa, and compel them to show their titles.

Sir Lionel West said the idea of the commission was simply to facilitate this, and he thought it would.

Mr. Bayard said it was a question of judgment, and he had submitted his reasons for thinking differently. It would be difficult to get men in Samoa for the two bodies.

Mr. von Alvensleben said he thought these gentlemen ought to be sent out from abroad, because every foreigner and every Samoan is engaged and interested in the land question; that Mr. Bayard had said that if there was a single court, composed

of three foreigners and two natives, foreign interests would be protected, but this would not follow, because the foreigners had never kept together.

Mr. Bayard observed that perhaps that was right.

Mr. von Alvensleben said his Government, at any rate, felt the greatest sympathy for the Samoans, and meant to help them in a sincere way.

Mr. Bayard said he felt that he could not perform a more benevolent service to the people of Samoa than by having the land titles in the kingdom overhauled.

Mr. von Alvensleben said his Government was of the same opinion, and he read, in illustration, from the memorandum on land disputes submitted at the second conference, the following :

"This sort of dispute is to be withdrawn from the cognizance of the consuls and from the jurisdiction of the English high commissioner respectively ; it is consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of the dispute is situated. In the present case, however, it must be further taken into consideration that, in the absence of any sort of legal provision as to the conditions, requirements, and formalities necessary for the valid transfer of land, and in consequence of the utter complication existing in the ownership, irregularities and it may be acts of injustice have occurred, which absolutely demand an impartial decision based upon a thorough examination and investigation of the matter.

"Such disputes are to be settled in a uniform procedure and according to uniform principles to be previously laid down by the treaty powers with the agreement of the Samoan Government, by an authority to be specially instituted, and in the last instance by a land court to be specially created. For this purpose it would seem advisable, after establishing the general principles on which the decisions as to the validity of land transfers are to be based, first to appoint a commission composed of three members, each of the three treaty powers naming one. Before this commission all claims which are raised by foreigners with regard to land in the Samoan Islands must be filed within a certain period ; the claims must be accompanied by the titles and other documents or duly authenticated copies relating thereto."

Mr. Bayard said that proceeding in his mind upon a theory of what he might call the rights of the State of Samoa in these cases, which were very distinct, and oftentimes adverse to the rights of these foreign claimants, it was the right of Samoa to call all these claims into court and compel a submission of the claim of title to the land commission or court, because there was a great deal of public land occupied by people having no right to it. Such persons would desire no contest, for they were content with their possession ; but he proposed that they should be called into court and their right to occupy should be established by them or else they lose it.

Mr. von Alvensleben said that as soon as any political adventurer got to the islands the first thing he did was to tell the Samoans, "You must trust me ; I will get all the land back for you ; I will take it away from the foreigners and you will get it." As soon as they learn that it is intended to regulate the land claims, they will come forward with no end of claims ; but as soon as they see there are certain rules established, and that the foreigners do not mean to deal with claims not justified, they will be willing to come to an amicable settlement.

Mr. Bayard inquired whether he agreed that all land titles in Samoa ought to be overhauled ?

Mr. von Alvensleben said he thought there ought to be some limit how far to go back. He thought they ought not to go further back than the time of the English and German treaties.

Mr. Bayard said that as the American treaty was the first, he was willing to go back to that. As it was agreed that there should be an overhauling of land titles, the question is, who is to do it ? How could the commission proposed by the other members of the conference settle the question where a Samoan was concerned ?

Mr. von Alvensleben said his proposition was that the members of the commission were to be appointed by the Samoan Government on the proposal of the treaty powers. It was further said in his memorandum—

"As far as the title deeds do not in themselves offer room for doubt as to the legality of the acquisition, all lands acquired before the conclusion of the German-Samoan and English-Samoan treaties, respectively—that is, before the 24th of January and 28th of August, 1879, respectively—and also, under the same conditions, all lands which, within the last two or three years, have been put under cultivation by the new owner, shall be registered as validly acquired without prejudice to the claims of third persons. On the other hand, the acquisition shall not be regarded as legal, and registration shall be provisionally refused in cases where the claimant is only in a position to produce, as a proof of his legal acquisition of the land, a so-called promise of sale, as well as in cases where the land has not been surveyed within two or three years following the conclusion of the sale, or where the deed of sale contains no precise description of the boundaries of the land sold, or where at the time of the conclusion of the contract the price of the land has not been paid in full to the seller, without

prejudice, however, to the claimant's right to demand a judicial decision. The commission shall be invested with the right of citing before them, through the local authorities, for examination, and of hearing as witnesses, the sellers and any other persons whom they may think fit to supply information. A very important question, especially touching land disputes between foreigners, concerns the determination of the right of ownership and disposition of the land sold on the part of native sellers. Numerous cases will present themselves in which one and the same piece of land has been sold by different persons, styling themselves the owners, to different parties, or in which pieces of land have been sold by persons whose right to the ownership and disposition of that land is disputed on the part of other Samoans. In this case the commission shall be empowered through the local government of the district in which the disputed land lies, to institute a native commission to determine the seller's right of ownership and to lay the result of such investigations, together with the underlying motives, before the foreign commission; this decision, however, shall not be binding on the latter. Such native commissions would have also to be charged with the examination, and, if required, with the decision of land disputes existing between the Samoans themselves. Pieces of land which for ten years or more have, without dispute, been cultivated, or at least made use of by foreigners, shall, without further inquiry, be regarded as property legally owned or acquired by prescription."

Mr. von Alvensleben said they needed a native commission to help in these cases. Sir Lionel West said that was his idea; that the commission should facilitate.

T. F. BAYARD.
ALVENSLEBEN.
L. F. SACKVILLE WEST.

PROTOCOL OF FIFTH SAMOAN CONFERENCE.

Confidential.]

DEPARTMENT OF STATE,
Washington, July 21, 1887.

Mr. Bayard said that in the protocol of the second conference a number of agreed points were stated, one of which was that there should be a free and unawed native election of a king, without the interference of foreigners. The proposition submitted by him at the first conference was for the election of a king and vice-king. His object was to recognize the customs and wishes of the Samoans, and to provide for a succession in case of the death of a king, so that there would be no interregnum. He was still disposed to include in the plan of government the election of a vice-king; and he desired to submit whether it would not be well, if the king and vice-king should be elected for a term of years, to provide that the term should last until a successor was chosen, in order to prevent an interregnum.

Sir Lionel West inquired whether he meant that the king should be elected for a term of years?

Mr. Bayard said he was disposed to follow the customs of the country.

Mr. von Alvensleben said he also thought the customs of country should be followed wherever it could be done.

The election of a vice-king was then placed among the agreed points.

Mr. Bayard then referred to the question of a Faipule, and inquired whether there was objection to that?

Sir Lionel West asked whether he would make it a legislative body?

Mr. Bayard said it should retain whatever its function was before.

Mr. von Alvensleben said they did not meet regularly, although no matter of importance was transacted without their being consulted about it.

Sir Lionel West said he supposed it might be called a legislative assembly.

Mr. Bayard said that he had found the Faipule in the commissioners' report of existing customs as a legislative assembly, and for that reason he had retained it as such in his plan. The question was whether it would not tend to give satisfaction to the people to have this popular assembly to which they could send their representatives.

Mr. von Alvensleben inquired whether it would not be best to agree that the Faipule should exist, but not to define its powers yet. This would be left to a further understanding. The Taimua would be taken into the king's council.

Mr. Bayard said that it might be agreed that the election should cover a king, a vice-king, and a Faipule, without any further definition as yet of the Faipule power.

Mr. von Alvensleben said that the Faipule should be elected by districts on a certain ratio of population—say, as proposed, one representative for every 2,000 of population, and not over the whole country, because the Samoans would not understand it.

Mr. Bayard said he understood that there would be required the aggregate vote of the whole group for the king and vice-king, but that each district would elect its own representatives to the Faipule.

Sir Lionel West said by that they recognized the broad principle of an elective assembly.

Mr. Bayard said: Yes.

Mr. Bayard then referred to the land question, in respect to which there were three propositions before the conference. On page 3 of the protocol of the first conference it would be found that he had proposed a single land commission or court, of original and final jurisdiction, who should inquire into the nature and extent of each and every land claim by foreigners. It was proposed that this commission should consist of five members, appointed by the king, three to be appointed on the nomination of the powers, and the remaining two to be selected by the king, in order to recognize Samoan customs in relation to land.

In the paper submitted by the British minister at the first conference, it was proposed that there should be an "international land court," and that in order to facilitate its workings, "the existing land claims of foreigners should be disposed of by a commission," previously to the establishment of the international land court (Protocol, 1 Conf., p. 7). Before coming to the German proposition, he desired to ask whether the plan of Great Britain contemplated anything more than a commission in aid of the court; and whether that was the extent of the machinery proposed by the British Government to test the land question?

Sir Lionel West said it was.

Mr. Bayard said that in the paper submitted by the German minister at the first conference, it was said that "the irregularities which are known to have occurred in regard to the acquisition of land, and the disputes to which they have led between foreigners and natives, make it appear expedient to consider the establishment of a special international court for the decision of claims and disputes relating to lands; and it was further said that in the composition of this court due consideration will have to be given to the nationality of the parties." (Protocol 1, Conf., p. 6.)

In the second conference the German minister explained that the international body would constitute merely a commission to prepare for the court; and he submitted, by instruction of his Government, a memorandum on land disputes, containing a scheme of procedure. In his memorandum it is declared to be "consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of dispute is situated;" and it is then proposed first to appoint a commission composed of three members, each of the three treaty powers naming one. Now, agreeing to the doctrine that disputes concerning realty should be decided by the laws and courts of the country in which it is situated, it seems that the courts whose judgments were to settle those conflicting claims ought to contain a native element. If, in addition to the three foreigners, there were two natives in the tribunal, the result would be that in the discussion of cases prior to judgment a knowledge would be given of native customs, and native rules in respect of the transmission of land. The opinions of the two natives would not be conclusive upon the other three judges, but would inform them, and the further object would be reached that the natives would feel that whatever the decision, they had a voice in making it, and they would pay greater respect and more voluntary obedience to the tribunals in which their customs and people had been fairly represented.

He had been unable to change his opinion that there is no function which the two bodies, the commission and the court, can perform, which the court could not efficiently perform with more directness and less complication. Still, if Great Britain and Germany agreed that it was desirable, he would, in order to reach an agreement, recommend the establishment of a land court, and also of a land commission who may perform preliminary functions of arranging business, with the understanding that the final decision rests with the court. He inquired whether the theory of the British suggestion went beyond this.

Sir Lionel West said: No, not at all. You have described it.

Mr. Bayard said: Then the statement I made last will be satisfactory to your Government?

Sir Lionel West said: I think so, thoroughly.

Mr. Bayard said he hoped it would be so to the Government of Germany, although he found in the more elaborate plan of the German Government a pursuit of the idea of commissions that was not very definite. In this plan, submitted at the second conference, it was declared to be "consonant to the general principles of justice that disputes relating to real estate should be decided by the laws and courts of the country in which the object of the dispute is situated;" that, owing, however, to the condition of Samoa, it is necessary that the disputes there should be "settled in a uniform procedure and according to uniform principles to be previously laid down by the treaty powers with the agreement of the Samoan Government, by an author-

ity to be specially instituted, and in the last instance by a land court to be specially created;" that the first body or commission should consist of three members, each of the powers naming one, to be appointed by the Samoan Government on the proposal of the powers; that before this commission all claims which are raised by foreigners with regard to land in the Samoan Islands must be filed within a certain period, the claims must be accompanied by the titles and other documents or duly authenticated copies relating thereto (2d Protocol, pp. 12, 13); that the "commission shall be invested with the right of citing before them, through the local authorities, for examination, and of having as witnesses the sellers and any other persons whom they think fit to supply information;" that in case, however, of sales by different natives of the same piece of land claimed by all, the commission may institute a native commission, but the decision of the latter is not to be binding on the former. The foreign commission is to be "authorized to give a provisional decision as to disputes relating to possession and ownership of land, or to effect an amicable arrangement. Whenever Samoans are involved as parties in such disputes, the foreign commission shall invoke the co-operation of a Samoan chief to be nominated by the government of the district where the land lies, or of the Samoan judge at Apia." From the decision of the commission there is to be an appeal to the land court, which is to be "composed of a judge nominated by the Samoan Government, and of the consul or of one of the prominent countrymen of the litigant."

Such was the plan submitted by the German minister in detail. It differed in two material points from the plan proposed by the British minister at the first conference. His proposition was, that there should be an "international land court" preceded by a commission. The "international court" suggested by the German minister at the first conference meant the land commission. The "land court" described in the plan submitted by him at the second conference is not international in the sense in which it is supposed that term was intended to be understood when used by the British minister at the first conference to designate the tribunal of final decision. The second point of difference was that the German plan contains a provision for a third commission or numerous commissions to be set up at the option of the principal or foreign commission. Thus, Mr. Bayard said, there were three plans before the conference. The first was that submitted by him for a single body of five members, three foreigners and two natives; the second was that submitted by the British minister for a commission and an international land court; and the third was that submitted by the German minister for a foreign commission of three members to be assisted in certain cases by a native person; a land court whose composition is not definitely stated; and such native commissions as the foreign commission may see fit to call into existence.

It was proposed in the memorandum submitted by the German minister that the "final settlement" of land disputes should take place by the "judicial decision of the land court." But it is to be composed only of a judge to be nominated by the Samoan Government and of the consul or one of the prominent countrymen of the litigant.

He observed that the term "litigant" was employed in this relation as meaning the foreign claimant. The plans says "the consul or one of the prominent countrymen of the litigant." If that was the uniform signification of the term as used in the plan, then it made no provision for an appeal by a native from the decision of the land commission. "The litigant shall have the right of appeal from the decisions of the commission, or of demanding a judicial decision by the land court" (2d Protocol, p. 14). Did this give a native claimant a right of appeal?

Another feature to be noticed in the plan submitted by the German minister for a land court was that while it was referred to as a court of appeal, it had no settled constitution and could not be guided by any settled rules. With such a body, or diversity or multiplicity of bodies, to sit in final judgment, it was not seen how the result of a uniform land system could be expected or reached.

Moreover, the plan for this court did not contain the recognition of a native element, and instead of containing anything like simplicity (he thought the English plan had exceeded practical utility) it would lead to the continual employment of inconvenient native commissions without any uniformity of decision, which, after all, is the great basis of safety as to land title.

Mr. von Alvensleben said he wished to draw attention to one paragraph in his memorandum, namely:

"In the present case, however, it must further be taken into consideration that in the absence of any sort of legal provision as to the conditions, requirements, and formalities necessary for the valid transfer of land, and in consequence of the utter complication existing in the ownership, irregularities, and it may be acts of injustice, have occurred, which absolutely demand an impartial decision based upon a thorough examination and investigation of the matter."

Although the decision of land disputes by the law and custom of the place is a proper principle, there should, in the present instance, be an application of some

modifications to that principle, and his Government wished the Samoans to be heard in dealing with these land claims. He did not think it possible that the natives should belong to the court, as they are too much interested, just as much as every foreigner who is there; and therefore he thought such a commission could only be composed of people who went to Samoa free from local influences, and who were sent out by their Governments. But in order to take into consideration the interests of the natives, they would call native commissions as soon as native interests were involved, and the settlement would be made according to the customs of the country.

Mr. Bayard said that a tribunal of three foreigners might reach a disinterested decision, but that was not what was proposed. The memorandum of the German minister said: "The final settlement of the land disputes takes place by the judicial decision of the land court."

And further: "The latter is composed of a judge to be nominated by the Samoan Government, and of the consul or one of the prominent countrymen of the litigant."

Mr. von Alvensleben said the intention was that this land court should be composed of a judge to be named by the Samoan Government and the consuls or prominent countrymen of the nationalities to which the parties belong, so that the different parties should each be represented.

Mr. Bayard said that was creating, therefore, a special court in each case.

Mr. von Alvensleben said certainly; judges would change according to the nationality of the parties. There will always be a Samoan judge appointed by the Samoan Government, and he would be assisted by the representatives of the parties. If there were two parties of different nationalities engaged in a dispute, they would both be represented. If a German and American, there would be the consuls of the two countries, and they would assist the judge.

Mr. Bayard said: "Suppose a German and an Englishman take an appeal from the decision of the land commission, before what tribunal would they go? Before a judge named by the Samoan Government, a man named by the Englishman, and another named by the German. The litigants would take care to select their own friends, and then the judge appointed by the Samoan Government would make the final decision. Was it supposed that by creating a special tribunal in each case uniformity in decision would be attained? The idea had been to find something as near civilization as possible, and in judicial decisions it was essential that there should be stability and a system; that the laws should be laid down by the court, and that it should adhere to them. And unless there was some uniformity of decision there would be hopeless injustice. If in each case, after the land commission, composed of representatives of the three powers, had acted, there was an appeal in the manner suggested by the German minister, each tribunal would have a law for itself."

Another thing he would notice was the proposition to introduce the consul of the litigant into the tribunal, although the interference of the consuls in other matters was deemed inadvisable on account of their partisanship. He desired to inquire also whether the object of the conference would not be better reached by infusing into the court of last resort a native element which would, as a matter of numbers, be under the control of the representatives of the three treaty powers. According to the plan of five proposed by him there would be native representation and uniformity of decision, and the court would not ask what was the nationality of the claimant but what was the basis of his claim? Besides, in all courts of last resort there ought to be uneven numbers to prevent a dead-lock. According to the German minister's plan if there were three claimants the court would consist of four members.

Mr. von Alvensleben inquired who ought to preside in the tribunal proposed by Mr. Bayard?

Mr. Bayard said he would let the five men select him. This, however, was very important. He might be a German. He would have no more power than the rest. The object of having a presiding judge was to direct the business of the court, and the majority of the court would make the decision.

Mr. von Alvensleben said experience had taught that the foreigners never kept together.

Mr. Bayard said that the foreign officials in Samoa heretofore had not been there as judges under the Samoan Government, but as the official representatives of foreign powers.

Mr. von Alvensleben said that if the five judges were taken from Samoa there would be divisions from the beginning; because everybody there was interested in some way or another.

Mr. Bayard said that if a judge was interested he could not sit. He supposed, however, that men could be found who did not own land.

Mr. von Alvensleben said he thought not. As to the Samoans, they were all related to each other, and the characteristic given of them by Mr. Thurston is that they are rather untruthful, so that they would be quite ready if they could get the favor of any nationality in a land dispute to favor that nationality for that purpose. He was opposed to such a composition of the court as that.

Mr. Bayard asked whether he would exclude the Samoans from all voice in the decision of the titles of land?

Mr. von Alvensleben said he thought the proportion of two Samoans and three foreigners was not according to the plan of his Government. Besides the foreigners in Samoa were certainly not less interested in the land question than the Samoans, so that if one can not find disinterested foreigners there one will have to take them from abroad.

Mr. Bayard said: Suppose you eliminate, for the purpose of discussion, the Samoan element entirely, and you create three judges as a court of final resort; you first let the commission organize and take what testimony they please and make what finding they please. If the finding is satisfactory to the parties concerned it stands; if an appeal can be taken by either it comes before the court composed of the nominees of the three Governments. Would that relieve the question?

Mr. von Alvensleben said: No; that would come almost to the same thing. We say we are ready to have the judge placed by the Samoan Government at the head of this supreme land court, and to have called as his assistants the two representatives of the nationalities concerned. He thought, however, that the principal point of all was that an understanding should be reached in regard to the formation of the government, because all these discussions on the settling of land disputes seemed to him at present but preliminary.

Mr. Bayard inquired whether the land commission was not an essential part of that government.

Mr. von Alvensleben said that the salary of the judges had to be paid by the government, so that he thought the land commission could only begin its work after the government had been established. He had proposed that the judge should be appointed by the Samoan Government. As there was a judge to be appointed by the Samoan Government, he thought it one of the principal things that they should agree on the government, and he asked whether Mr. Bayard stood on his proposition that the powers of the government should be given to five men, or whether he was inclined to accept the German proposition, which is to place the executive power in the king and adviser?

Mr. Bayard said he did not leave the composition of the land court as a separate body to depend upon the composition of the executive branch of the government. If it did the executive power would control the judge. The king of Samoa had already been named. There was also a suggestion of creating a mandatary, having all the powers of the king's office, but not having the name. That has not been agreed to, but it has been suggested.

Mr. von Alvensleben said the mandatary or adviser would have to appoint the judge and the king would have to confirm him.

Mr. Bayard said it seemed to him that that reduced the matter to an absolutism. They embarked upon the conference with a declaration of the absolute equality of the three powers, and that they were acting in an advisory capacity towards the Samoan people, and that they desired to preserve the independence and autonomy of the islands and absolute equality of treatment in respect of commerce, navigation, jurisdiction, etc.; and it is further stated that it was intended that there was to be no inequality whatever in respect to the influence to be exerted by the three Governments upon this community; that, whether their interest was little or large, the basis of their approach to this question was the equality of the three treaty powers in dealing with the subject of Samoan government. At no time, to his knowledge, had he made a suggestion of the inequality of the three powers in dealing with the subject before them. They approached it with equal responsibility and equal right to deal with it. It was understood that they all had agreements in the form of treaties with this people and were disposed to stand by them. This is found in the united representation of the three powers that the existing treaties were to remain. When he submitted his plan for the establishment of peace he touched the matter in such a way as to recognize Samoan rights and interests, and also an equality in the action of the three Governments towards them. The first intimation he found that there was to be an unequal degree of influence exercised by any one of the three powers was in the remarks of Mr. von Alvensleben at the second conference (Protocol, p. 7), in which he says:

"There is only one course left for asserting foreign influence with the Samoan Government, which is so necessary for the general interest, and this is to place one foreign officer at the head of the administration, and to invest him with sufficient rights and powers to take the measures required for the maintenance of peace and order, as well as for the prosperous development of commerce and intercourse. As the authority of this official is to be noticeable in an unequivocal way to the foreigners as well as to the natives, it is commendable that the appointment should not be left to the Samoan Government, but be made by agreement between the treaty powers. At the same time it would appear that the power having to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government."

Mr. Bayard said the executive power should not be given to protect the largest interests in Samoa at all; it was to protect all the interests in Samoa. If a German agent, or governor, or mandatory was appointed he should be appointed just as much in the interest of the American people as the German.

Mr. von Alvensleben said that was understood by his Government.

Mr. Bayard said then it ought to appear as the principle the powers were acting on. It had been said that the "power to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government." If this was to be a government for all, there was no reason why a right should be given to protect certain interests. The German minister had further said:

"It can not therefore be expected that she (Germany) should consent to remain more or less excluded from the efficient control of the country and have it pass to one of the two powers who have less interests."

That was a clear proposition of inequality on its very face. If Germany could not be expected to consent to remain more or less excluded, how could she expect another power to remain so? There was upon the very proposition of exclusion the mark of inequality which is in contradiction to the idea with which the conference began.

In Sir Lionel West's memorandum, on page 7 of the protocol of the first conference, he said:

"Assuming that tripartite control is impracticable, the solution of the difficulty would seem to be an alternate control for a limited period of either one of the three powers. In the event of coming to this agreement, the question naturally arises as to which power shall be chosen the mandatory of the other two in the first instance, and Her Majesty's Government consider that preponderating commercial interests should be taken into consideration in deciding it."

In the paper which he read at the third conference Sir Lionel West said:

"It is admitted by the three powers that foreign intervention can alone insure the stability of the native government, which it is sought to establish in Samoa, and that the tripartite control which has heretofore been exercised has proved abortive. The mandatory scheme does not involve the recognition of any preponderating interests which, as the Secretary of State has justly remarked, ought not to be taken into account as dealing with the matters before the conference. The German Government, as well as Her Majesty's Government, moreover, do not assert preponderance of interests as an argument in favor of the scheme. Indeed, they have asserted that there shall be absolute equality of treatment in respect to commerce, navigation, and jurisdiction should it be adopted, but Her Majesty's Government are willing, seeing the great interest Germany has in Samoa, to accord to the German representative the first term of five years as mandatory of the other two powers. Her Majesty's Government do not see that any exclusive control is involved in this arrangement, as under any circumstances the mandatory power can only be exercised with the consent of the other two powers, and it seems, therefore, a matter of small importance which power should be the first to exercise it."

Mr. Bayard said these two statements seem to him to conflict.

Sir Lionel West said he thought they were in perfect accord.

Mr. Bayard then asked whether he could read, as expressive of Sir Lionel's views, that—

The mandatory scheme does not involve the recognition of any preponderating interests, which ought not to be taken into account in dealing with matters before the conference.

Sir Lionel West said: Certainly.

Mr. Bayard asked Mr. von Alvensleben whether he agreed to that.

Mr. von Alvensleben said he thought that the preponderating interests had to be taken into consideration for the purpose of finding who was to be intrusted with the mandate.

Mr. Bayard asked whether, in the statement "that it can not be expected that Germany should consent to remain more or less excluded from the official control of the country and have it pass to one of the two countries who have less interests," Mr. von Alvensleben would be willing to strike out Germany and insert the United States or Great Britain.

Mr. von Alvensleben said as soon as the United States or Great Britain had the largest interest.

Mr. Bayard said that was not the question. How could Germany expect either Great Britain or the United States to agree to a scheme which would more or less "exclude" them from the efficient control of the country? That placed the matter in a position in which he was unwilling to see it placed.

Sir Lionel West said that he did not understand that the German plan involved exclusive control.

Mr. von Alvensleben said it did not, as all guaranties had been stated which were thought necessary to surround the mandate.

Mr. Bayard said he had adverted to the matter to save time, and he thought that if they could have settled the question of the land commission they would have made a great headway. He looked upon that as being the corner-stone of the whole arrangement, to find some harmonious rule for the regulation of land ownership in the group, and of making consistent decisions in an established court. The German minister, however, had in this relation brought up the question, what was to be the Samoan Government, which was to appoint the land court, and this had led him to notice what seemed to him to be the conflicting statements of the British minister; but as he had explained them preponderating interests ought not to be taken into account in dealing with matters before the conference.

Sir Lionel West said: Certainly not; then we would be unequal.

Mr. Bayard said the proposition in the German plan was to make the preponderating interests the beginning, end, and middle of the whole scheme of government.

Sir Lionel West said he did not see it.

Mr. Bayard said he thought he could show it, and would endeavor to do it at the next meeting, in writing. Under the acknowledgment of the equality of the three powers suggestions had been made which would necessarily create an inequality which would grow; and the land scheme had been brought within the same principle.

Sir Lionel West said his Government had made no specific proposition as to the constitution of the land court.

T. F. BAYARD.
ALVENSLEBEN.
L. S. SACKVILLE WEST.

PROTOCOL OF SIXTH SAMOAN CONFERENCE.

Confidential.]

DEPARTMENT OF STATE,
Washington, July 26, 1887.

Mr. von Alvensleben read the following paper:

"I fail to perceive how Mr. Bayard could draw the inference he did at our last meeting from the statement which closed the memorandum I read at the second conference. This sentence was merely intended to illustrate the mandatory scheme as proposed by the Imperial Government, and cannot fairly be taken alone, as it then may lead to misapprehensions such as I find Mr. Bayard to be under. The meaning of that sentence is that Germany having the largest interest in Samoa she claims to be intrusted by the two other powers to exercise there as well as for her own interests as for those of Great Britain and the United States, the efficient control. If this would seem to create any appearance of inequality of rights, this would, however, be merely an appearance, as naturally the establishment of the whole government can only be made in this conference by the co-operation of the three treaty powers on a thoroughly equal footing, and therefore the mandatory scheme can only be carried out with their consent. I hardly need repeat, as the three special commissioners agreed in their reports, no native government would offer any guaranties of stability unless it is assisted and controlled by one common organ of the three powers. This is the argument on which the mandatory scheme has been based, and not on the mere fact of the preponderating interests of either one power.

"Mr. Bayard said he would not at the moment make any comment on that statement, because upon hearing it read he did not recognize any substantial change in the result. The plan submitted by the German minister remained unaltered in its principle, and necessarily in its results, by the paper which he had just read."

Mr. Bayard then read, in accordance with the purpose expressed by him at the last conference, the following paper:

"In the 'plan for the establishment of peace and civilization in Samoa, under the co-operative support of the Governments of the United States, Germany, and Great Britain,' submitted by me on behalf of the United States (Protocol 1st Conference, p. 2), I expressed my conception of the purpose of the present conference in the following language:

"(1) The independence and autonomy of the kingdom composed of these islands are to be preserved free from the control or preponderating influence of any foreign government, and it was in pursuance of this understanding that commissioners were recently sent by the three powers, respectively, to investigate and report upon the conditions of the islands, and that the respective consuls of the three powers at the islands were changed.' Immediately after this declaration, and as a necessary inference therefrom, I stated the following proposition:

"(2) It is the desire of the United States, and equally of Germany and Great Britain, to assist the natives of Samoa to form and administer their government."

"In respect to the principal object of the conference—the maintenance of the independence and autonomy of the Samoan Islands and the co-operative support of a native government—I am pleased to notice that my understanding is confirmed by the respective declarations of the German and British ministers. The memorandum read by the former at the first meeting of the conference began as follows:

"The unsettled condition of affairs on the Samoan Islands having gradually become more and more injurious to the foreign residents and to the commercial interests of the three treaty powers, the latter had to take into serious consideration the means by which the lasting peace and order could be restored there. With this view and the understanding that the independence of Samoa under a native government was to be maintained, and that no monopolies should be created there by any foreign power, the three treaty powers have agreed to the proposition of the Government of the United States of America to hold a conference of plenipotentiaries. It was further agreed that, in order to get complete and reliable information on which the conference would have to base its deliberations, special commissioners should be sent and instructed by the respective Governments to report on the condition of those islands."

"The memorandum read by the British minister at the same meeting was as follows:

"It is understood that the three powers have no desire to found colonies in Samoa or to obtain commercial monopolies. Their sole wish is to establish the right and equality of commerce and navigation for their respective subjects and citizens. Assuming, then, that the three powers have no desire to destroy the independence of Samoa, but only seek to establish the right and equality of their commerce and navigation, a declaration to this effect might be made by them as a preliminary step. It was, however, deemed expedient to ascertain the exact state of affairs in the islands by sending special commissioners who should report thereon."

"It may therefore be regarded as fully recognized and established that the object of the United States in proposing the present conference, and of all three powers in sending commissioners to the Samoan Islands to report on the condition of affairs, was to maintain the autonomy and independence of the islands under a native government."

"Such being the declared object of the conference, I have listened with regret to plans and suggestions that appeared to me to depend upon the recognition of an inequality of interest of the three powers in the political, moral, and commercial welfare of the islands, and to look unequivocally to the virtual suppression of their native government. And in this relation I shall refer first to the plan suggested by the German minister, and approved by the British minister, for the appointment of an adviser to the king. In the memorandum read by the German minister at the first meeting of the conference the functions of the proposed foreign adviser are described as follows:

"This adviser, who is to act as the mandatary of the three treaty powers, will have to discharge, under the nominal responsibility of the king, the government affairs. He will have to control all necessary measures with regard to the maintenance of public order in general, and especially to the security of any kind of property of foreign residents. This adviser, whose position would be virtually that of a prime minister, to be nominated by the treaty power having for the time being the preponderating interests in Samoa. The nomination needs the approval of the two other powers. The first appointment to be made for the term of five years in the first instance, and at the expiration of that period a fresh appointment to be made on the same terms and conditions. In the event of the appointment becoming vacant during the said term of five years through the death, resignation, or removal of the adviser, another person shall be similarly appointed to hold the office for the remainder of the said term."

"The three leading features of this plan are: (1) That the 'responsibility' of the king in the affairs of the government is to be merely 'nominal'; (2) that the adviser is to 'control all necessary measures' to an undefined extent; (3) that he is to be appointed by the power having the 'preponderating interests' in Samoa, and that at the expiration of five years a fresh appointment is to be made 'on the same terms and conditions.' It is true, it is stated, that the nomination is to receive 'the approval of the two other powers.' But this merely affects the nominee, and not the power that makes the appointment; for 'preponderance of interests' is merely a question of fact. And the preponderance of material interests of any one power in the islands being acknowledged, that power would, if the plan submitted by the German minister be accepted, have the right to appoint and re-appoint as long as such preponderance continued, whether another power objected or no. Thus, while the actual appointment by the power having preponderating material interests would have to be approved by the other two powers, its right to make the appointment could not be questioned as long as the preponderance lasted."

"That this proposition (however consonant it was supposed to be with the declared

object of the conference) might suggest a doubt seems not to have been unappreciated, for immediately after the statement of the plan the German minister said:

“In order to avoid every misapprehension of the situation by the placing of the representative of one of the treaty powers in the most prominent position of the Samoan administration, it will be expedient to formally acknowledge anew the principle—already contained in the existing treaties with Samoa—of absolute equality of treatment in respect of commerce, navigation, jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens.”

“How far the proposition of the German minister in respect to the adviser is supported by the British minister I am unable precisely to ascertain. In the memorandum read by the latter at the first meeting of the conference I find the following:

“All three commissioners seem to recognize also the difficulty of tripartite control, such as more or less has been hitherto exercised; while at the same time they deprecate the establishment of the exclusive control of either one of the three powers. Assuming that the establishment of a native government, to be carried on by the king, who may be elected, assisted by a native council, is necessary to preserve the autonomy and independence of the islands, and which can only be established under foreign control, and assuming that tripartite control is impracticable, the solution of the difficulty would seem to be an alternate control for a limited period of either one of the three powers. In the event of coming to this agreement, the question naturally arises as to which power should be chosen the mandatory of the other two in the first instance, and Her Majesty’s Government consider that preponderating commercial interests should be taken into consideration in deciding it.

“Since Mr. Thurston, Mr. Travers, and Mr. Bates all seem to concur that this preponderance is possessed by Germany to a greater or less extent, Her Majesty’s Government are therefore prepared to consent to the mandatory power being exercised by the German representative for first term of five years, absolute equality of treatment in respect of commerce, navigation, and jurisdiction, and all other matters whatsoever to be secured to the three powers and to their subjects and citizens.”

“Thus, while the British minister concurred in the proposition for a single adviser, he said that, in the event of an agreement on that point, the question would arise as to which power should be chosen as the ‘mandatory of the other two in the first instance;’ that Her Majesty’s Government considered that preponderating commercial interests should be ‘taken into consideration in deciding it;’ and that as Germany had the preponderating interests, Her Majesty’s Government were prepared to consent to the mandatory power ‘being exercised by the German representative for the first term of five years.’

“In a paper read by him at the third session of the conference the British minister said (Protocol, p. 6) that the mandatory scheme did not involve ‘the recognition of any preponderating interests which, as the Secretary of State has justly remarked, ought not to be taken into account in dealing with the matters before the conference;’ that Her Majesty’s Government did not see that any ‘exclusive control’ was involved in the arrangement, as the mandatory power ‘could only be exercised with the consent of the other two powers,’ and it seemed, therefore, a matter of small importance which should be the ‘first to exercise it.’

“When I observed that the British minister spoke of the Government that was to be the ‘first’ to take the mandatory office, and inquired whether he meant that there was to be an alternation, and that the power taking the office ‘first’ was after five years to be succeeded by another, he replied that it would be alternative, ‘with the consent of the other two;’ and when I further inquired what was the object of saying ‘first,’ and why not say ‘perpetual,’ he replied that it must be alternative ‘if it came once to each.’

“At the fourth session of the conference the British minister, in explanation of the phrase ‘alternate control for a limited time,’ previously employed by him, said that it did ‘not imply that the representative of each power’ should be elected in rotation, but merely that the mandatory scheme bore an ‘alternate character;’ for should German preponderance cease at the end of the first five years, the next power possessing it in succession would, according to the German plan, exercise the mandatory power. It is distinctly understood that under the German plan preponderating interests for the time being should be taken into consideration in deciding the question as to which power should designate the representative under the approval of the other two powers.”

“This statement, I observe, while it adverts to a preponderance of interests, goes no further than to say that ‘preponderating interests for the time being should be taken into consideration’ in deciding the question as to which power should ‘designate the representative under the approval of the other two powers;’ and, as the British minister stated, at our last meeting, that his prior declaration that ‘the mandatory scheme does not involve the recognition of any preponderating interests which ought not to be taken into account in dealing with the matters before the conference,’ could be read as expressive of his views, I am unable to find an express adherence on

his part to what I understand to be the proposition of the German minister, namely, that while the first and subsequent appointments of a mandatary are to be made by one power subject to the approval of the other two, yet the power having the preponderance of interests is to have the unquestioned right of appointment, subject only to the approval by the other powers of the person appointed.

"Between this proposition and the proposition that the power having the preponderance of interest shall appoint, if the other two powers consent, there is, to my mind, a vast and essential difference. The latter proposition, while not without objectionable features, would not place the right of appointment solely on the ground of preponderance of interests. It could not be exercised on that ground alone, because the consent of the other powers would be required to the exercise of the appointing power each time an appointment had to be made.

"But if it be admitted that the power having the preponderance of material interests shall for that reason make the appointment, subject only to the approval of the appointee by the other powers, then, in my opinion, preponderance of interests and consequent inequality of influence are made the actual basis and controlling principle of the whole scheme of government.

"Of this view of the mandatary scheme, as presented by the German minister, I can find no stronger confirmation than his own argument in its favor, in which, after stating the preponderance of German interests, he says: 'It can not, therefore, be expected that she (Germany) should consent to remain more or less excluded from the efficient control of the country and have it pass to one of the two powers who have less interests.' (Protocol 2d Conference, p. 7.)

"If placing the powers of the adviser in the hands of a representative of one of the other powers would mean the exclusion of Germany, then I am unable to see why placing those powers in the hands of a representative of Germany would not equally mean the exclusion of the other powers from influence in the management of affairs.

"But this is not all. Not only is the idea of exclusive control thus pointedly deduced from the mandatary scheme and made an objection to the exercise of the mandatary powers for the 'efficient control of the country' by any other power than that having preponderance of interests, but the scheme as set forth involves, in my opinion, the virtual displacement of native government, and, instead of native government with foreign assistance, means the absolute and undefined control of the affairs of the islands by a single foreigner. On this point I quote from the German minister's exposition of the mandatary scheme at the second session of the conference (Protocol, p. 7), as follows:

"There is only one course left for asserting foreign influence with the Samoan Government, which is so necessary for the general interest, and this is to place one foreign officer at the head of the administration and to invest him with sufficient rights and powers to take the measures required for the maintenance of peace and order, as well as for the prosperous development of commerce and intercourse. As the authority of this official is to be noticeable in an unequivocal way to the foreigners as well as to the natives, it is commendable that the appointment should not be left to the Samoan Government, but be made by agreement between the treaty powers. At the same time it would appear that the power having to protect the largest interests in Samoa should be given the right to nominate the official whose duty it shall be to control the native government."

"In my opinion, to give a single adviser 'sufficient rights and powers to take the measures required,' not only for the 'maintenance of peace and order,' but as well for the 'prosperous development of commerce and intercourse,' is to invest that foreign official with the absolute power (legislative as well as executive) of government; and to say further that his appointment (not nomination) 'should not be left to the Samoan Government, but be made by agreement between the treaty powers,' and that it shall be his 'duty to control the native government,' only emphasizes the virtual destruction of the native independence and autonomy. The result would be the same whether the adviser exercised his powers with impartiality, or whether he was influenced in his official conduct by the fact, of which his appointment would be the evidence, that the most extensive foreign interests with which he had to deal were those of his own countrymen.

"To these objections to the advisory plan, as presented, which have been substantially stated by me heretofore, the only answer I have as yet seen is that the power which is to appoint the adviser gives, under the plan, every reasonable 'guaranty' for the fair exercise of the functions with which he is to be invested. This argument, as it seems to me, instead of meeting the objections, admits their validity. The United States did not enter upon the present proceeding with the idea that it was either to give to or receive from any foreign power any guaranty for the good government of the Samoan Islands, and, indeed, such a step would have been inconsistent with its general and well-understood policy. It had treated with the Samoan Government as an independent and responsible government, and to that government alone has looked for the performance of its conventional engagements and the protection of

American interests thereunder. So it has been with the other governments represented in this conference. A guaranty, however, necessarily suggests the idea of actual and responsible control. And for one power to give, and the other powers to accept from it, a guaranty for the good government of the islands, far from being in the direction of the maintenance of the native autonomy and independence, which the powers have heretofore always recognized, would be a step backwards, and in the direction of the effectual enfeeblement and ultimate obliteration of the native autonomy.

"When we consider the outline of the plan for the settlement of land titles, submitted by the German minister, the sweeping and pervasive authority of the 'adviser' is disclosed with equal clearness. In the plan proposed by me for the support of the native Government, the land question occupied an essentially prominent place. The same may be said of the plans submitted by the other members of the conference; for, as it was admitted that the land claims of foreigners far exceeded the area of the islands, the necessity of providing for the natives some means of escape from demands so clearly unwarranted was recognized on all hands. These plans are now before the conference. That submitted by me was for a single judicial body, of original and final jurisdiction, to consist of five members who should be appointed by the king, three on the several nomination of the three treaty powers, and two of his own selection. The British minister proposed a land commission to be succeeded by an 'international land court.' The German minister, in his plan, has proposed a land commission of three foreigners, with power to create subcommissions of natives, whose decisions, however, are not to be conclusive on the questions submitted to them, and this foreign commission to be followed by a land court.

"This land court is to be composed of a judge appointed by the 'Samoan Government,' and the consul or consuls, or a prominent countryman or countrymen, of the litigant or litigants. I adverted at our last meeting to the fact that I had discovered no provision in this plan for an appeal by a native from the commission to the land court, and also to the uncertain and shifting constitution of this tribunal, which would preclude uniformity and certainty of decision, and might, in certain cases, lead to a deadlock.

"But the point to which I desire now to advert is that the 'Samoan Government,' which is thus to appoint the 'judge' of this land court of last resort, is the foreign adviser, who, as the German minister stated, would make the appointment, the king simply confirming it. As the appeals to the land court would, perhaps, generally rest between two contestants or claimants, this would give the adviser the appointment of the person to cast the deciding vote. There is, moreover, nothing in the plan to prevent the adviser from acting as the judge himself (as, indeed, I understood the German minister to intimate might be done), thus combining the functions of supreme, executive, and legislative control with those of supreme land judge. And it can hardly be supposed that the addition of judicial to executive and legislative functions would detract from his authority.

"The plan submitted by me provided, in my judgment, for the full recognition of native rights, as well as for the complete protection of foreign interests. The suggestion heretofore made that, by reason of not voting together, the foreign judges would not secure foreign claimants against the interested views and inclinations of the two native judges, is not, to my mind, by any means conclusive against the plan. I should not think it desirable to see the foreign judges assuming a position suggestive of opposition to native claimants, and indicative of an opinion that their claims were generally not well founded.

"As to the places from which the foreign judges proposed by me, as well as the foreign members of the executive council, should come, I make no suggestion or proposition, as to whether they should be Samoan residents, or sent out from the territory of the power making the nomination. Should the latter alternative be thought desirable, I can see no objection to its adoption.

"In reply to the argument made by the German minister against the plans proposed by me for an executive council, that it would involve and perpetuate the calamities of tripartite control, as heretofore attempted in the municipality of Apia, I desire to point out in the first place that the council proposed by me was to consist of five persons and not of three, and that two of the five, the king and the vice-king, were to be native Samoans. In the second place it is to be observed that following out the idea that the government was to be native, independent, and autonomous, the three foreign nominees proposed by me were not, like the consuls, to be the official representatives of the three powers, but were to be appointed by the king of Samoa, and to be officers of the Samoan Government in the fullest sense, receiving their salaries from that government and in no way dependent upon, or under or subject to the control of, any foreign power. The principle of my proposition was not new. It has been acted upon in the mixed tribunals in Egypt, and has been adopted by three powers represented in this conference in the constitution of judicial tribunals elsewhere, and, far from having been found to contain the 'germ of death' has operated

for the promotion of justice and to the great and acknowledged satisfaction of all concerned.

"It will be thus seen that the further this conference has progressed, and the views and objects of the plan presented by the German minister are developed by him, the further we find ourselves departing from any substantial recognition of a native autonomy for Samoa, and the consequent independence of that island group.

"The plan as proposed and explained by Mr. von Alvensleben is substantially a foreign autocratic government, based on mercantile interests, and all experience has shown what must necessarily result from such an attempt; and that under it the defeat of the objects we have all distinctly proposed is certain.

"I do not see why we should not recognize at the outset and encourage in Samoa a spirit of self-governing freedom and self-respect. Germany and the United States have heretofore given strong indications of their desire for this by their prompt disavowal of the arbitrary and unauthorized acts of their respective consuls (Stübel and Greenbaum). And it is noticeable that the conduct of foreigners has been the cause of more disorder and discontent in Samoa than any spontaneous action of the natives, who, whenever they have acted improperly and immorally, would appear to have done so upon the instigation of some foreign agent.

"We can not, therefore, condemn native self-government in advance, for it has not been tried, and a plan containing such elements is entitled to favorable consideration, and to be fairly tested.

"Would it not, therefore, be well for us to adjourn this conference until the autumn, and thus give time to the ministers of Germany and Great Britain to submit these protocols to their respective Governments in order that instructions may be received by them of a more definite character, by aid of which we may be enabled to come to an agreement."

In reference to the paper read by the German minister, Mr. Bayard desires to add that he considered his original proposition for an executive council of five—three foreigners and two natives—to be in close pursuance of the recommendations of the American and British commissioners, and that he had not found in the report of either of those gentlemen any concurrence in the opinion that the native governments should be "assisted and controlled by one common organ of the three powers."

Sir Lionel West said: You propose, then, to postpone the conference for the reasons you have stated?

Mr. Bayard said: Yes.

Sir Lionel West said: Under the circumstances I do not see that there is any other course to be taken. You propose that the conference is to adjourn, and not be broken up.

Mr. Bayard said his proposition was to adjourn until the autumn, for the reasons he had stated. He thought it essential that the government of the islands should rest upon sound principles, and he had endeavored to show what he thought would be the logical results of the measures laid down by the German minister, and as they had been discussed in the conference.

Sir Lionel West said: We will simply inform our governments that you propose adjournment for reasons stated in writing.

Mr. von Alvensleben said: Principally because of the mandatory scheme which Mr. Bayard did not think acceptable.

Mr. Bayard said that he had submitted reasons for this view; that he considered that it would lead to results destructive to the express purpose and objects of this conference.

The following memorandum in reference to certain observations in Mr. Bayard's paper is added at the request of the German minister:

"Mr. Bayard made in his memorandum a remark which would, if correct, reflect unfavorably upon the conduct of the former German representative in Samoa. As the proposition of the adjournment of the conference put an unexpected end to our present deliberations I was prevented from saying, in reply to that intimation, what I am much interested to see added to the protocol; this is, that I am thoroughly unaware of the facts on which Mr. Bayard may base his criticisms of Dr. Stübel's conduct.

"If Mr. Bayard thinks, as it seems, that Dr. Stübel's departure from Apia, soon after the arrival of the German special commissioner there, gave expression to a supposed disapproval by the Imperial Government, I desire to state that it was merely to prove the readiness of my Government for complying with Mr. Bayard's proposition to change the consular representatives of the three treaty powers, that a leave of absence was granted to Dr. Stübel, and that there was no other reason whatever for his departure from Apia."

T. F. BAYARD.
ALVENSLEBEN.
L. S. SACKVILLE WEST.

[Inclosure 2.]

Mr. Bates to Mr. Bayard.

WASHINGTON, D. C., December 10, 1886.

SIR: Agreeably to your instructions, I have the honor to report that, after my voyage from San Francisco, already reported to you, I arrived at Apia on Tuesday morning, August 17. I may here remark that the Samoan dates to which I refer in this report will be according to east longitude time, that being the time kept in the group, although its location is in west longitude. This is accounted for by the fact that the early settlers in the islands were missionaries from New Zealand, who carried with them the time of that colony.

On my arrival at Apia, as already reported, I found G. Travers, esq., consul-general of His Imperial Majesty the Emperor of Germany, at Sydney, New South Wales, who had come to Samoa as a special commissioner, charged with duties similar to my own. Mr. Travers had, just prior to my arrival, notified the King that he had assumed, temporarily, the duties of Imperial German consul-general *ad interim*, Dr. Stuebel, the late consul-general, having left Samoa and embarked on the steam ship Alameda for Sydney just at the time I left that steamer.

It was stated in Apia that Dr. Stuebel had gone to Germany on a visit, but before I left Apia I was satisfied that he had been recalled.

Within a few days after Mr. Travers had sent his first notification to the King, he followed it with a second, in which he stated, substantially, that the duties of the Imperial German consul were thenceforth devolved upon Mr. Sonnenschein, vice-consul, and that he (Mr. Travers) would thenceforth devote himself exclusively to his duties as special commissioner to Samoa. No other communication was, to my knowledge, addressed to the King during the time we both remained at Apia.

While awaiting the arrival of the representative of Great Britain I addressed myself at once, as I found Mr. Travers had already done, to the systematic investigation of the political situation, and to the task of gathering such facts as would be serviceable in the consideration of future arrangements respecting the islands. On Tuesday afternoon, August 24, Her Majesty's ship *Miranda* arrived in the harbor, having on board Hon. John B. Thurston, the acting governor of Fiji, a special commissioner of the Government of Great Britain to Samoa. Early the next morning Mr. Thurston called upon me and also upon Mr. Travers. Prior to the arrival of Mr. Thurston, Mr. Travers and I had very little conversation respecting our duties under our instructions, but very soon after Mr. Thurston arrived we all met together and compared our respective understandings of the scope of our instructions. While our conversation was very frank as to the nature of the investigation which we each understood was to be made, there was nevertheless speedily developed a difference of opinion respecting our relation to each other and the method to be employed in the ascertainment of facts and information to be submitted to our respective Governments.

Mr. Thurston's instructions were entirely telegraphical, and he did not receive during his stay at Apia the fuller information by mail which was promised in the telegrams. The latter were, however, very explicit, and were so fully in accord with my own that they might have been taken for a very good abstract of that portion of my instructions which referred to the duty which I was expected to perform.

In our joint conference two points were developed upon which Mr. Travers differed essentially from Mr. Thurston and myself. The first related to the end to be accomplished. Mr. Thurston and I understood clearly that the object in view was to compass the establishment and maintenance of an autonomous native government, to be supported so far as necessary by the joint influence and action of the three powers. Mr. Travers did not communicate to us the precise nature of his instructions on this point, but I inferred that he was not confined, as we were, to a recommendation in this direction. He was, however, very clear and explicit at that time in the statement of his own conviction that no autonomous native government was at all practicable. As Mr. Thurston and I were, in terms, instructed to report a plan for such government, we felt bound to do so, even if, after due consideration, we might find ourselves compelled in candor to couple with such plan our own opinion as to this impracticability, if so it should appear to us.

The other point upon which Mr. Thurston and I agreed, and Mr. Travers differed from us, was as to the methods of investigation. We considered that our instructions contemplated a joint investigation, followed by separate reports; but even if our instructions were not to be considered specific as to methods, we thought that, in that case, we were free to adopt a plan of joint investigation upon the view that our methods were left to our discretion. We also considered that the plan of our simultaneous visits to Samoa involved, impliedly, even if not by express direction, the idea of joint investigation; and upon the assumption that our instructions did not

bind us as to methods, we fully agreed that more satisfactory results would be obtainable if we should conduct our investigation jointly, and by constant comparison of views should ascertain the points of agreement, which might thereby be disposed of with much less expenditure of time and trouble. Mr. Travers, however, was decided in his views that we had no official relations to each other whatever; that our investigation and report were to be entirely independent; that we were free to confer together with the utmost frankness, but that any intercommunication of views would be entirely confidential; and at that time he clearly expressed the opinion that we should not be at liberty to report, even to our respective Governments, any statement or opinion obtained in the course of such interchange of views.

As the result of this exchange of views, we pursued, for a few days, the separate investigation which we had already begun, having, however, frequent conferences, sometimes between two of us and sometimes of all three.

I felt so fully convinced that the want of fuller co-operation would materially lessen the chances of good results that might flow from our visit, that on September 2 I addressed to Mr. Travers a note for the purpose of stating, as I understand it, the difference of opinion which had developed, in order that I might be secured against the possibility of misrepresenting the matter to you. A copy of this note, marked Inclosure A 1, is herewith submitted.

Within a short time after my note had been delivered to Mr. Travers, he called on me and stated that he had just received it, and asked if I desired a written reply. I said to him that I had written it only to put plainly what I had understood to be the difference in our views, so that I might not misrepresent him, and that he need not reply to it in writing unless he desired to modify my statement in some respect. He then said that if it seemed necessary he would write a reply before we should separate. At that time I did not understand Mr. Travers to modify the views previously expressed by him, but he said that he would be happy to converse freely with me at all times on the subject of our inquiries.

I inferred from the conversation that Mr. Travers was somewhat more inclined to go at least so far as a joint examination of persons from whom any of us considered it worth while to obtain facts or opinions. As, however, Mr. Thurston had informed us both of his purpose to depart on September 5, or two days after the conversation in question, it was then too late to change our course of proceedings, even if I correctly understood Mr. Travers to intimate, rather than to express, his willingness to do so.

I transmitted to Mr. Thurston a copy of my letter to Mr. Travers, in order to afford him an opportunity to correct me if I had misstated his views.

Copies of my note to him and his reply are herewith inclosed, marked Inclosures A 2 and A 3, respectively.

Mr. Thurston's stay in Samoa was of less than two weeks' duration. As his position in Fiji is such that under the consular system of his Government the correspondence of the Apia consulate had passed under his eye, he was doubtless familiar with the general course of events in Samoa and felt it unnecessary to spend more time there. Nevertheless I regretted very much his early departure. There were some points on which further and frequent conferences between Mr. Travers and myself led often to modification and, in some instances, coincidence of views. I am convinced also that Mr. Travers' views upon which our original difference rested did undergo considerable change. Towards the end of my stay he discussed with me the possible details of a native Government to an extent necessarily involving the idea of autonomy, which at first he considered impracticable. It was, it is true, such a government as would depend for its inspiration and strength upon the presence in it of white men; but, nevertheless, not more than does the Government of Hawaii, which is treated in my instructions, and commonly considered, as a native Government.

Mr. Travers also modified his previously expressed views by assenting that our conferences and expressions of views to each other might be communicated to our respective Governments. This permission, however, was of less value, since these mere conferences were, under his determination, mere informal conversations; and any views which he expressed to me he did not feel bound to adhere to, but considered them liable to change on further reflection.

Mr. Travers never did make any written reply to my communication of September 2; the only note from him which I received, not of a purely personal character, being under date of October 13. I had been absent from Apia two weeks on my trip to Tonga, and after my return, having spent a week in Apia, I had been again twenty-four hours absent on a trip to Tutuila, which it was necessary for the *Mohican* to make, when I received from Mr. Travers the letter referred to, of which a copy is herewith inclosed, marked Inclosure A 4, as it gives his own statement of his verbal reply to my letter of September 2. To this letter, received early in the morning, I replied that I had been very busy the two days previous in the examination of some papers relating to the New Zealand project for the annexation of Samoa, which Mr. Travers had lent me; that having finished them it was my intention to go ashore that morn-

ing and return the books and papers, and "put myself at your service during the remainder of my stay here." I promised to call at the German consulate by noon of that day, which I accordingly did; and during that afternoon and the remainder of the week we were frequently together.

These conversations were very interesting, and undoubtedly serviceable, but, owing to the difference of opinion already stated, they were necessarily inconclusive, and served only the purpose of mutual information as to our views respectively.

In order to show how far Mr. Thurston's understanding agreed with my own with respect to the matters which I have detailed, I may refer to two letters received from him after his departure from Samoa. In a note, dated September 6, after some personal expressions, he suggests a modification which had occurred to him, in a rough draught of a plan of government which he had left with me, as embodying his general views on that point, and then adds: "It is a matter of regret to me that our colleague could not see his way to regard a native government as within the realm of possibility." Again, while at Tonga, having an opportunity to mail a letter for Fiji, I wrote to Mr. Thurston, under date of September 25, and received a reply dated September 29, copies of both of which are herewith inclosed, marked Inclosures A 5 and A 6, respectively.

Before leaving this subject, I desire to express the satisfaction which I derived from my intercourse with both of the commissioners. I was deeply impressed with the ability and fidelity with which these gentlemen approached the consideration of the subject referred to us. Our relations were of the most agreeable character, and resulted in sentiments of respect and friendly regard on my part which I am glad to believe were reciprocated. With the exception of Mr. Thurston's brief sojourn at Apia, and the difficulty experienced by Mr. Travers, under his instructions, of fully coinciding with our views as to the investigation, I could have desired nothing more with respect to either of them.

HISTORICAL REVIEW.

The direction contained in my instructions to report upon "the causes of the difficulties under which the Samoan Government labors" involves the thoughtful consideration of the political changes which have taken place in the country since the early part of the year 1876. Up to that time the political history of the country, from the time when it began to attract the attention of the Government of the United States, is quite fully contained in the official papers in possession of the Department of State and published, mainly, in Ex. Doc. H. R. No. 161, Forty-fourth Congress, first session, and Ex. Doc. H. R. No. 44, Forty-fourth Congress, second session. In order, however, properly to understand the subsequent events, it may be stated that the documents referred to contain the several reports of Col. A. B. Steinberger, and various inclosures therewith, together with much correspondence relating to this group of islands.

Colonel Steinberger visited Samoa as a special agent of the Government in the year 1873, and early in the following year, having returned to the United States, made his report to the Department, which, though personal intercourse with the natives has shown that his statements of their characteristics are often incorrect, is, in the main, an interesting and valuable summary of the matters of interest connected with these islands.

Colonel Steinberger returned to the islands for the purpose of conveying to the Samoan Government some presents and messages of kindly interest from the Government of the United States, and with instructions to observe and report further upon Samoan affairs.

At the time of Colonel Steinberger's first visit to Samoa, the Government of the country consisted, as reported by him, of the "Taimua and Pule," the former comprising seven chiefs, not among the greatest, but able ones, and the Pule, four chiefs of higher grade. There was no king of the group, although, as hereinafter stated, an attempt to set up a kingdom had been made by missionaries as early as 1869.

At this time (August, 1873) a constitution and code of laws—probably the first written ones—were adopted, after consultation between Colonel Steinberger, the foreign consuls, and the missionaries. These have been published in full in one of the documents referred to, as appended to the first report.

After Colonel Steinberger's return, he, in 1875, became the premier of the Government of Samoa. The Samoans, during his absence, had determined to have a king, but being embarrassed in their choice selected two persons, Malietoa Laupepa and Pulepule, the latter being the chosen chief of the Tupua party, who were, on January 2, 1875, jointly vested with that office and title.

After Colonel Steinberger's return, he persuaded them that it was impracticable to have two kings, and they then selected, as the more important man, Malietoa Laupepa, a young man who belonged to a great family, and the present king.

Elsewhere in this report I have referred to the relative importance of his family in its bearing upon the title of the present king to continued recognition, but it is necessary here to state the position of Malietoa Laupepa in his own family.

It seems to have been readily conceded at this time that the head of the Malietoa family was the most powerful chief in the country, and the proper person to be selected if there was to be one king. But some difference had previously existed as to who was the real Malietoa. This name possessed among Samoans a peculiar significance, having been first bestowed some hundreds of years ago upon a great chief, previously Save'a, who, according to tradition, led the Samoans in a great victory over the Tongans, who were then expelled from the Samoan group.

On the death of Malietoa Moli, the father of the present king, nearly thirty years ago, there was a division in his family as to whether the title and headship belonged to his half brother, Talavou, or his son Laupepa.

Just prior to his death, Malietoa Moli had expressed a desire to have his son Laupepa succeed him as head of the family. The latter was then only about twenty years of age, was of a mild disposition, and educated under the missionary influence. His uncle, Talavou, on the contrary was a severe man and a powerful warrior, and having considerable influence, many of the leaders of the Tuamasaga, the district of Upolu, which has always acknowledged the headship of the Malietoa family, supported his claims. The result was that both took the title of Malietoa, but remained living together and without war until about 1869. Prior to that time neither of them assumed to be King of Samoa, although the grandfather of Laupepa, known as Malietoa Tavita, as hereafter explained, had been generally acknowledged as such. But their dispute was as to the headship of the Malietoa family, with whatever belonged to that position.

The difference of disposition and education of the two men caused the missionary influence to be exerted strongly in favor of the younger man, who, in 1869, was taken secretly from the house where he and his uncle were living together, and was brought, it is said, by Mr. Williams, a missionary, to Apia and crowned king. Immediately the adherents of the uncle set him up at Mulinuu as a king. The result of this was a civil war between the Malietoas, which ended in compromise and the establishment of the new government of the *Taimua* and *Pule*, which Colonel Steinberger found there in force on his first arrival in the group.

The dispute between the two Malietoas before the war was much encouraged by the districts of Atua and Aana, the strongholds of the rival Tupua family, probably with the real object of bringing the latter family into power. Finally they took sides, and the war involved the people generally in support of one or the other Malietoa.

When the selection of a king was made, in 1875, the uncle, Malietoa Talavou, might have persisted in his claims to be the natural head of his family, and therefore the proper selection; but being, as stated, a severe man, he was feared by the people generally and the choice of the nephew was accepted by his own family, including the uncle and the people at large, and he was accordingly acknowledged as sovereign of "all Samoa" by the name of Malietoa I.

The necessity of a clear apprehension respecting the two Malietoas is apparent from an error in the "memorandum in reference to Count H. Bismarck's note, transmitted to Sir E. Malet's dispatch to the Marquis of Salisbury, No. 500, of October 17, 1885," inclosed by Mr. West to the Secretary of State, February 19, 1886. It is there stated that the consular agreement of March 24, 1880, provided that "the present King Malietoa should be supported as the head of the Samoan Government during his life-time, and that his successor should be agreed upon by the three protecting powers." That agreement in fact referred to Malietoa Talavou, and not to the present king.

When Malietoa was thus accepted as the first head of a new government, the order of things introduced under the auspices of Colonel Steinberger was based upon a new constitution adopted by the *Taimua*, May 18, 1875, and superseding that of August, 1873, already referred to.

As I am unable to find this constitution in the printed documents of the Government of the United States, I inclose a copy of it herewith, marked Inclosure B 1. I may, however, briefly state here that under it the Government was changed from that of the *Taimua* and *Pule*, in which all the powers of government were lodged in a council of chiefs, to duplex hereditary monarchy, in which the Kings were to be chosen alternately from what are termed in the constitution the "two great houses of Malietoa and Tupua."

Each King should reign for four years, and, upon the expiration thereof, or his demise, the succession should fall to the other family.

The frame-work of the Government was modeled after that of the American States, with a legislature, called a parliament, of two houses—that of chiefs or nobles, and that of representatives. These were called in the Samoan *Taimua* (a leader) and *Faipule* (*fai*, to do, to make, and *pule*, a command, an order).

A prominent feature of this constitution was the office of premier, who was the counselor of the King, presided in the *Taimua*, and had the right to take the floor in

either house of parliament, and without his knowledge the King could not act. This office was filled at once by the appointment of Colonel Steinberger, for whom it was undoubtedly created.

Although this constitution embodies a system which seems, to one who has critically observed the Samoans, their character, mode of living, and habits of thought, rather elaborate for a people so primitive in all respects, it nevertheless contains much that is worthy of consideration in any scheme for the future government of the country.

Meanwhile it must be admitted that the government inaugurated under it was, while it lasted, the only really stable and efficient one which the islands have had since there has been a considerable foreign population. Nevertheless it was under the form of an autonomous representative native government; in fact, a personal government by Steinberger, the premier, acting through the instrumentalities and forms of a constitutional native government. He originated everything, and, without doubt, his will was law.

With the causes of the termination of this régime I have nothing to do; but while there is great diversity of opinion among the foreign residents respecting Steinberger's character and the advantage or disadvantage of his rule, all concur in the conclusion which I have stated, that it was *his* government. All agree that he had practically absolute power in the islands, while they differed as to the character of the use which he made of it, although it will probably not be controverted that at first he had the unanimous support and approval of the foreign residents.

Leaving out of consideration the allegations and counter-allegations as to Steinberger's character, it is beyond doubt that two elements concurred in bringing about the result which ensued. He lost the friendship and support of some powerful influences which had originally welcomed and afterwards assisted him, but subsequently lost confidence in him. Again, there was manifestly great jealousy engendered among citizens of other nationalities because he who had attained such influence was an American citizen, and his position and influence were supposed to foreshadow very close relations between the United States and Samoa, and a predominating influence of the former in the government of the latter. For whatever reason or reasons, then, Steinberger, the premier, was arrested on February 8, 1876, at night, carried forcibly on board of a British man-of-war, and, after being kept a prisoner there some time, carried away from Samoa and released in the British colony of Fiji. To accomplish this result Malietoa, the King, had been induced by persons hostile to Steinberger to request his arrest, and, as a consequence, on the same night the King was deposed. This was done by the *Taimua* and *Faipule* at a *fono* (meeting) assembled immediately after Steinberger's arrest.

He was driven away from the seat of government at Mulinuu, and on the next day was in Savaii, from which place he was immediately brought back to Apia by the British man-of-war. He was not, however, permitted to return to Mulinuu, but was protected at Apia by a guard from the man-of-war.

From this date the published documents relating to Samoa give no connected history of political changes in that country.

Having been at some pains to inform myself correctly respecting the political history of the country for the last ten years, I deem it proper to present a brief review of the same, feeling convinced that any one undertaking to solve the problem of future government will find this recent history as instructive and serviceable as the investigation of it has been to me.

The entire absence of any government records or archives, and the fact that a weekly newspaper published there from October 1, 1877, to October 1, 1881, is all that remains in the way of permanent record of events, has made it a very laborious matter to ascertain the exact facts. In doing so I had the good fortune to have access to a complete file of the Samoa Times, the newspaper referred to. I carefully looked through each number of this paper, and also exhausted all other sources of information, not in any case resting on the independent recollection of any one person as to facts obtained by inquiry, nor forgetting to weigh all such recollections with due consideration of those circumstances of bias, association, etc., which are necessary to be remembered in respect to the weight of evidence. I believe, therefore, that my summary of this uneasy period is substantially accurate.

There could be no better confirmation of my statement respecting Steinberger's relation to the Government which he created than the rapidity with which it began to fall to pieces after the deportation of the premier. Very soon the Government began to show its weakness. Indeed, everything connected with that event indicated clearly both the lack of capacity in the native government and the despotic and capricious manner in which, not only there but in most instances, the consuls and commanders of men-of-war casually at Apia were accustomed to deal with the natives, both in and out of the Government.

The premier held his office under the constitution solely by virtue of the King's appointment, and, by necessary inference, was subject to removal by him; hence,

under any well-regulated government, the King, having become dissatisfied with him, would simply have removed him. In this case, however, instead of this course, which, it is true, would, in view of Steinberger's real relation to the Government, have been impracticable, the premier was forcibly abducted at night and taken on board of a foreign man-of-war. This utterly unlawful act was accomplished, not by the King's own power, but was executed only through the medium of an illegal conspiracy between the American consul and the captain of the British man-of-war. So, after this event, even if the King's removal of the premier were an offense cognizable by the parliament (so called), which, under the constitution it seems not to have been, he could only have been constitutionally reached by impeachment. In lieu of any such orderly proceeding, however, the legislative branch of the Government assumed the right to depose him in the night, and to drive him away summarily without notice or hearing.

It detracts nothing from the conclusion to be drawn from all this that no idea of government according to the practice of modern civilization had at that time found lodgment in the native mind. It detracts nothing from the correctness of this statement to admit, what was doubtless true, that their action then, as ever since, in all attempts at government, was instigated and guided by white men, who have too often used their power to control the natives, not for the good of Samoa or Samoans, but to aid in the accomplishment of selfish ends.

If it be objected that these remarks apply to a period of ten years ago, it must be replied, in the first place, that these facts are still pertinent to our inquiry, as showing that the only general government worthy of the name ever existing in Samoa depended for its origin, inspiration, and existence upon a white man; and, in the next place, that I have found no one in Samoa, either a white man or an intelligent native, who believes that there has been any advance in the capacity for government among the Samoans themselves.

The deposition of the King was followed in the course of the month by the battle and bloodshed at Mulinuu between the British from the *Barracouta* and some forces of the Samoan Government.

On July 28, 1877, Mr. Griffin, the United States consul, advised the Department, on his return to his post after an absence of about nine months, that during his absence the Puletua had received sufficient encouragement from foreign residents to rebel against the Taimua and Faipule, and that a battle had occurred at Mulinuu; that the Government was victorious and the rebels surrendered; and, to quote Mr. Griffin, "the authority of the Government is now acknowledged all over the island."

In order to understand subsequent events, even up to the present time, it becomes necessary to ascertain precisely the origin of this Puletua uprising.

It must be understood that among the Samoans there are a great number and variety of chiefs. The Government of the Taimua and Faipule was formed of the head chiefs, but back of these were what were known as the village chiefs, who were not taken into the Government. After Malietoa's deposition, then, there were several causes of dissatisfaction, which, being promoted, grew into an organized opposition to the established Government.

The chiefs who were not actually concerned in the existing Government became jealous of those who were. Some of the Taimua and Faipule who were devoted to the fortunes of Malietoa retired from the Government on his deposition. Again, insubordination and insurrection were stimulated then, as they have ever been, by the foreign residents in Apia. These organizers and promoters of rebellion against the existing Government were not always the same, but there were always those who, becoming dissatisfied or piqued at some action of Government, or some want of pliability in those who had ostensibly the power, would promote the spirit of resistance among the chiefs not then in office. It was the old story of exciting the passions of those who were out against those who were in.

The deposition of Malietoa and his exclusion from participation in the government created a center, with the prestige of past power, around which the dissatisfied elements could gather and crystallize. From these causes, in the course of a year after Malietoa's deposition and Steinberger's deportation, there sprang up an organization known as *puletua*—literally, the back government, from *tua* (back) and *pule* (authority or command). This simply meant the government of the back chiefs, *i. e.*, those who had not been put forward in the government.

Early in 1877 this rebellion had gathered so much force that the Taimua and Faipule became greatly alarmed, and in April sent a deputation of chiefs to Fiji to appeal for British protection, without any definite plan or knowledge of what they wanted. They returned on May 23, 1877, and on the following day the flag of the United States was hoisted by Mr. Colmesnil, then commercial agent, over the Samoan flag. I am credibly informed that this was done by Mr. Colmesnil after consultation with, and with the acquiescence of, Mr. Theodore Weber, then the German consul. I deem this fact worthy of record here in view of the energetic protest of the German consul against similar action by the present United States consul in May last.

A memorandum of the circumstances under which the flag was raised by Mr. Colmesnil is herewith inclosed, marked Inclosure B 2.

It may be remarked in this connection, that on still one other occasion our flag was raised in Samoa under somewhat similar circumstances. In February, 1878, the British high commissioner was at Apia in a man-of-war, urging upon the Samoan Government its agreement to the convention (substantially as subsequently agreed to in September, 1879). The government declined to enter into any treaty or agreement with any foreign power until a reply should be received to its application to the United States Government for a treaty of protection; for such was, undoubtedly, the Samoan idea of the nature of Mamea's mission to Washington. The British commissioner was much annoyed at having come on a fruitless errand, and there was, at the time, a good deal of friction between the British representatives at Samoa and the Taimua and Faipule, dating back to, and largely arising from, the incidents of the Barracouta's visit. Threatening demonstrations were made by the man-of-war, marines landed, and rumors of an insurrection spread abroad, and there was an apprehension that Sir Arthur Gordon intended to force the acceptance of the treaty at the point of the bayonet. At this juncture, on February 22, 1878, the United States flag was raised over the Samoan, on the government flag-staff. A full detail of the matter is to be found in the dispatch No. 43 of Consul Griffin, dated February 26, 1878.

Thus it happened that the raising of our flag over that of the Samoan in 1877 and 1878 was urged, and intended to prevent a supposed British annexation, and the same thing in 1886 was intended to prevent German annexation, or at least practical possession by the German consul general and men-of-war, of Samoa, which the appearance of things did certainly betoken.

After the battle of Mulinu'u, referred to by Mr. Griffin, the Puletua was, for a time, quiet on Upolu, but during the autumn of that year war in a desultory fashion was carried on in Tutuila between the government and Mauga, in which the latter was at first seriously worsted. At that period, November, 1877, Mr. Griffin reported that the English and Germans, having despaired of being able to bring on a conflict between the whites and natives on Upolu, turned their attention to the promotion of the fighting going on in Tutuila. A British schooner carried arms to the insurgents, and some white men, including Mr. Foster, who had been removed from the position of United States consul, actively assisted the insurgents.

On December, 8, 1877, Mauga, who, intrenched in a fort, had stood quite a long siege, escaped with his forces under cover of night to Aunua, a small island off the east end of Tutuila, about a mile out. He was closely pursued to the shore and fired at while in his boats.

Early in January, 1878, the rebellion in Tutuila was brought to a close by the surrender of Manga and all of his forces to the government. After this there was no more fighting in the group during the year 1878; and the year was otherwise uneventful, except that the treaty with our own Government was finally concluded.

During this period there was apparent community of purpose and action between the English and Germans, growing, probably, in its origin, out of the fear, which commenced in Steinberger's time, of a preponderating American influence through him and his connection with the government. The subject of an American protectorate, which was first mooted by Steinberger, or during his visits, had evidently taken possession of the natives, and in 1877 they sent an envoy, Mamea, to Washington to negotiate a treaty.

In July, 1878, Mamea returned with the treaty, which, it is apparent, was erroneously assumed by some American newspapers, as well as by many of the Samoans, to be a treaty of protection. The treaty having been published on July 29 and 30, a native meeting was held at Mulinu'u, quite generally attended, and with some chiefs present from Savaii and Tutuila, for the discussion of the treaty. Mamea was subjected to a close examination as to its effect and the probable operation of different clauses, and the opponents of the government indulged in much criticism. The only practical result of the meeting was to dispel the idea that the United States had assumed a protectorate.

Early in the following year (1879) the treaty with Germany was negotiated, and, in its turn, occasioned much discussion; and some of its provisions were strongly denounced, both by the white people and natives, as against the Samoan interests.

The points chiefly objected to were the provision that German citizens should be liable to no tonnage dues, and the ambiguity of the provision for the recognition and guaranty of title to lands acquired by German subjects. It was urged that the exemption from tonnage dues would, by the "most favored-nation" clause of the treaty with the United States, be extended to citizens of that country and that the clause as to land titles not only settled nothing definitely but paved the way for future trouble.

On February 26, 1879, a meeting to discuss the treaty was held at Apia of the assembled chiefs of the district of Tuamasaga, who were collectively termed the Tuamasaga.

This district, containing about two-fifths of the population of Upolu, was the seat of the most determined opposition to the existing government, and the meeting was made the occasion, not only of criticism of the new treaty, but of assault upon the government (Malo) for its concessions. Three of the Taimuas were in attendance to explain their action, and they were interrogated with the keen sarcasm which distinguishes the Samoan orators.

Despite the success of the government in quelling the rebellion in Tutuila, the Taimua and Faipule became weaker and weaker, and early in January, 1879, Malietoa Talavou quietly returned to Mulinu'u, the seat of government, and took up his abode there unmolested.

After the deposition of his nephew these two Malietoas had naturally become the leaders of the Puletua movement, which had gathered to itself all the elements of opposition to the government, and, under the circumstances, the country being at war, it was to be expected that the uncle, a warrior of great repute, should have been pressed into service as the chosen leader.

The custom of the country is that the representative of a family or party, for the time being, shall be selected by a general consent of the chiefs, from which there can be no appeal. By this method of selection Laupepa was the chosen head of the Malietoa adherents, both in Steinberger's time and more recently, and Talavou at the time I am now writing. It was the inability to bring about such general assent for either that produced the civil war of 1869-1872.

On May 3, after living at Mulinu'u undisturbed for four months, the nephew, standing aside in favor of his uncle, Malietoa Talavou, was crowned king at the seat of government by the opposition. The proceeding was almost ludicrously impudent for an insurrection against a *de facto* government. The Taimua and Faipule were invited to attend.

No resistance whatever was made; the newly crowned King remained at Mulinu'u, and on the 28th of the same month the King's adherents warned the Taimua and Faipule to leave, which they accordingly did, leaving Mulinu'u in the hands of Malietoa and his followers.

War being now inevitable, an agreement was obtained from both parties by the foreign consuls, defining the territory to be treated as neutral, being that occupied principally by foreign residents.

In the first instance the two contending native factions requested the consuls to define and regulate the neutral territory, which having been done, the factions accepted the definition made by the consuls, the limits being expressly set forth in their acceptance.

The papers constituting this agreement are herewith inclosed, marked respectively Inclosures B 3, 4.

Two months later the consuls issued a notice warning foreigners "against aiding or abetting in any way either party to any strife that may arise between Samoans," and requesting foreigners outside of the neutral territory to hoist over their property their national flag, or a white flag, signifying thereby their neutral position.

On July 2 a formal proclamation was issued by the three consuls and captains of the German and American men-of-war, and Sir Arthur Gordon, acting British consul-general, addressed the chiefs and natives of Samoa, urging a consideration of the evils of war warning them that the neutral territory and lands of foreigners would be protected and that neither party would be assisted, and tendering mediation to avert war but not to settle disputes Samoan in their origin.

At this time a deputation of the Taimua and Faipule visited the *Lackawanna* and were saluted, but as the act gave rise to much comment and misunderstanding the same compliment was extended to Malietoa.

Early in August, 1879, a German schooner was chartered by Malietoa, in which he went down to Savaii. Both he and the schooner were captured by armed men of the opposition, whereupon the *Bismarck* went down and ordered the release of the schooner and prisoners, and fined the capturing party \$2,500, taking back with her four chiefs as hostages. Shortly after the fine was paid and the hostages released.

In the same month Sir Arthur Gordon came to negotiate the treaty between Great Britain and Samoa, dated August 28, 1879. He consulted the foreign consuls and captains of men-of-war upon the point whether he ought to treat with Malietoa as king of Samoa, and they unanimously recommended him to do so, which he accordingly did. Among the resident foreign representatives who concurred in this advice was Theo. Weber, esq., the German consul.

On the following day, August 29, all the foreign representatives, including Sir Arthur Gordon, united in a proclamation setting forth that they resumed relations with the Government of Malietoa as the only party which had any real governmental control.

At the same time the municipal convention was entered into with Malietoa as representing the Government of Samoa, the three consuls and captains of men-of-war joining therein, subject, as to the representatives of the United States, to the subse-

quent approval of their Government. By proclamation of Malietoa and the consuls, made in December following, the date at which the convention was considered as having gone into effect was fixed at September 2, 1879.

This convention having by limitation expired in four years, was renewed indefinitely upon the agreement of the consuls, as appears by the dispatch No. 56 of Consuls Canisius, dated September 3, 1883. Under this extension it is still working. The only authority exercised by it is the delegated authority of King Malietoa, who was the party with whom the agreement of extension was made.

After the recognition of Malietoa by the foreign powers the war continued in a desultory manner, but with the decided advantage in favor of the king's forces. On November 16, 1879, the heaviest battle was fought, and resulted in a complete victory for the king's party, the old Government forces being routed. The result was that Captain Deinhart, of the German man-of-war, then in port, succeeded by his intervention in bringing the war to an end.

The agreement for peace provided that there should be no more war, and that Malietoa Pea (Talavou) should be king, and Malietoa Laupepa vice-king, to succeed his uncle upon his death. A flag was agreed upon, and on the 23d of December, 1879, the king and flag were saluted by each of the German war vessels in the harbor. Mr. Weber was the assistant of Captain Deinhart in effecting this settlement with representatives of both parties of Samoans, and all parties agreed to it. In the Samoa Times of January 3, 1880, in referring to this agreement, it is stated that the meeting on board of the *Bismarck*, called by Captain Deinhart and Mr. Weber, comprised a representative from "nearly every district in Samoa," and the agreement there entered into was probably as nearly a general concurrence of sentiment as has ever been arrived at. The full text of these agreements are herewith inclosed, marked inclosures B 5, 6.

During the spring of 1880 there were rumors of difficulty in Atua, but on March 12 Malietoa was anointed king, according to the Samoan custom. Nevertheless, the rumors of attempts at rebellion continued with more or less truth; and during the year there was some desultory fighting on Savaii, with occasional excitement on the other islands. Many of the Atua and Aana chiefs, however, gave in their allegiance to Malietoa.

Early in the year an agreement was entered into by the three foreign consuls to sustain the existing government, and to appoint three foreign advisers to the king. This agreement is already in the files of the Department, being inclosure No. 2 to dispatch No. 145, April 9, 1880, of Consul Dawson, but for convenience of reference a copy of it is herewith inclosed, marked Inclosure B 7.

The view of the United States Government respecting it is stated in dispatch No. 75 from the Department to Consul Dawson. It was that the agreement was looked upon, not as a treaty, "but simply as a scheme of arrangement between the consular body and the government of the islands for the protection of the interests of foreigners." In this view "the Government (United States) reserved, and still reserves, the right at any time to retire from the agreement, as Great Britain has notified us that she had done."

This agreement at least shows a clear and definite settlement of the question who constituted the Government of Samoa, and an explicit recognition of it by the three powers through their representatives.

The three advisers so provided were selected by the consuls. Ad. Volkmann (German), minister of public works; T. Trood (Englishman), minister of finance; Jonas M. Coe (American), minister of justice. They met with the legislative body, and with their assistance several laws were passed, prohibiting the sale of arms, ammunition, and intoxicating liquors to Samoans or other resident Pacific natives, and also prohibiting Chinese immigration, and providing quarantine regulations. In July, however, these three advisers suspended their functions until representatives should have arrived from "all Samoa," which it was then supposed would be by the end of August.

I am unable to find any further appearance of these gentlemen in connection with the Government.

About this time, also, the English ship *Dana* went to Atua and summarily put down a party of rebels, shelling a town because the chief refused to go on board. The offense of these people was simply the violation of their agreement to keep peace and support the government which was then settled upon.

During the autumn of 1880 there were again disturbances here and there throughout the islands, but principally on Savaii, there being, however, no active movements against the king's government. Meanwhile, on October 25, 1880, sundry laws, already referred to as prepared with the help of the foreign advisers, were promulgated, and are still recognized as in force.

On November 9, 1880, news was received in Apia of the death of the king, Malietoa Talavou, on Savaii, where he had been for some time. Malietoa Laupepa, vice-king and regent, who, under the agreement of December, 1879, had been the active head

of the Government, remained the *de facto* head of the Government after his uncle's death, and continued to carry on the war, which, soon after the king's death, broke out in full force. The negotiations for peace, commenced prior to the king's death, were broken off. For a time the old Government party, as it was called, seemed to be gaining, but their difficulty was in the rivalry between candidates for the leadership.

By the first of the year 1881 Malietoa was fully in control of Savaii, and by the end of February, Manono, Savaii, and Tuamasaga chiefs was united in his favor.

Meanwhile Malietoa was tacitly recognized as the head of the Government, as well by the Taimua and Faipule as by the foreign consuls. The German consul-general, apparently about this time, was accused of encouraging the insurgents by suggesting, or at least approving, the proposal to let two governments be formed, but nevertheless he never ceased to have official relations with the government of which Malietoa Laupepa was the actual head.

The attitude of the German consul-general on this subject is fully detailed by Consul Dawson in his dispatch No. 199, October 26, 1880, and also No. 215, February 7, 1881.

On March 19, 1881, Malietoa Laupepa was duly anointed king, the three consuls being present.

A little more than a month later, on April 21, a gathering of the disaffected was held at Leulumoega, when Tamasese was declared King of Atua and Aana, to hold the position for two years, and then be succeeded by Mataafa. In reporting this meeting the newspaper of that period makes the following comment:

"We understand the consuls were invited to attend the meeting at Leulumoega, but declined, a course which we believe will have the approval of all the foreign residents in Apia, and probably in the group. It is to be regretted, however, that the consuls do not take a more definite position in regard to native affairs. We think that if they were to proclaim boldly (which we believe they are in a position to do) that Malietoa is the only sovereign in Samoa recognized or likely to be recognized by their Governments, and that they can not countenance any other power in Samoa, the difficulties in this group would be nearer a solution."

This comment is from a paper which, during its existence of four years, appears to have discussed the affairs of the natives with great impartiality; and in a careful examination of its complete files I have found that it systematically printed the news of the native struggles without any apparent bias. It is at least worthy of consideration how far the foregoing comment may be applicable to the present state of affairs.

From this time active preparations for war went on, but there was no fighting, other than some trifling skirmishes, until the latter part of June, when, the United States steamer *Lackawanna* being in port, Captain Gillis visited both parties at their forts and addressed the chiefs. A desire for a peace conference having been expressed by the chiefs of the "Old Party," the captain agreed to try and bring it about, at the same time informing them that Malietoa was recognized as king of Samoa by his Government and those of Germany and England. Both parties met with Captain Gillis and the consuls, June 26, and the captain laid before them four articles, which he thought would meet the difficulties. After a long discussion an armistice was arranged for ten days, during which the articles were to be discussed. The *Lackawanna* having returned from a trip to Pago Pago during the armistice, the two parties again assembled on board July 9, and the articles were discussed. When the king question came up (having been omitted from the articles submitted as not matter for discussion, Malietoa being king), his party offered to compromise by electing Tamasese vice king. An adjournment was had for three days. On the 12th another meeting was held, at which a long discussion ensued, which resulted in the acceptance of the conditions as laid down, and the agreement was signed by the chiefs present, and also by Captain Gillis and the three consuls as witnesses. A copy of the agreement is inclosed herewith, marked Inclosure B 8.

This ended the threatened war by the recognition again of Malietoa as the king, and the subordination of those who had resisted his authority, now so often recognized by parties of his own people who had opposed him, by the treaty powers whose treaties he had signed as king of Samoa, and by the foreign consuls in Apia.

The peace thus established continued unbroken until January, 1885, when it was disturbed by the incidents which have been the subject of recent diplomatic correspondence.

Concerning this period of three and a half years I have been careful to make the most searching inquiry of many persons who were resident in Apia during that period. The universal testimony has been that the adjustment of July, 1881, known as the *Lackawanna* peace, was remarkably successful, and that the Government then established was fully acknowledged throughout the Islands. Malietoa, the King, and Tamasese, the Vice-King, with the other offices and members of the Taimua and Faipule, lived together at Mulinnu, and on most, if not all, of the official documents of that period will be found the signature of the Vice-King as well as that of the King.

There were undoubtedly mutterings of discontent now and again heard from the Tupua faction, but they were allayed by discussion and settled, with the advice of the foreign consuls, in favor of the existing order of things.

The date of the Lackawanna peace was, as stated, July 12, 1881. During the year following, steps were taken to reform the Government, so far as its legislative branch was concerned, on the new lines, and on July 12, 1882, the new legislature met for the first time at Mulinu, representatives from all the districts or provinces being present and thorough good feeling prevailing (dispatch of Consul Dawson, No. 330, July 12, 1882).

Under date of February 15, 1883, the Government of the United States was informed that a revolution had been threatened at various times during the past four months. At a meeting of the Taimua and Faipule the Steinberger constitution was referred to as providing for alternation in the Kingship between the Malietoa and Tupua families. The consuls were invited to attend a meeting and their advice was asked. They all concurred in supporting the proposal of Malietoa that not less than seven years should pass without change, in order to give time for peace and order to become settled. The German consul-general, Zempesch, first stated this view, and the other two consuls expressed their concurrence. Taimua and Faipule then agreed to the proposition that the existing order should continue seven years, and that then the King question might be thought of and discussed.

In July following (1883) the consuls were again informed by Malietoa that trouble was brewing, and that the opposition wanted him to sign a paper agreeing to resign in seven years in favor of a member of the Tupua family, without laying the matter before the Taimua and Faipule. This proposition he desired to decline, and asked the advice of the consuls, all of whom supported him in his determination, and the German acting consul-general, Von Oertzen, stated "that his government had sent special instructions that they were to support King Malietoa by force if need be."

These demonstrations were probably correctly explained by the American consul upon the theory that the opposition, having been at peace for two years, began to be restless, after Samoan fashion, and desiring to go to war again, were seeking a *casus belli* (Consul Canisius, No. 53 (52), July 11, 1883).

However, the matter quieted down and political affairs throughout the group were again undisturbed until October 11, 1883, when rumors of proposed annexation to New Zealand were rife, as, indeed, they had been from time to time, the government and people of that country having encouraged this agitation, and having frequently urged the matter upon Great Britain, but without success.

The history of this agitation I have examined carefully in detail, and elsewhere in this report have endeavored to state its extent and effect.

During all this period no fighting occurred, nor indeed any disturbance, except in November, 1883, at Pago Pago, a serious dispute about the chieftainship between Mauga Ma and Mauga Levi, rival claimants. Some fighting having taken place, the King feared that general trouble might ensue, and, at his request, a British and a German ship, then in the harbor of Apia, went together to Pago Pago with the consuls and two chiefs representing the King and stopped the fighting and brought the two rivals to Apia to remain there one year, which they accordingly did. The effect of this action was excellent and greatly strengthened the Government.

A similar course on the part of the three powers would have undoubtedly produced like results in any rebellion or resistance to the King's authority which has occurred, so prompt are their people to accede to the commands of the white men when backed by a slight show of force. The existing rebellion would have been prevented or nipped in the bud if it had been discontinued by the three foreign consuls instead of having been, as you are already informed, supported, both actively and morally, by the interference of foreigners. To this I shall again advert.

Up to July 23, 1884, everything was quiet, and there were no rumors of war whatever. The authority of Malietoa was recognized even by the Atuans outwardly, whatever may have been their inward feelings. A striking instance of this was the bringing to Mulinu for punishment, by a party of Atuans numbering about two hundred, of several murderers. Under the authority of the Government they were tried and three men were hung during that year, two from Atua and one from Aana, both of these being the provinces which had been opposed to Malietoa during the civil war.

The country then was in a state of profound peace. The authority of one Government was acknowledged more fully than had ever occurred before, even to the unprecedented extent of the administration of capital punishment, never before known in Samoa, except in the despotic methods of barbarism. This Government was fully recognized by the three treaty powers.

While I do not doubt that there was a concealed hereditary feeling of enmity in the hearts of those formerly in arms against Malietoa, it was entirely suppressed, and no murmur of it reached the outside world. It was the same sort of feeling of opposition which existed after defeat in Alsace and Lorraine, in Scotland years after the

union, and which lasted in the Southern States long after our own civil war. As in those cases, it did not outwardly manifest itself, at least beyond words, among those who sympathized with it.

Such was the condition of things on November 1, 1884, which, for practical purposes, was the commencement of the present period of political disturbances, into the causes of which it has been my special duty to inquire.

The history of the subsequent time is too well understood by you, and its details too fully set forth in the files of the Department to need even a brief rehearsal here. The leading events will, therefore, be referred to by me as facts already well known.

The subject-matter of this report, under my instructions, includes the causes of difficulties under which the Samoan Government labors, the present situation, and the remedies which may commend themselves to the judgment of the agents.

It will be manifest that the discussion of any one of these distinct matters necessarily involves one and sometimes both of the others; and while for this reason it is impracticable to subdivide the report into separate discussions of the three points to be considered, I shall endeavor to exclude everything which does not bear, either directly or indirectly, on one of them.

ELEMENTS OF SOCIETY TO BE CONSIDERED.

The difficulties which hedge about the present Government of Samoa are due to causes as diverse and complex as are the constituent elements of society in these and other South Sea Islands, and which must be clearly comprehended before any intelligent plan for the future can be formed.

First. There are the natives, who are blessed with a soil and climate quite equal to the gratification of their simple desires with little or no exertion on their part. The simplicity of their life has reduced the necessary machinery of government to a minimum. Their custom of holding all property as belonging to the inhabitants of the village in common, coupled with a hospitality and generosity quite unsurpassed anywhere, equalize the condition of the idle and worthless and the thrifty and industrious. Hence there was no temptation to cultivate the latter qualities. Then, too, the impossibility, under this system, of the individual accumulation of property rendered difficult, if not impossible, a government which involved any expense and consequent taxation. Two of their customs unite in opposing a formidable barrier to the punishment of crime, and, therefore, to efficient administration. By reason of the community of property, just referred to, a fine imposed upon an individual, or a tax assessed against him, would be paid by the village or community. Again, the multiplicity of chiefs, the respect paid to rank, extending even to a chief's relatives or connections, and the resentment which would follow any indignity to one of them, resulted in a practical immunity from punishment. Under these conditions the difficulty, if not impossibility, of any judicial administration as to crimes, by local magistrates, must be obvious. A good illustration of this I find in the language of a Samoan judge in sentencing some prisoners, as reported in the Samoan Times of November 16, 1873. As, from my own investigation, I do not consider it overdrawn, a copy of this item is herewith inclosed, marked Inclosure C.

Nor does this case stand alone, but in many notorious instances there have been natives who, though charged with, and probably guilty of, the gravest crimes, owed their freedom from arrest and punishment to their being sons or near relatives of chiefs.

It is proper to note, in this connection, a difference between chiefship as a mere social rank and as an office involving the headship of a village. Notwithstanding the respect paid to his rank, the position of a chief, or head of a village or community at least, in one of the many grades below the highest, and probably throughout, rests to a great degree upon popular consent, making a curious mixture of hereditary right and popular choice not without its parallel in modern civilized governments.

If a chief becomes distasteful to the people of his village, he may be driven off and ordered to go, or sent with an escort, to his wife's relations. An instance of this occurred before my eyes, which affords a good illustration of the continuing force and arbitrary application of native customs. A chief of good repute, whose village is within the municipality, was thus ordered off, and went to the village where lived his wife's relations. He was, after a while, sent back by them, and having returned to his own home, a meeting (*fono*) was held, and the conclusion was reached to drive him off again. This was accordingly done, and his house pulled down in order to make the banishment effective. This whole proceeding took place within a short distance of the American consulate, and I saw the meeting in progress near the house, then standing, and in less than hour, returning from my walk, I observed the ruined house, and, on inquiry, learned the cause.

All this having been within the jurisdiction of the municipal magistrate, the man could have invoked his protection and lodged complaint against those who had wrecked his home; but no such thought occurred to him, and he acquiesced in the harsh application to himself of the native customs.

There are many other instances which might be referred to, but as my purpose is merely illustration, I content myself with special reference to the two customs which, in my judgment, have specially interfered with the administration of government by and among themselves.

I lost no opportunity of urging upon all influential and intelligent natives whom I met the extent of the interference of these two customs particularly with effective government, and the necessity of wielding their influence against them. I explained to them the equality of all men before the law in our country, and illustrated the fact that even what they would term the highest chiefs were with us amenable to trial and punishment for crime equally with the most friendless citizen.

While I do not believe in the hasty and arbitrary interference with native traditions and customs, these two would require the immediate attention, as causing most friction, of those who undertake to build up a stable government in Samoa.

Secondly. The foreign element adds greatly to the difficulty of the situation. It is itself of a very complex character, comprising missionaries, traders, adventurers, land speculators, with some white men who embark in legitimate business enterprises such as might be carried on in any wholly civilized country. With some exceptions, it is undoubtedly true that the dealings of most foreigners with the natives are actuated by the most selfish motives, and that every possible advantage is taken of the latter.

The missionaries who have been longest established are those of the London Missionary Society, but there are also very flourishing missions of the French Roman Catholics. The influence of both classes over the natives who have embraced the Christian faith under their teachings is very great. From my intercourse with them I was inspired with great respect for their self-denying efforts; and they are, without doubt, the most unselfish of foreigners in their dealings with the natives. At the same time, it is always to be borne in mind in weighing their opinions that, by a law of human nature, they regard most favorably those of the natives who are most thoroughly under their influence. This has been greatly extended by their knowledge of the language. Bearing all this in mind, I think the fact remains that they are the only class who are in Samoa for the benefit of the natives, and who, while their views of what is best for the natives may be colored by the influence referred to, have no interests of their own to serve.

The traders, so called, are those who deal directly with the natives. They also usually understand the language, and are generally actuated solely with the desire to benefit themselves. Together with the land speculators, and the two classes are often combined, they have in the past viewed the native wars solely from the standpoint of self-interest, and would seldom hesitate to provoke one if they could profit either by a change in the government or by the readiness to part with the laws which the anticipation of war always produces in the natives.

There has seldom been a time when the islands have not been cursed with the presence of scheming adventurers, who have succeeded in obtaining the ear of influential natives to projects of annexation or modifications in their government which were designed to advantage those who suggested them. The natives, appreciate the intellectual superiority of the white race, yet fail to distinguish that some white men are not worthy of trust as advisers. To this indiscriminating susceptibility to white influence and the native desire for change are attributable the kaleidoseopic character of their political history and their frequent and contradictory requests for annexation by foreign powers.

Another element of difficulty has been the undue exercise of authority by the consuls, almost necessarily incident to the office in a country like this, which, coupled with the want of means of prompt communication with the outside world, has built up an exaggerated sense of the importance of the position, a habit of arbitrary assumption of authority, and of calling on men-of-war in the harbor to enforce demands despotic in their character, whether justifiable or not. While there have been honorable exceptions in each nationality, I can not doubt that consuls of all of them have, at different times, been instrumental in fomenting political disorders and bringing about civil war.

INCAPACITY OF NATIVES FOR GOVERNMENT, UNASSISTED.

Such being the elements of society with due regard to which any government in Samoa must be constituted, I must report, as the result of my intercourse with, and observation of, the Samoans, my thorough conviction that they are unable now, unassisted, either to construct or maintain a government which will enforce authority or command respect. A system of government of their own they undoubtedly had, and, to a limited extent, still maintain, but it has been so interrupted and interfered with by the foreigners who have settled among them that it is doubtful, even if all disturbing influences were removed, whether they could now restore it. They have never had a government which was worthy of the name as we understand it. They

have no conception of the modern idea of government. That any system of laws should bear equally on all men is to them a thing impossible of comprehension. Probably no better evidence of the truth of these statements could be had than the history of the country for twenty years past.

The question whether there exists in the Samoan race the inherent capacity, unassisted, to evolve a civilization of their own, it is not necessary now to consider. They live under most of the conditions which the most philosophic writers have laid down as essential to such a result, and they have not done it. Whether they would ever do so will not now be tested, as their future must be worked out under the condition of having the white race alongside of and among them. Therefore, it is only necessary now to go so far as to say that they have not, in themselves, power either to establish or to maintain a government over a mixed population of whites and natives, which is the problem presented for present consideration. Indeed, I may go further and state that even the limited opportunity for observation which I have had, outside of Samoa, has fully convinced my own mind that an autonomous neutral government can not be maintained without the aid of white men in any of the Polynesian communities. This conclusion I have reached after some observation and study of the practical workings of the only two autonomous island communities in the Pacific, Hawaii and Tonga. As the former was mentioned in my instructions as a sort of example of what might be considered desirable in Samoa, and the latter was visited by me officially, it can not be amiss for me to use them both as illustrations of the proposition I have made.

The Samoans are, in my judgment, by nature fully the equals of the Hawaiians, and naturally superior to the Tongans; hence, they should be susceptible of acquiring the art of government to an extent quite equal to that of the other two races.

In Hawaii there is a government which has hitherto seemed fully to meet the requirements of the country. The king is a man of good natural parts, of education and refined manners; their legislature has been conducted according to modern methods and contains many native members of some force, and distinguished particularly by oratorical ability; their judicial system has been effective and administered by men of legal ability and character, and their civil administration generally has been of the average efficiency. Nevertheless, it is incontestable that this Government has been, in reality, at least until a recent period, a government created and maintained by white men, and that its policy has always depended on the views of the particular white men who happened, for the time being, to have the ear of the native authorities; and upon the citizenship of these persons has largely depended the predominating influence of any one foreign nation in the affairs of the country at any particular time.

It adds much to the force of these observations that if there is any danger of the failure of the Government of Hawaii to meet the just expectations of future efficiency and success equal to that of the past, it arises mainly, if not entirely, from the possibility that the influence of reasonable disinterested white men, or at least those whose interest is the commendable one of promoting good government, may be weakened, if not supplanted, by the enlarged influence of the native views and habits of thought stimulated by the interference of such white men as commend themselves only by seeking to anticipate and advocate, without discrimination, the views of those who are in power.

So in Tonga, where there is an autonomous native government, with a king who impressed me as a man of as much individuality and force of character as any other Polynesian native with whom I came in contact. It is a government which, at this time, rests entirely upon the shoulders of one European, a man, fortunately, of great ability, and who seems to be thoroughly devoted to the welfare of the country which he has endeavored to lead from semi-barbarism to the position of self-respecting, independent nationality.

What may be the possibilities of the Polynesian race for ultimately acquiring the art of self-government it is impossible now to foresee; nor is it probable that either the present or the next succeeding generation will conclusively develop them fully. It is sufficient, as the basis of present action, that the only practical experiments of autonomous government, according to modern ideas, in Polynesian communities, as well as the conclusions of every intelligent *actual* observer, alike point to the conclusion that such governments will inevitably draw their inspiration and their vital force from foreigners who, by accident or design, may be in a position to exert their influence. In reaching this conclusion I have not depended solely on my own observation, but the result of that has been re-enforced by the opinions, carefully obtained, of intelligent foreign residents of each of the three groups which I was enabled to visit.

Such, then, being the situation, the dilemma which presents itself is, whether the necessary interference in the affairs of these groups—Samoa being the one now under consideration—shall be an authorized interference, under the control or oversight of one or more foreign powers, or an unauthorized and irresponsible interference of in-

dividuals of the white race incidentally resident in the islands, whose influence over the natives may be acquired, not so much by reason of capacity and an unselfish desire to promote the welfare of the people of the country, whether natives or foreign residents, as through craft, treachery, appeals to unworthy motives, promotion of native jealousies, and other selfish instrumentalities. With a few honorable exceptions it is unfortunately true that the irresponsible influence of private individuals in these communities is likely to be of the latter rather than of the former character; and when it is so, selfishness and greed, and not the desire to elevate and improve the natives, is the uniform rule of action and the guiding spirit of the influence exerted.

It is hardly extravagant to say that in the main all influence by private individuals in the government of these communities is prompted, to a greater or less degree, by selfish interests or designs. That it is so arises almost of necessity from the frailty of human nature. Philanthropists, pure and simple, are rare, even among the most enlightened peoples of the world. Self-interest is the mainspring of human action, and none the less so among the foreigners who, many of them by mere accident, find themselves located in the islands of the South Sea. The consciousness of weakness on the part of the natives, and their thorough admission of the superiority of the white race, renders them peculiarly susceptible to the influence of white men, while they are unequal to the distinction between mere intellectual superiority and moral character. Hence it is not difficult for an unworthy foreigner to exercise an influence over them for the most selfish ends. In Samoa this cause has largely aggravated the natural tendency of the native chiefs to dissension among themselves, and in all their internal troubles and native wars for many years the influence of the white man is readily discerned as a factor both potent and mischievous. Evil forces being everywhere more active than good ones, and the more so in a chaotic and primitive condition of society, it is not surprising that in a contest between such forces as are exerted by irresponsible individuals located among the natives the self-seeking and unscrupulous settler has hitherto made his influence more effectual among the natives than that of the few who concern themselves rather with the well-being of the country and its inhabitants than with the pursuit of such profit as may be made for themselves without much discrimination as to the means and methods of acquisition.

The same considerations apply, to a large degree, to the interference in these groups by foreign powers, based solely upon what is termed protection of the interest of their own citizens or subjects.

It would require much less opportunity for observation than I have had to convince a candid mind that the basis of the interest shown by most foreign Governments in the South Sea islands rests, after all, upon a selfish foundation. Where such influence is exerted, as has often happened, solely for the purpose of supporting the pretensions or upholding the so-called interests of citizens or subjects of the power interfering, it, in many cases, simply intensifies and magnifies the most selfish and unbenevolent influence upon the native chiefs by giving to it the backing of a strong and, to them, irresistible power. It is indisputable that this alleged protection of private interests is the gateway through which foreign domination has entered into the islands of the Pacific, and, without any right or title except that by which the lion appropriates the quarry slain by the jackall, it has been applied upon so enlarged a scale that there now remain but three principal groups of islands whose autonomy is respected by the great powers.

From my friendly conferences with the British and German commissioners I was led to conclude that their habits of thought tended strongly to the idea that the right of arbitrary interference with the government of semi-civilized people and control over its subjects sprung directly from the mere fact of the residence in the country of subjects of their respective Governments, and had relation mainly, if not exclusively, to the magnitude of property interests acquired by them there. This view would be the natural result of the practice of European Governments of annexing or assuming protectorates at will over any such country in which their subjects had settled and acquired property interests. The German commissioner always insisted on the right of a predominating influence for Germany, and strongly urged that German interests were of greater magnitude than those of any other nationality. The British commissioner, pursuant to his instructions, opposed any individual predominance as among the three powers, but nevertheless contested the position of our German colleague as to the relative importance of German interests.

I was not, and am not now, after much reflection upon the subject, prepared to admit that in this age of the world mere possession of power to do so carries the right to destroy the Government of a country like Samoa, and to create a new one at will, dependent for its existence and continuance upon what is, in reality, the brute force of the foreign powers, although applied according to modern methods. I believe, and so expressed myself to the commissioners of Great Britain and Germany, that any action of our Government respecting Samoa would not rest upon the mere existence of American interests or property in that country. While these would be

protected independently of any interference with the government of the country the action now being taken rests upon the broader grounds of a *national* and not an individual interest in the preservation of some neutral ground in the Pacific.

The *theory* upon which have rested up to this time all the dealings of our Government with the Indian tribes has been one which recognized their nationality and denied the right of our people to appropriate their lands by brute force, or otherwise than by virtue of treaties, entered into by them voluntarily and upon full explanation and consideration. It matters not that the practice of our citizens respecting the aborigines may not in all cases have accorded with this theory; the principle has been most persistently maintained, and must be accepted as necessarily underlying all governmental action.

If such a rule of action were adopted and adhered to respecting those semi-civilized or barbarous people who inhabit the territory of the United States, I felt authorized to assume that an equally just and equitable principle would be applied in dealing with similar races outside of our territorial jurisdiction.

In the latter case at least we are happily unembarrassed by the practical difficulties attending the application of the principle to the Indian tribes, upon whose boundaries an active and progressive portion of our people are ever pressing forward and coming in conflict with the natives.

In considering, therefore, the important questions respecting the future of Samoa which are raised by my instructions and referred to me for investigation, I have constantly kept in view, as a fundamental condition, that all suggestions which I might make must necessarily be squared with the theory that the country belonged to the Samoans, except so far as parted with by them voluntarily and obtained from them without fraud. This has rendered it necessary in weighing all plans and suggestions for the future government of the islands to regard the Samoans themselves, their customs and traditions, as factors of prime importance, to be treated with far more consideration than it appears to be usual for the nations of Europe to accord to such peoples. Their custom has been simply to take possession, by the *vis majeure*, of any group of islands or semi-civilized country, and govern it as an appendage, without any, or at least no more than a merely nominal and compelled, consent from the native authorities.

The arbitrary manner in which, at different times, representatives of Great Britain and Germany have dealt with the Samoans, going so far often as to impose heavy penalties upon them for injuries to their respective subjects, without any semblance of judicial ascertainment either of the existence or extent of such injuries, and enforcing such penalties at the mouth of a man-of-war's guns, serves to illustrate the habit of applying to such peoples simply the law of superior force.

It is beyond question that the present attitude of the Samoan chiefs is one of such subserviency to the conclusion which it is expected will be reached by the three great powers concerning their future that acquiescence may be expected in such conclusion, whatever it may be. Nevertheless, I have assumed that any agreement respecting them to which the United States is a party must be based upon the American rather than upon the European theory of dealing with such peoples.

LOCAL FOREIGN INFLUENCES.

In addition to difficulties arising from the characteristics of the natives, much of the present trouble is due to the white settlers.

The increasing tendency of Great Britain and Germany to annex and otherwise absorb Polynesian territory has naturally led the subjects of both nations to anticipate the annexation of Samoa by one or the other as quite certain. It resulted that residents of each nationality have for many years actively engaged in the promotion of schemes of annexation by their own Government, and to forestall action by the other. To this end there were constant intrigues to influence the native rulers for the time being, or, if that could not be done, to offset their inclination to the other side by fomenting native dissatisfaction and opposition to the Government, with the hope of bringing about a change, not only of the natives in power, but of the controlling outside influence.

Whatever may have been the attitude of the respective Governments, and their recent diplomatic assurances that an annexation was not intended are quite ample, there can be no question that their subjects have acted on the contrary theory. Nor is this surprising, inasmuch as, within a very recent period, both Great Britain and Germany have made formal proposals to assume control of the group.

It will presently appear that Great Britain did finally peremptorily forbid agitation by its subjects of annexation, but I feel confident that before the arrival of Mr. Travers the position of his Government was not understood by its subjects to be adverse to their plans of practically taking possession of the islands. There can be little doubt that to this result was tending the course taken by the local German representatives at the time when it was arrested by the events of last May, which removed from Apia the settlement of the future condition of the islands.

Even during my visit I never heard a suggestion respecting the future from the German commissioner which did not involve the administration of the group by Germany, though it was suggested that this should be done under a treaty guarantying the rights of people of other nationalities, a proposition which will be hereafter considered.

The action of British and German subjects and local representatives upon the present condition of Samoa has, in my opinion, been thus general and reciprocal in its influence, but each has had a distinct bearing which renders proper a more particular and separate statement of its character and extent.

While at times projects for a protectorate by the United States have been much discussed, the policy of this Government was so well understood by its own citizens and by foreign Governments and their subjects that such schemes have not gathered sufficient headway in recent years to render it necessary to refer more particularly to them as an element of the present situation, except so far as the action of Consul Greenebaum last May has affected it.

While I believe that if that action had been ratified by the Government of the United States it would have given general satisfaction to the foreign residents in Samoa, excepting possibly the German company of which Mr. Weber is the head, the adverse decision of our Government was so generally anticipated that the only effect of the consul's action upon the Samoan problem was to remove it elsewhere for solution, and to arrest the operations of the German officials and residents then at Apia.

NEW ZEALAND ANNEXATION PROJECTS.

The subject of the annexation of Samoa to Great Britain or New Zealand has been agitated from time to time with great persistence, and has undoubtedly been one of the disturbing influences in the group.

Inasmuch as in the course of our friendly conferences this subject was much referred to, and evidently great stress was laid upon it, as one of the principal causes of trouble, I examined with great care the history of the agitation as contained in the printed official documents of Great Britain and New Zealand.

It has already been noted that early in 1877 the Samoan Government, during the civil war which had then demonstrated its weakness, sent a deputation to Fiji to pray for annexation to Great Britain. To this application no attention was paid, the request being vague and indefinite.

In August, 1879, the treaty was signed by which Great Britain recognized the independence of Samoa; and it was not until 1883 that the subject of British colonial annexation began to be actively discussed in Australia and New Zealand. The basis upon which the agitation rested is well stated in a letter from Governor Jervois, of New Zealand, to the secretary of state, inclosing a bill proposing a general scheme of permissive annexation of the Pacific islands then under consideration in the colonies.

The language used is this:

"That the British Government should, under existing circumstances, take steps for the establishment of its rule over such islands in the Pacific as are not already occupied by or under the protection of a foreign power, and the occupation of which by any foreign power would be detrimental to the interests of Australasia."

(1) The earliest definite movement in this direction respecting Samoa seems to have been connected with the visits and operations of Mr. John Landon, formerly a representative in the New Zealand assembly, who visited Samoa in 1883.

Two reports of what Mr. Landon saw and did were made, one being his own statements, as made in the New Zealand Herald, September 17, 1883, and the other being a communication from Samoa to Mr. De Veoux, high commissioner, in the same month, the writer of which is vouched for by the high commissioner, and his statements, considered by the latter possibly in connection with information which he may have had from other sources, of sufficient credit to be made the basis of an official communication to the New Zealand Government.

Mr. Landon, in his newspaper reports, represented that there was no government worthy of the name; that the consuls mixed in everything, and that their influence was crossed by the missionaries, who were, in turn, watched by Europeans who had interests in the islands.

In connection with these reports from Landon there also appeared in the New Zealand paper, September 18, 1883, a draught of a petition proposed to be circulated in Samoa, (1) setting forth that the petitioners had observed with concern the relations existing between the natives, and the unsatisfactory condition of the political government and social order in Samoa; (2) referring with approval to the proposed bill permitting annexation by colonies of Pacific islands (permissive annexation bill); (3) expressing belief that all these evils (in Samoa) would be terminated by annexation; (4) advising a commission to consult on this subject; (5) details to be arranged when basis of annexation is concluded,

The New Zealand Herald stated that Mr. Landon, at the time he wrote on the condition of things in Samoa, and urging annexation, did not know anything about the "annexation act" passed by the legislature (not yet approved by Great Britain).

It was after these publications that the high commissioner's "informant" writes of the excitement which they had created in Samoa, and refers to the petition as having been drawn up by Sir George Grey and others in New Zealand upon the representations made to them by Mr. Landon.

The "informant" states that this paper had a most undesirable effect on the opposition party, who made it a protest for claiming that Malietoa had been trying to sell the country, asserting that they would resist annexation by force.

It appears from the statements of this writer that Landon had, by his mischievous talk among the natives, contributed to this state of affairs; that having failed to enlist Malietoa in his scheme, he abandoned his efforts in that direction and conferred much with Tamasese and Masua, who at that time were still connected with the Government; that he visited Savaii to agitate the subject there. And it was intimated further that Tamasese appeared to encourage Landon, for the purpose of furthering his (T's) personal ends, by furnishing him with means for claiming that Malietoa was trying to sell the country.

In October, 1883, the high commissioner, in forwarding his informant's letter, writes to the governor of New Zealand, and after referring to the arrangement, July, 1881, under which Malietoa Laupepa was made king, and Tamasese (the head of the opposition) was made vice-king, he says:

"The action now being taken by persons from New Zealand is thus calculated to defeat the object which the parliament of that colony appear to have had in view in passing the recent 'permissive annexation act.'"

He earnestly urges the New Zealand Government to check the mischief going on, referring particularly to Mr. Landon's efforts at Apia.

After the receipt of this letter by the governor of New Zealand, and its communication to his premier, the latter disclaimed to the governor any sanction or authority for Mr. Landon's actions; and the governor wrote to the high commissioner that the annexation bill was not yet a law (not yet approved by Great Britain), and that Mr. Landon's course was not authorized.

Meanwhile, in November, 1883, Malietoa was induced to prefer an application to Great Britain for the annexation of Samoa, and said:

"I and three-fourths of the chiefs and people of Samoa wish to see put up the flag of Great Britain at once."

This was doubtless mainly the result of the efforts of the unauthorized New Zealand agitators, as there was at that time nothing in the condition of Samoa to press him into this position, as there was at the time of his application, a year later.

Malietoa's application seems this time to have been transmitted through the government of Fiji. Transmitting it, Captain Ackland, of Her Majesty's ship *Miranda*, writes that natives said if civil war broke out in Tutuila they would hoist the English flag over that of Samoa, as a battle flag, and also "that German traders would not object to annexation to Great Britain, but merely as a matter of sentiment would rather see the German flag flying, for they feel that this colony would thrive much better under the British flag than under the German or Samoan."

In referring to the same application, Mr. Thurston gives his views upon the autonomy of the Samoans:

"Natives of Polynesia are neither capable of forming nor of maintaining any government worthy of the name, any attempts to do so only likely to afford opportunities for involving themselves in difficulties with foreign powers and for entanglements with private speculators and low-class adventurers. * * *

"For years past peace and order have been maintained in these islands by German and English men-of-war and German and English consuls." * * *

To Malietoa's petition no attention was paid by Her Majesty's Government, as appears from the memorandum of the British foreign office, October 17, 1885, which was furnished with my instructions.

About this time, the convention of the colonies to consider annexation, then in session at Sydney, resolved that it was proposed to limit occupation to such an extent as will only be sufficient to prevent interference by foreign powers.

In expressing to the convention his views respecting the South Pacific, Governor De Veoux, of Fiji, said:

"I have gradually formed the opinion that control on the part of the confederated colonies over these islands affords the only reasonable prospect of material and moral advantage to them, and the only rational hope that they will, for centuries to come, prove of any substantial benefit to the world at large."

This period of agitation was brought to a close by correspondence between Landon and the New Zealand premier. The former wrote, February 25, 1884, urging his views, and in the course of his letter he says that he had three meetings with the Samoan Parliament, "and I advised them to get their islands annexed to New Zealand."

The premier's reply, dated May 30, 1884, states that he repeats in writing opinions recently expressed verbally, and says:

"My colleagues agree with the opinions I stated to you, namely, that the assembly having passed 'the confederation and annexation bill, 1883,' which was reserved for the expression of Her Majesty's pleasure, and has not yet been assented to, the Government are not in any way empowered to receive applications for annexation; and that now, in the absence of authority and while the Imperial Government have the matter under consideration, to take action of any kind respecting Samoa, or to encourage the visit of the proposed deputation, would certainly prejudice, if not defeat, the object which it is stated a large proportion of the people of the group desire to secure."

This is probably a fair expression of the attitude of the New Zealand Government at this time, and prior to the events which excited the dread of German annexation or predominance in Samoa. That no apprehension on this subject then existed appears from the following extract from the letter of De Veoux to Governor Jervois, October 26, 1883:

"As Germany is not a colonizing power, it is not impossible that her Government might regard with favor the annexation of these islands by England in the assurance that the possession of the private property of German subjects would be thereby guaranteed. But, however this may be, a disposition of this kind is not likely to be induced by any agitation which places in immediate peril interests which have hitherto been preserved at so heavy a sacrifice."

(2) In October, 1884, a somewhat prolonged series of negotiations was opened between the New Zealand Government and the British foreign office respecting the annexation of Samoa.

October 22 Premier Stout telegraphed the agent-general to try and arrange for New Zealand the option of annexing or confederating Samoa under the bill of last year. On the same day the agent-general replied that he could do nothing officially; it would entail refusal; but could represent the matter privately.

On November 19 the governor of New Zealand (Jervois) telegraphed to the Secretary of State the desire of New Zealand and ministers that Great Britain, in negotiations with France and Germany, would secure Samoa and Tonga to New Zealand, and offering guaranty of costs by the New Zealand parliament. On December 11 this telegram was laid before the foreign office, together with another telegram from the governor, of December 6, saying that he had forwarded a petition of the King and chiefs of Samoa to Her Majesty to annex Samoa. The governor states that he is not aware of the circumstances under which the petition was drawn up. It was forwarded to him by McArthur & Co., to whom it was sent, but they had no connection with the movement.

The last telegram introduces the agitation which had again broken out in Samoa. The difficulties between Malietoa and the German consul-general, which are elsewhere stated, had culminated in the pressure of the Samoan Government to execute the treaty with Germany which had been so resolutely pressed by Dr. Stuebel, and and was finally executed November 10.

A petition dated November 5, and signed by the King, Vice-King, and forty-eight chiefs, was addressed to Her Majesty the Queen, referring to the petition sent "nearly a year ago," and complaining that "no answer has been received."

Exactly one week afterward Malietoa, having been induced to sign the German treaty, addressed to Her Majesty another petition, dated November 12, assigning as the reason for the renewed application the painful apprehension that Germany intended to annex the islands, and excusing the Samoan Government for their assent to the treaty under these fears. On the same day he addressed a note to the British consul, advising him of the petition and giving the same statement respecting the German treaty.

Subsequently Malietoa addressed a communication on the same subject to the consul of the United States, which was dated December 1, and which was evidently intended as an explanation to the Government of the United States of his action in soliciting the interference of Great Britain. Copies of these communications from Malietoa are herewith annexed, marked Inclosures D 1, 2, 3, and 4.

This second application was transmitted to England with sundry papers relating to the transactions of November in Samoa, but they were not received until January, 1885, after the previous one had been acted upon.

The foreign and colonial offices concurred in an understanding to reply to the governor of New Zealand adversely to annexation, but owing to circumstances connected with New Guinea, etc., the telegram was not sent until January 3, 1885.

During December the German Government communicated, through Sir E. Malet at Berlin and Count Munster at London, the information received by it of efforts on the part of the King of Samoa to obtain a British protectorate, and that private individuals had been working in the islands of Samoa and Tonga for British annexation, and requesting an assurance on that subject, and that the Government of

Samoa should be informed that such a movement was disapproved by Her Majesty's Government. Both of these things the British Government were willing to do, but the action was delayed, as above stated, by the New Guinea occurrence.

Meanwhile persistent telegrams from the New Zealand premier to the agent-general urged the annexation of Samoa, Tonga, and the Hervey Group, and the agent-general kept replying that it was impracticable. At last the New Zealand governor telegraphed further urging annexation and about sending a steamer to Samoa; and this brought, on January 3, 1885, the answer, which practically forbade action by the New Zealand Government, stating that the "German Government has given and received assurance within last few days that independence of these islands should be maintained."

In reply the New Zealand authorities promise that no steamer should be sent, but complained of the circumstances attending the signing of the German treaty of November 10, 1884; but on the following day the premier of New Zealand telegraphed to the premier of Victoria, making somewhat excited complaints of the "supineness" of the home government, and as a result instructions were telegraphed to the agent-general of Victoria to unite with the agent-general of New Zealand in protesting at London.

After the exchange of assurances respecting the independence of Samoa between the British and German Governments, further correspondence ensued between the New Zealand Government and the home government, the former again urging that it be allowed to send a steamer to Samoa and arrange matters on the spot.

The text of the German treaty having been received in New Zealand, was telegraphed to England with complaints of the New Zealand Government respecting the assurances given to Germany, and that the German consul's action regarding the treaty was a breach of the assurances exchanged. The desire of Malietoa and his people for British annexation was again urged, the subject having been renewed in another letter from Malietoa to the governor of New Zealand, dated November 25, 1884; and also a letter from Mr. Churchward, the British consul, in which he represents the feeling in Samoa in favor of annexation to be very strong in general, and with reference to the application from Malietoa, he adds:

"Your excellency may be surprised at their not having sent their application through me, but in reality they were acting in strict accordance with my advice, very frequently sought for, viz, that if they wished Great Britain to take favorable notice of their wishes as to the matter of cession, it must not be the result of official influence, but must be an unconditional act of and from themselves as a nation; also, that it must be the desire of a decided majority."

The new German treaty was then the subject of communications between the British and German Governments, and the new Zealand Government again urged that permission should be given to send their steamer to Samoa to make an agreement similar to that of Germany. The governor, telegraphing this proposition, added his own disapproval of it, very sensibly remarking that "if the internationalization of the islands is to be maintained, I feel it should rather be by the canceling of special advantages conceded to Germany or any other power than by making counter agreements."

The British Government now ordered a war vessel to Samoa, and so advised the New Zealand Government; but the latter still urged the project of sending its own steamer, or, if that should not be permitted, requested that the British vessel should call there and take a New Zealand minister down to make an inquiry. The governor, in telegraphing this request, again expressed his own dissent from the request of the minister.

On January 20 the foreign office replied that the government could not approve; that the question was not regarded in Europe as one depending on the national feelings of the Samoans; and that there was no reason for the inquiry which the Government of New Zealand contemplated making.

The governor telegraphed on the following day, "No steps will be taken here," and this concluded all correspondence relative to the proposition of the New Zealand Government to send to Samoa its steamer, the *Hinemoa*.

In concluding a summary of the entire correspondence the governor of New Zealand, whom the correspondence shows to have been much more conservative on the subject of annexation than his ministers, expresses his own feelings with respect to the annexation of Samoa and Tonga as follows:

"I can not but feel that the annexation of these islands and of Tonga, in some form or other, would be most desirable in the interests of the islands themselves, of this colony, of the Empire as whole, and of other powers concerned.

"There is no hope that a purely native government will be able to deal with the complicated questions which must arise from the presence of numbers of Europeans of different nations, and possibly an influx of Asiatics and Americans.

"An irregular sort of government by foreign consuls acting in the name of a native king is unsatisfactory, tends to complication and misunderstanding, and, at best, can

not be firm. The only means, therefore, of avoiding anarchy is by placing the administration of public affairs in the hands of one civilized state; in a word, by annexation. The question then arises, which state shall annex? And, whilst observing that the natives themselves express a decided opinion in favor of the United Kingdom, I submit that the interests of all nations would be best served by Samoa becoming a British possession under such guaranties as would be satisfactory to other powers."

He argues that foreigners in British colonies are always accorded equal rights, etc., and concludes:

"At the same time I do not lose sight of the fact that no step can be taken in the way of annexation without consulting the wishes of other powers who possess important interests in the South Pacific."

The discussion of the Samoan treaty continued between the British and German Governments, the latter through Count Munster, in a note of January 28, 1885, stating its intention to ratify the treaty, and adding a request that the former should put an end to the agitation for annexation from New Zealand.

(3) Before this note was answered information was received in Europe of the proceedings of the German consul-general at Apia on January 23. The first information of it seems to have been received from the German Government through Her Majesty's ambassador at Berlin, and was accompanied by assurances from Prince Bismarck that he had no intention of sanctioning either annexation or a German protectorate in Samoa.

When the news reached New Zealand the telegraphic correspondence with the home government was re-opened. The governor reported that Malietoa had written to him protesting against the action of Dr. Stuebel. Malietoa, in the letter here referred to, and also in one of the following day to the British consul, complained of the harshness of the German consul, and that Tamesese had stated his expectation of being made King at Mulinuu within a few days. It was after the receipt of the telegram of the governor of New Zealand that the British foreign office replied, under date of February 16, to Count Munster's note of January 28, the latter having been meanwhile the subject of correspondence between the colonial and foreign offices. In his reply Earl Granville objects to the German treaty, and states that the feeling in Samoa for annexation "appears to be spontaneous and genuine, and there seems to be more reason to suppose that it has been instigated by Englishmen than that it has been intensified by the recent action of German representatives." He expresses the gratification with which "I had learned from Her Majesty's ambassador at Berlin and from your excellency that your government had promptly repudiated the action of their consul at Apia in hoisting the German flag over some land there." And yet Dr. Stuebel did not remove this flag until more than a year after this time.

In the correspondence between the colonial and foreign offices which preceded this dispatch, the former expressed the opinion that there were no grounds for Count Munster's complaints about New Zealand agitation, adding, "The feeling in Samoa in favor of English annexation appears to be spontaneous, national, and genuine."

Nevertheless, on February 18 the following caution was telegraphed by the secretary of state to the governor of New Zealand:

"Forward by first opportunity to consul Samoa, direction not to give any countenance or support to any movement for annexation to Great Britain."

At the same time the Secretary of State wrote to the governor of Fiji, also the acting high commissioner of the western Pacific, as follows:

"Her Majesty's Government are in communication with the German Government with a view to maintaining their agreement that both countries shall respect the independence of this group of islands [Samoa], and I have therefore to direct you to cause the Samoan Government to be informed that any movement in favor of British annexation is disapproved by Her Majesty's Government."

Of these communications the German ambassador was informed on March 23. The renewal of the agitation in that colony, however, which had followed the proceedings of January 23 at Apia, was not so easily arrested. Mr. Landon had been at work in Samoa and had obtained the passage of an act for the annexation of those islands to New Zealand, a copy of the translation of which act, dated February 9, 1885, is herewith inclosed, marked Inclosure D 5.

This bill was inclosed by Landon to the premier of New Zealand in a letter of March 16, arguing that the Samoan Parliament has been judicially recognized by the supreme court of New Zealand in the case of *Hunt vs. Gordon*; that great disappointment would ensue if the proposal were not acceded to; that the German interests in Samoa were greatly exaggerated, the traders being mostly British; that Mr. Weber, the head of the Germany company, was actively promoting the rebellion; and that the expenses of annexation would be light and easily recouped by custom duties.

This letter and the Samoan act were forwarded by the premier to the agent general, urging that Great Britain should yield to the joint representations of Samoa and New Zealand and proclaim Samoa a part of the British Empire; that if this were imprac-

licable, then that a treaty was necessary between the three powers to preserve Samoa as neutral territory. A few days later Mr. Landon again writes to the premier of New Zealand, inclosing a letter from Malietoa to Sir George Grey, commending to him a native deputation to New Zealand, because, as he says, "Mr. John Landon has told us that you take great interest in the Pacific Island people." There was also inclosed a letter from the King to Landon, in which he uses the expression, "By your desire my Government has passed a bill."

A subsequent letter from the King to Landon was also inclosed, bearing date February 16, and saying that the deputation is not going to New Zealand by request of the British consul.

A fourth inclosure is a letter from the King to Messrs. Gray and Landon, February 17, asking them to act for the Samoan Government as agents to arrange annexation to New Zealand.

Sir George Grey replied to the King, April 14, in a long and admirable letter, advising independence rather than annexation as best for Samoa; and the premier replied to Malietoa, April 2, that New Zealand could not take steps for annexation, in view of negotiations going on between Great Britain and Germany.

This statement was the result of the correspondence which had been going on with the home Government, and the subject was concluded by a dispatch from the Earl of Derby on April 15, that "even if there were not in existence an explicit understanding with the German Government that neither country shall annex the Navigators' and Friendly Islands, the extent of German interests in them would preclude Her Majesty's Government from advising that measure, unless with the full concurrence of the German Government."

This conclusion was accepted by the New Zealand Government as final, as appears by a dispatch from the premier to the agent-general, June 5.

On the 15th of July a memorandum from the ministers to the governor of New Zealand reviews the matter, stating that New Zealand had discouraged annexation and had prohibited New Zealand colonists going to the islands from carrying any official proposition or statements that annexation would be accepted.

The only further agitation of the subject during 1885 was some correspondence with Landon, in which the question of the purchase of German interests in Samoa was mooted, and also a correspondence between Malietoa and the premier, in which the former writes, August 11, that there is great anxiety to have good results from the negotiations between Great Britain and Germany. He still expresses the desire for annexation and refers to the rebellion as caused by Mr. Weber.

On September 28 the premier acknowledges the King's letter and states that the islands are still under consideration by the powers; that under these circumstances any contrary action by Great Britain is out of the question, especially after the United States has ordered forthwith a vessel to Samoa. He refers to the suggestion made in Berlin for a partition of Samoa, the United States to have Tutuila, England Savaii, and Germany Upolu, as one for which he knows no authority.

Referring to the resignation of the ministry in England, he says, "Every question relating to the Pacific islands may now go into another phase," and thinks it futile to say any more until a new Government is formed.

(4) The last discussion of the subject of Samoa in New Zealand was occasioned by the action of Dr. Stuebel, December 31, 1885, in forcibly hauling down the Samoan flag.

The news was received in England by a dispatch from the British consul, and immediately communicated by Lord Salisbury, in what is called an energetic telegram, to Berlin. Assurances were received that no annexation of Samoa would be allowed, and that the existing negotiations between Germany, England, and the United States would be maintained inviolate.

Surprise was expressed at this news, inasmuch as the commander of the *Albatross* had said nothing of any disturbance in dispatches sent by him on December 31.

On the same day that this communication was received from England the governor of New Zealand telegraphed:

"Two Samoan chiefs paid visit to me to-day, urging on behalf of King and people of Samoa that Great Britain should undertake the government of their country, and stated that all trouble would then cease."

The fact that no information was received by the German Government was explained by the fact that their dispatches were sent by the regular mail, which left Apia prior to the occurrence in question, while the telegram of the British consul was forwarded by a special boat which carried the two Samoan chiefs over to the mail steamer.

On January 21 the premier telegraphed to the agent-general in London about the German flag in Apia and the two chiefs in New Zealand awaiting decision, and the agent replied that nothing would be done, except that neither Germany nor England would annex, now that America had intervened. At this time the subject was being agitated in the newspapers in the United States, and it was stated that a Govern-

ment vessel would be sent to Samoa. The admiral of the squadron received orders to send a vessel and ordered one to sail in February. The *Mohican* did sail for Samoa March 6.

In addition to the telegraphic correspondence just referred to, the premier wrote a long letter to the agent-general, dated January 22, reviewing the situation and indicating a strong desire for the annexation of Tonga and Samoa.

On January 27 the agent-general wrote to the premier, stating Lord Salisbury's assurance in the House of Lords that there was not, in any hypothesis, any danger of an exaction of Samoa by Germany. Some events were not only imperfectly reported, but reports were not received at Berlin at all; but Her Majesty's Government had received the most positive assurances that Germany would adhere to the existing treaties about Samoa.

On the 20th of January the Secretary of State telegraphed to the governor of New Zealand that it was "entirely out of the power of Her Majesty's government to entertain proposals of chiefs," and referring to the German assurances on the subject.

It appears from the foregoing that the agitation in New Zealand for the annexation of Samoa may be referred to four distinct and separate causes, always remembering that there existed in that colony a strong desire in this direction, which needed only an exciting cause to develop it into active agitation. I refer, of course, to such agitation as received any official countenance or support, and not to the occasional and sporadic efforts of individuals in Samoa to promote this end.

First was the agitation commenced and systematically promoted in 1883 by Mr. John Lundon. He was a man, as I was informed, of the class who make continual trouble among the South Sea natives. He sowed the seeds thoroughly, which subsequently produced repeated crops under the influence of local troubles. His original scheme died out, however, and his action was finally disavowed by the government of the colony.

The second period of agitation was connected with the pressure brought to bear upon the government of Samoa to execute the German treaty of November 10. It is true that the New Zealand government had reopened the subject by a suggestion just prior to this time, but it brought back an unfavorable reply from England and went no further.

The third period of agitation grew out of the feeling aroused by Dr. Stuebel's action in raising the German flag, January 23, 1885.

And the fourth was the re-opening of the subject in consequence of his proceedings on December 31, 1885, when the Samoan flag was hauled down.

LOCAL GERMAN INFLUENCE AND ACTION.

The action of the local German representatives since November 1, 1884, was so intimately connected with the existing rebellion against the authority of the King that it was impossible, even in the most cursory investigation into the affairs of Samoa, to avoid the discussion of it as one of the most potent causes which have contributed to the present situation.

It will be recollected that Dr. Stuebel assigned as a reason for his action in raising the imperial German flag at Mulinuu that it was "a public manifestation" of the taking possession, "as security, of all the land which now constitutes all the municipality of Apia" as far as the sovereign rights of Malietoa and his Government were concerned. This act has been characterized as an attachment by way of reprisal for wrongs done to the German Government by the existing Government of Samoa.

In view of the existence at that time of the municipal board through which representatives of the three powers exercised, by delegation from the Samoan Government, all the powers of government within the territory specified by Dr. Stuebel, that act was directed, not only against Malietoa and his Government, but was also an interference by the German consul-general with rights duly acquired and then exercised in part by the Governments of the United States and Great Britain.

This fact alone would make it not only proper but necessary, in any discussion of the subject under consideration, to ascertain precisely the bearing of Dr. Stuebel's action upon the relations of the treaty powers to the Government of Samoa. Its repudiation by the Imperial Government as soon as reported, and within less than two months, may render it unnecessary to consider how far Dr. Stuebel's impulsive action was to be treated as derogatory to the dignity of the Governments of the United States and Great Britain as represented in the municipal board; but that repudiation did not then, and has not yet, extended to the restoration of the *status quo ante* in Samoa to repair the injuries caused by it in that unhappy country. With respect to these effects, therefore, it is essential to consider dispassionately whether any, and if so what, contribution to the recent entanglements were due to this now repudiated action.

In view of the fact that this subject involved a consideration of the course which was deemed proper by the representative of a friendly power, and one earnestly en-

gaged in co-operating with other Governments, including our own, in assisting to establish a stable government in Samoa, I have taken special care to bring to bear upon the action of Dr. Stuebel, and the circumstances surrounding it, all the light which was available from every point of view. I have examined very carefully all the statements made by himself of the grounds of his action and the events which led up to it, and have also conversed freely and frankly on this subject with the German commissioner and have heard all that he had to say with respect to it.

It may be remarked here that very early after my arrival in Samoa I perceived how important was the bearing of Dr. Stuebel's action upon the situation; and at the first meeting which we had together, both Mr. Thurston and I mentioned the matter to Mr. Travers and asked that, inasmuch as the acts of Dr. Stuebel seemed to us both to enter materially into the investigation, we might be informed fully as to the acts of the Samoan Government for which the so-called attachment of sovereign rights in the municipality had been made as a reprisal. It was subsequent to this inquiry, and at the same interview, that Mr. Travers expressed the views respecting the methods of our investigation which led to the difference of opinion between us heretofore stated; and I afterwards learned from him that his objection, then expressed, to our considering the communications which might pass between us as other than confidential ones was promoted by a slightly unpleasant impression resulting from the coincident inquiry which we had made respecting Dr. Stuebel. It appeared to Mr. Travers, and perhaps not unnaturally, that at the outset Mr. Thurston and I were undertaking an investigation into the official acts of the German consul-general.

The coincidence of our inquiry on this subject was purely accidental, and, properly understood, indicated nothing, except that the matter had appeared to both of us as important. The fact that Dr. Stuebel's act had been so promptly disavowed by his Government seemed to me to deprive it of any official character; and, even if there were any reason why we should not all consider the bearing of the official action of any of the consuls upon the condition of the country, that particular act, with its incidents and consequences, seemed to have been relegated by his own Government to the category of private action.

It is proper to add that this slight misunderstanding on the part of Mr. Travers was afterwards the subject of full explanations between us, and not only did it fail to disturb in any degree our frank and cordial relations, but I think that he understood precisely the character of my inquiry.

To recur, then, it must be recalled that the breaking out of the present rebellion in Samoa was coincident with the action of Dr. Stuebel on January 23, 1885; that prior to that time the country had been for three years and a half at peace; that, so far as the natives were concerned, the authority of the Government was fully established; that Tamasese, the leader of the party now in arms against the Government, was, in his position of Vice-King, acting in friendly concert with Malietoa and taking an active part in all that was done.

Up to the period intervening between the execution of the treaty of November 10, 1884, and the raising of the imperial flag on January 23, 1885, there was not a breath of opposition to the existing Government, and no disposition shown to break the peace which had resulted from the Lackawanna negotiations.

The only objection that was heard from any quarter related to the inefficiency of the Government in punishing natives for depredations upon the property of foreigners, and particularly in giving effect to judgments rendered against such offenders by the German consular court.

Dr. Stuebel, in his proclamation of January 23, sets forth as the ground of his action that during the long period that Malietoa has been King the Government of Germany has been treated with unkindness and injury, and all agreements that have been made between the Governments of Germany and Samoa have been repeatedly violated. In his letter to the King of January 23, 1885, he states as the cause of offense the disregard of German treaty rights, specifying only as occurring prior to November 10, 1884, the failure of the Government to restore persons who had escaped from the German prison. Dr. Stuebel also complains of the expression in Malietoa's letter of November 20, "that it is generally known that Samoa was to be taken by force by the German Government;" and also the expressions in speeches derogatory to Germany accredited to two chiefs connected with the Government.

Even my limited stay in Samoa taught me to be very cautious in accepting reports of expressions by the natives in their own language; the translation is too apt to be colored by the inclination of the interpreter to make mischief or to promote good feeling. Even Malietoa's letter is incorrectly quoted by Dr. Stuebel, his expression being "the report that Germany was about to seize our country was widely spread" (general), language of very different effect from that attributed to him. But, even assuming these reports to have been true, it is to be noted that the instances of annoying expressions referred to all occurred after the period when the circumstances attending the execution of the treaty of November 10 had produced strained relations between the King and the consul-general.

Dr. Stuebel's statement that "during the long period that Malietoa has been King the Government of Germany has been treated with unkindness and injury," is very far from being correct. The Malietoa family were largely indebted to German influence, and especially to Mr. Weber, for their restoration to power after the final defeat of the then existing Government of the Taimua and Faipule. In fact, Mr. Weber has more than once appeared in the rôle of an instigator of rebellion against the existing government, after that government had failed to be subservient to his influence. In 1879 when Malietoa Talavou was carried off in a German schooner which he had chartered, the *Bismarck*, with Mr. Weber, then consul, on board, recaptured the schooner, released Malietoa Talavou, and imposed and collected a fine of \$2,500 from the opposing forces. In the same year, Mr. Weber, as consul, was a party to a proclamation urging the members of the former government to "have sufficient regard for the best interests of their country to discontinue a contest the prolongation of which can not but inflict the greatest evils upon their nation, and that they will hasten to acquiesce in the restoration of the regal authority of the Malietoa family."

The peace of November, 1879, was negotiated by the captain of the *Bismarck* and Mr. Weber, and it was through their influence mainly that the agreement was reached that Malietoa Talavou should be King and his nephew Vice-King, with the right of succession, and thereupon Malietoa was saluted by the German ship. To this agreement, entered into with great formality and deliberation, Captain Deinhard and Mr. Weber were two of the three witnesses.

In March of the following year, Captain Zembsch, the successor of Mr. Weber, was a party to the consular agreement that the present King should be supported as the head of the Samoan Government for life, and his successor should be agreed upon by the three protecting powers.

Early in the spring of 1881 the German consul was present at the coronation of Malietoa, and declined to recognize an opposition attempt to crown Tamesese King of Atua and Aana. In 1883, when the natives attempted to re-open the discussion of the king question, the advice of the consuls was asked, and the German consul-general first expressed his opinion, in which the other consuls concurred, that no less than seven years should pass without change, in order to give rest to the country. And a short time afterwards, when an attempt was made to induce Malietoa to agree absolutely to resign in seven years in favor of a member of the Tupua family, the consuls supported him, and the German acting consul-general announced his instructions to support Malietoa, if necessary, by force. Thus the record shows clearly that not only was Dr. Stuebel mistaken in the statements referred to, but that German support, both official and private, was accorded to Malietoa, until the occurrences of 1884, out of which grew the differences now under consideration.

A copy of the proclamation of Dr. Stuebel and his letter to the King, as well as Malietoa's letter of November 20, 1884, although already on the files of the Department, are, for more convenient reference, herewith inclosed, marked Inclosures E 1, 2, 3.

Laying aside for the moment the matter of the inefficiency of the Government, the only complaint formulated against King Malietoa prior to November, I am convinced that the means by which the assent to the treaty of November was obtained by Dr. Stuebel was subject to reasonable criticism in view of the relative strength and position of the two Governments; for the character of the relations between the King and the consul-general subsequent to that time, if the former is blameworthy, no less so is the latter.

Some letters bearing on this subject are herewith inclosed, marked Inclosures E 9, 10, 11, 12.

I have no doubt that the conduct of the Samoan Government was very aggravating to the German consul-general; but it was conduct which resulted rather from the inherent characteristics of the people than from any ill-nature toward him. Much less was there involved any disrespect or hostility toward the German Government.

If, through his strong desire to promote the interests and secure the rights of his Government and its subjects, Mr. Stuebel failed in the exercise of that tact which is necessary in all diplomatic intercourse with such people, I feel sure, from the impressions I have received of his personal character from Mr. Travers and our acting consul, Mr. Hamilton, that, on reflection, he would desire to repair any injury done by it, and that his Government would certainly be disposed to take it into account.

To return to the transactions leading up to the treaty of November 10, it appears that early in 1884 the German consul directed his efforts to securing a more thorough system of dealing with natives charged with committing depredations on German plantations. The punishments and fines inflicted by the consular courts whose powers were defined by existing treaties were not satisfactory; certain prisoners had escaped, and fines had not been paid up, owing, mainly to the natural inefficiency of the native Government. It was with this view that the German consul-general addressed

a letter to the King, recounting in full the grievances of which he complained. A translation of this letter is herewith inclosed, marked Inclosure E 4.

Having observed that this letter seemed to be a full statement by Dr. Stuebel of the grievances complained of, and that it corresponded quite fully with the verbal communications on this subject of Mr. Travers, and having access only to a Samoan copy of it, I requested from him an accurate English translation, which he kindly furnished me, and which is the one inclosed.

Finding that the Samoan Government were not disposed to make the concessions demanded, the policy of the consul-general became aggressive; and he seems only to have awaited the arrival of the German vessels of war—two of which arrived during the same month—to carry his policy into effect. Meanwhile, the native Government, actuated probably more by fears occasioned by the threats of the German consulate and the appearance of the ships of war than by a spirit of duty, humbled themselves before the consul-general, promising to do all in their power to render the most complete satisfaction.

The opportunity being propitious for securing more than a mere apology, the consul-general insisted that no reconciliation was possible except upon the execution of a treaty which he proposed. A copy of this treaty was, for purposes of examination, asked for and denied. The only opportunity which the Samoans had for understanding its provisions was when it was read to them by a native interpreter, then and now in the employ of the German consulate, who carried it away after reading it.

It is apparent that the real object of this treaty was to secure to German settlers extraordinary concessions and discriminations, to the exclusion of persons of other nationalities. Its provisions were such as, in view of the relations existing upon this subject between the three treaty powers, would not be submitted to by Great Britain and the United States, and which, under a proper understanding of them, it was not proper for the Samoan Government to agree to.

At the time of the execution of the treaty the King evidently meditated an escape from the consequences of his own act; for, in order to render void the proposed treaty, he immediately appealed to the representatives of the United States and Great Britain in Samoa for protection, and made formal application for annexation to Great Britain in the two applications elsewhere referred to, one signed during the pressure upon him to agree to the treaty, and one after it had been executed. The consul-general endeavored to have Malietoa recall his application to the Queen, but the King remained firm; and very soon the extreme policy upon which Dr. Stuebel resolved, and which has since been disapproved by his own Government, was put into practice, and the imperial flag was hoisted at Mulinuu by the aid of an armed force from a German man-of-war in the harbor and by a large party of armed natives in the service of Mr. Weber, in the presence of the German consul-general in uniform.

With respect to the transactions of the Samoan Government which resulted in the forcing of this treaty upon it, I have no doubt as to the substantial accuracy of Dr. Stuebel's statements of them contained in his letter already referred to. What he complains of, as will probably be apparent from the views herein expressed upon the subject of the capacity of the Samoans for efficient government, appears to me to be quite characteristic. The only question is, whether the course upon which Dr. Stuebel entered and the methods employed by him were wise and prudent, having due regard to the character of the people with whom he had to deal. If the result of his action had been merely the raising of the imperial flag, which was afterwards removed, the character of his acts would be immaterial to the present inquiry, inasmuch as the most serious of them has been disavowed by his Government. In spite of that fact, it remains true that immediately after the raising of the imperial flag a partial disruption of the existing Samoan Government occurred; that the Vice-King, theretofore acting in harmony and co-operation with the Government, departed from Mulinuu, after stating just before doing so that he was going to leave; that the Germans were now going to support him, and that he was going to set up a government at Leulumoega. With this man, who thus became the head of a rebellion, the relations of Dr. Stuebel, so long as he remained in Samoa, were close and intimate; so much so that in last June, during the efforts to promote peace among the natives, he conducted negotiations between the consuls and Tamasese; and although his Government recognized, and still recognizes officially, the Government of Malietoa, he was the agent through whom all communications with those in rebellion were made, and at whose instance they disbanded their armed forces.

In addition to this, Mr. Weber, the head of the large German company in which are centered the principal German interests of the islands, at the time of the outbreak was openly active in promoting schemes for bringing about a revolution, and from that time to the present was, almost without attempt at concealment, largely engaged in the supplying of arms to the insurgents.

Mr. Weber is, of course, a private citizen, although formerly he was consul for Germany; but his relations with Dr. Stuebel and with the official representatives of

Germany in the islands are of so intimate a character that his active support and encouragement of the insurrection among the natives carry to their minds an impression of official significance. The rebellion, which, it can hardly be doubted, had its origin in the unauthorized action of Dr. Stuebel, and the encouragement given to it by him and by Mr. Weber, would have gained little headway if the action of Dr. Stuebel had been reversed immediately upon its disapproval by his Government. On the contrary, although, as appears by Lord Granville's dispatch elsewhere cited, the Government of His Imperial Majesty had disavowed the action early in the month of February, 1885, the Imperial flag, instead of being removed, continued to be raised by Dr. Stuebel, and the occurrences of December 31, 1885, which were precisely in the line of the consul-general's unauthorized action of eleven months before, occurred ten months after its disavowal.

The unfortunate results of Dr. Stuebel's action were not confined to his own course, supplemented by that of Mr. Weber. In April, 1886, the German squadron under the command of Admiral Knorr arrived, and the conduct of that officer was such as very seriously to complicate the situation and to promote the rebellion and civil discord already existing. This action must necessarily have been due to Dr. Stuebel's influence and to what would have been a natural assumption on the part of the admiral that he was to act in co-operation with the consul-general. It cannot be presumed that his action was such as would have met the approval of his Government, in view of the fact that it was simply in the line of the action of Dr. Stuebel, the beginning of which had been so promptly disapproved.

On the arrival of the squadron, Malietoa, mistaking the object of the admiral's visit, and assuming that he was there to investigate the condition of affairs, addressed him a letter which presents very fully his side of the controversy with Dr. Stuebel about the prisoners, and which, as Dr. Stuebel's letter has been inclosed, is also herewith inclosed, marked Inclosure E 5.

About this time the admiral, not having before or afterwards during his stay paid to King Malietoa a visit, as was customary, went with his ships, accompanied by the German consul-general, the vice-consul, Mr. Weber, and others, to the headquarters of Tamesese and the insurgents. A brass band from the ships was paraded on shore, and an enthusiastic reception had, and encouraging speeches were made by the admiral, the consul-general, and others, a proceeding of which no one acquainted with the character of the natives will fail to perceive the significance.

In view of these proceedings, and a failure of the admiral to answer his letter, the King caused to be addressed to him another letter, dated May 10, in which he expressed regret at the discourtesy of a failure to reply to his former letter, and protested against the visit to the "rebel leader."

A curt reply from the admiral to the first letter was dated May 9, and addressed to the "Head Chief Malietoa." A reply to the second letter was received through the flag lieutenant. The admiral stated that he had no authority to investigate the action of the consul-general, and adds, as a reason for non-intercourse, "and also it is not possible for me to treat with a party government which in a rough and unthankful manner opposes the treaty not only, but also offers the rightful German influence most objectionable opposition."

The admiral's statement is more blunt than that of Dr. Stuebel, but possibly not less accurate.

The letter of the flag lieutenant, in the name of the admiral, declares as inadmissible that the person of the Imperial German representative has been attacked by insulting expressions, and threatens, in the event of its repetition, immediate redress. He also states that Malietoa's letter contains little else than positive untruths, and expresses some irritation at Malietoa's imputation of a want of courtesy in the delay of the admiral in answering his letter. Copies of the foregoing correspondence are herewith inclosed, marked Inclosures E 6, 7, and 8.

It is to be regretted that the admiral, who had naturally received his impressions of the political matters from the representative of his nation, had become strongly influenced by Dr. Stuebel's personal feelings, which, it is evident, had largely grown out of circumstances and transactions which did not receive the sanction of his Government and were so clearly inconsistent with its official utterances, both to the Governments of Great Britain and the United States, with respect to Samoan affairs; so that what was done by the admiral during his visit simply added another circumstance to the unfortunate train of consequences of Dr. Stuebel's unauthorized action, which not only intensified but perpetuated the evil effects which originally resulted from it.

In the light of all these circumstances, it can not be questioned that the continuance of the existing rebellion in Samoa is largely due to the unauthorized action of German local officials and resident subjects not consistent with the declared policy of their government, as embodied in its diplomatic communications. The *status quo ante*, therefore, was not restored by the final hauling down of the German flag, and could only be restored by the subjugation of the insurgent forces, the abandonment

of their attitude of rebellion and the restoration of the native government to its condition of December, 1884.

In this connection it should in fairness be stated that, while it is true that the main moral support of the rebellion has been drawn from the sources stated, another factor has contributed to its present existence. That it was not long since ended is due not only to the disaffection of its native supporters, but also to the failure of the Samoan government to suppress it. That the latter has not been done is due to the interference of the three powers quite as much as the promotion and continuance of the native revolt were due to the moral influences before stated. Of the ability of the Government to put down the rebellion by force of arms I have, after careful investigation, no doubt whatever.

From this view it follows that the present condition of feeling towards the Government of Samoa on the part of His Imperial Majesty's Government is due not to transactions with His Majesty's Government or with officials acting under the authority of, or consistently with, the policy of his Government.

The objections of Malietoa to Dr. Stuebel personally, and his request for his removal, certainly can not be treated as a cause of offense to his Government; because, if Malietoa is to be treated as in any respect a sovereign, his feelings must be admitted to be natural, and he surely had the right to make the request.

The change in consular offices, both of Germany and of the United States, and, in fact, the arrangement for this special investigation, were necessarily based upon the assumption that the administration of the consular functions in both offices had not been in accord with the views of those who administered the respective Governments.

I am convinced that neither on the part of the King nor any of the officials connected with his Government in Samoa is there any feeling other than respect both for His Majesty the Emperor and for the Government of Germany, and I venture to suggest whether, inasmuch as the present relations between Germany and the existing Government in Samoa are, to some extent, a stumbling block in the way of what seems to me a proper adjustment of the Government, it may not be a proper occasion for the Government of the United States to act upon the fifth article of its treaty with Samoa, and to "employ its good offices for the purposes of adjusting, upon a satisfactory and solid foundation," the differences which unhappily have arisen.

INTERRUPTION OF CONSULAR UNITY.

The Government of Samoa for some time past having been substantially a government by the foreign consuls, the interruption of the unity of action of these officers has undoubtedly contributed to the present chaotic situation. Indeed, in my conversations with Mr. Travers this was referred to by him as one of the prime causes which had brought about the present demoralization.

Any inquiry as to the responsibility for the continuance of this unity of action I consider, under existing circumstances, it would be futile to undertake.

The serious rupture in the consular relations would probably be found to be closely connected with the proceedings of the German consul-general in the latter part of 1884 and 1885, and to have grown out of circumstances to which, as they have been very properly disapproved by the German Government, it is hardly worth while to make further reference. The practical point with respect to this matter is the impossibility of securing such coincidence of views and unity of action among the consuls as to make it desirable to experiment further with the Government of the country through their intervention.

I have sufficiently indicated elsewhere in this report my opinion that the country can not be satisfactorily controlled through the consular officers, and I need add to that here only the emphatic expression of my opinion that, whatever scheme of government may be decided upon for the future, a necessary condition of the success of that government will be the exclusion of the consuls, as far as possible, from any interference in the local concerns of the country, and their restriction to the duties naturally incident to the consular office.

LAND TITLES.

One of the most aggravating features of the present situation, which must undoubtedly be considered in connection with any plan for the future government of the country, is the necessity of an authoritative and final adjudication of the claims of foreigners to the ownership of lands in that country.

The methods of the acquisition of title to lands have, without doubt, been very loose, and it is impossible that the acreage claimed by foreigners has all been honestly or fairly acquired.

There are, in the first place, conflicting claims of people of different nationalities to be adjudicated, and there is also resting upon the three powers which have inter-

vened in the affairs of this country a strong moral duty to provide for the careful examination and definite establishment of title to lands acquired by foreigners as between them and the natives of the country.

From data furnished me from the German consul, through Mr. Travers, it appears that the total number of acres claimed to be the property of German subjects is over 135,000, of which about 8,000 acres are under cultivation. A map of the island of Upolu, on which the principal lands claimed by German subjects are situated, giving in detail the statements of the German consul as to the ownership of land by foreigners, is herewith inclosed, marked Inclosure F 1.

On the other hand, the information furnished me of lands claimed by British subjects places the number of acres at over 250,000, mostly on Savaii, and includes some of the land which, by the German map, is put down as belonging to German subjects. This immense claim is made by a single English firm, William McArthur & Co., which has recorded in the British consulate deeds for over 230,000 acres. The title of that firm to the lands which they claim is in dispute, having been collaterally involved in a suit some time since pending before the British deputy high commissioner in Samoa, and afterward in the supreme court of Fiji.

Since my departure from Samoa I saw a newspaper statement that the case referred to had been decided adversely to McArthur & Co., and that it would be appealed to the Privy Council in England. From the best information I can obtain, I believe that the tribunal which undertook to decide this question had no jurisdiction, under the well-settled principles of the common law of England and the United States, to adjudicate title to lands in Samoa, and that the claims of McArthur & Co. must necessarily be determined by some proper land court to be hereafter established in that country.

A map showing English land claims is herewith inclosed, marked Inclosure F 5.

Again, a company, originally of American citizens, but which is now stated to have been bought out by British subjects, claims to be the owner, or at least to have certain rights of contract in Samoan lands to the extent of over 250,000 acres, a large number of title papers connected with which are now filed of record in the British consulate at Apia.

Of course it was impossible for me to form any reliable opinion as to the validity of these respective claims, but the existence of claims to so large a proportion of land in this group of islands is sufficient of itself to indicate the necessity of some well-organized international land court which shall finally determine and settle all titles to land claimed by foreigners and between foreigners and natives.

Without a thorough investigation of these matters, enough has come to my knowledge respecting the general character of the dealings of white men with the natives in respect to land titles to convince me that even a moderate degree of justice to the latter requires an investigation into the circumstances under which they have parted with their lands. For such persons as have acquired lands fairly and honestly, according to the custom of the country, such investigation would have no terror, but ought rather to be welcomed, while in many cases the result would be to dispose of a mass of land claims which interfere with the prosperity of the country and breed only distrust and uncertainty.

Two documents which came into my hands by accident serve to illustrate the character of the papers which in some instances the most intelligent natives have been induced to sign by overconfidence in the parties who were dealing with them. The first purports to be a deed for lands, the original of which I examined, and which was actually signed by the Chief Asi, every part of the paper material to give it effect being left blank. This was a paper actually filed among the land-title papers of the German company at Apia. Comment upon such papers is unnecessary. A copy of it, together with an affidavit setting forth the facts which show the use attempted to be made of it, is herewith inclosed, marked Inclosure F 2.

The other paper, which is herewith inclosed, marked Inclosure F 3, purports to be a confirmation by the King of the titles to vast numbers of acres of Samoan land claimed by the so-called American company before referred to. It is such a paper as never should have been executed, and I have no doubt that it was signed by the King upon the representations of interested parties, relied upon by him, without any investigation as to the facts certified to, and its value is mainly, as it is here used, for the purpose of an illustration.

I have reason to believe that the German and English commissioners concur with me in respect to this subject, and that it would be quite practicable to create a land court whose decisions would be entitled to respect, and to which the three Governments would be entirely safe in committing the exclusive jurisdiction of this subject.

Both Great Britain and Germany are committed to the principle of this method of dealing with such claims. In the "declaration concerning the reciprocal freedom of trade and commerce in the German and English possessions and protectorates in the West Pacific," executed by Count Bismarck and Sir E. B. Malet on April 10, 1886, Article IV provides that the right of all disputed claims to land prior to the procla-

mation of the sovereignty or of the protectorates by either of the two Governments should be examined and decided by a mixed commission to be appointed for this purpose by both Governments.

The requisites of such a court would be—

(1) That it be composed of persons of such character and capacity as to inspire the confidence both of foreigners and natives.

(2) That in the creation of the court certain rules of decision should be settled, as, for example, the rule of adverse possession, which is to be applied, prescribing how long a period of actual occupancy or cultivation of lands shall be sufficient to establish a presumption of title.

Another example of such rules of decision would be a provision that options obtained from the natives to purchase their lands, not acted upon after a certain fixed period, shall fail absolutely.

I have reason to believe that in a large number of cases the only basis for large land claims set up against the natives is such an option, acquired for a very trifling consideration, to be used simply as a subject of speculation.

On my homeward journey I had the good fortune to make the acquaintance of one of the justices of the New Zealand supreme court, who has been a resident of that colony since 1852; and, in response to some inquiries which I made of him as to the method of dealing with native land titles in New Zealand, I obtained some information on that subject, which, as it may be of service in this connection, I have embodied in a memorandum which is herewith inclosed, marked Inclosure F 4.

SALE OF ARMS TO NATIVES.

Closely allied to the subject of land claims is that of the sale of arms and ammunition by white residents to the natives.

The only laws of Samoa well authenticated and recognized as in force are the acts of October 25, 1880. The first of these forbids the importation into Samoa and the sale or supply of fire-arms or munitions of war, except "for or to the Samoan Government, on a written order by said Government, and designating the quantity."

The only physical strength possessed by the present insurrection against the Government is the result of the sale of arms in contravention of this law. While this illegal traffic is carried on by Europeans generally to some extent—British subjects usually excepted because of their liability to the law of their own country forbidding it—it is undoubted that the sale of arms to the insurgents is conducted principally by the German company of which Mr. Weber is the head.

Correspondence in July last between the King and the German consul-general contains a complaint by the former on this subject. The reply admits the "selling of arms by the German merchants," and excuses it. The existence of the law is also admitted, and its violation is excused by the assertion that "up to the present time not one investigation has been held for the breach of this regulation." This Dr. Stuebel ascribes to the weakness of the Samoan Government.

Copies of this correspondence are herewith inclosed, marked Inclosures G 1, 2.

Dr. Stuebel is here mistaken as to facts which ought to have been known to him. In April, 1882, complaint was made to the then acting American consul, Mr. Alvord, by Mr. Goddefroy, then head of the German firm or company, through the acting Imperial German consul, that an American citizen was selling arms in violation of this identical law. Mr. Alvord promptly brought the accused American before him, and the offense being admitted, although excused on the ground of ignorance of the law, a fine of \$50 and costs were imposed, and both the acting German consul and the King were promptly notified of the result of the hearing.

Copies of the correspondence relating to this matter are herewith inclosed, marked Inclosures G 3, 4, 5, 6, 7, 8.

During my stay at Apia the existence of this law was acknowledged by Mr. Weber, who has been largely engaged in this traffic. I know of one case in which, on being applied to for arms by natives, Mr. Weber told them, in substance, that the German commissioner had stopped him, and that they could not get the guns without a permit from Malietoa. This was a case in which the natives claimed that Mr. Weber had promised the guns for a division of the forces with Tamasese.

As I have frequently talked of this subject with the German and British commissioners, and we agreed as to the enormity of the traffic, I have no doubt that Mr. Travers exerted his influence, as I did whenever I could do so properly, to discourage violation of the law. Nevertheless, it was apparent to me, upon the clearest evidence, that the sale of arms to the forces at Leulumoega and those sympathizing with them was carried on extensively while we were there. I knew of the landing of cases of rifles, of their purchase in Australia, and of their sale, without effort at concealment. That an affidavit on this subject had been made before the British consul by a British subject came to my knowledge accidentally. Having inquired of the consul and finding the report correct, I asked for a copy; and being kindly permitted to take one, it is inclosed herewith, marked Inclosure G 9.

It is of the utmost importance that this subject be promptly and effectively dealt with by the Governments of the United States and Germany. The British law forbids all sale of arms to Polynesian natives, without regard to the consent of any Government.

If the German consular authorities had chosen to apply to their own countrymen the law which they invoked against an American citizen, the present sale would have been stopped without any action by the Samoan Government, and without reference to its weakness. The latter was no excuse for the failure of Dr. Stuebel to act when called on by the king in July, since it can not be doubted that, however strong the Samoan Government might have been, Dr. Stuebel would not have permitted it to take any proceedings against German subjects, but would have claimed that they were amenable only to the jurisdiction of the consular courts. His failure to exercise this power was of very much the same nature as the derelictions of the Samoan Government of which he complained in 1884.

Apart from the direct effect of the illegal traffic in arms in promoting civil war among the natives, it has two other indirect results hardly less to be deprecated.

The natives who buy these arms have usually no money to pay for them, and resort to the sale or mortgage of their lands on terms most disadvantageous. Very much of the land claimed by foreigners has been purchased on ruinous terms in exchange for fire-arms. Besides, the well-known disposition of the natives, when war is anticipated, to dispose of their lands for such consideration and on such terms as they can get, has a tendency to tempt unscrupulous white men to stir up civil strife for the purpose of creating an opportunity to buy the land at a low price.

Again, the persistent disregard of the law by white men, and the failure of consuls to prosecute offenders amenable to their jurisdiction, tends to confirm the natural want of respect for law on the part of the natives, and makes it difficult to cultivate a law-abiding spirit in them.

FINANCE.

The financial difficulties growing out of the want of an available circulating medium is one of the points necessary to be considered in connection with Samoa.

The money in use when I reached Apia was Chilian, Peruvian, and Bolivian silver, all of which were current. United States or English gold would command a premium of from 12½ to 15 per cent., and exchange on England, Germany, or the United States a larger percentage.

During my stay a number of the merchants, having unloaded their supply of Bolivian money, refused to take it at more than one-half its face value. The movement was so far successful as to deprive this money of its value as money and practically to abolish its use, leaving the Chilian and Peruvian money still available.

This South American money was originally introduced into Samoa by the German firm, since a company. That company, being until recently the only exporter of copra, the only commodity sent from the islands and available as a basis of exchange, was the principal party relied on for bills of exchange required by the merchants to pay for their goods. For these bills about 15 per cent. premium was charged, and by the company the money so received was again put into circulation by payment to the natives for copra. By a natural process it drifted around again to the merchants and was again and again brought back to the company for bills at 15 per cent. As the money had originally cost the company an average of 35 per cent. less than par, it is readily understood that, after it had gone through the process of being bought back a few times at 15 per cent. the original cost was entirely recouped.

All this was legitimate business, but it will be apparent that it makes a heavy tax upon the merchants who have to pay these excessive percentages.

Another bad effect of the system is that it places the merchants who are not exporters in an unhappy condition of bondage to the few houses who do export and have bills to sell. It is quite easy for an exporter, having certain views of native affairs, to refuse bills to those merchants who do not agree with him, and afford the accommodation to those who do. The law of necessity makes this sort of coercion often very effective, and it is one of the influences to be weighed in estimating the value of opinions.

There are merchants who have in hand from \$7,000 to \$10,000 of this depreciated silver, and their necessity for a medium of exchange for the outside world is very pressing.

The financial situation is one of the most important matters to be considered in connection with future schemes of government, and it affords a good example of the futility of trying to get on in any country with a circulating medium which will not pass current in the markets of the world.

STATISTICS OF BUSINESS.

With respect to the relative interests of citizens and subjects of foreign powers it is quite impracticable to furnish any reliable statistics. Upon this subject both Mr.

Thurston and Mr. Travers exhibited more concern as to details than I consider necessary for the purposes of our investigation. This was a natural result of the competition between German and British interests in the South Sea. To me it was sufficient to be assured that there were American citizens and substantial American property interests in these islands which, upon the enlightened principles underlying modern government, were justly entitled to recognition and protection.

I understand it to be consistent with the policy of our Government in administering protection to the persons and property of its citizens not to calculate closely the number of the former and the exact money value of the latter.

In foreign lands, as in our own country, an American citizen who conforms himself to the laws of the place of his residence is entitled to have asserted in his behalf, if necessary, all the power of his own Government, whether it be to protect his life, his liberty, or his property rights, be they large or small. At the same time it is proper that you should be informed that citizens of the United States have acquired in Samoa substantial property interests, that a very large proportion of imports into that country consists of American goods, and that, with respect to exports, while they have until a recent period been principally by the German company, a very large proportion of the copra which is claimed by the Germans as having been exported by them from Samoa is in fact brought to Apia from other islands, that being the point at which this export is collected and shipped to Europe.

The absence of any public record of exports and imports renders it impossible to furnish any statistics which would be of real value. The only source of information on the subject is found in the voluntary statements of the merchants and business men, which, not being systematically or officially collected, are somewhat unsatisfactory as the basis of any action.

I was furnished by Mr. Travers with statements of the business done by the German firms, including the German company and one other company. They claim to have imported goods to the value of \$281,612.85 for the year 1885. For the same period the imports of American merchants are reported to have amounted to \$146,000, and those of the English merchants to \$115,000. These figures do not, however, include all of the goods imported by persons of either nationality. Doubtless the statements of the German imports are more nearly accurate, so far as the voluntary statements of the parties are reliable, than either of the others, the German interests being concentrated so largely in one concern.

I applied to the British consul for precise information on this point, but was unable to obtain it, although I knew that he was making efforts to ascertain it definitely; and with respect to the American interests, I found no records in the consulate which would be of service on this point, and the statement made merely includes such information as I could obtain from individuals.

LABOR TRAFFIC.

The question of labor is one which must immediately engage the attention of any intelligent government in Samoa. The natives of the country cannot be depended upon for the labor necessary for the cultivation of the plantations, through which alone the natural resources of the country can be developed; dependence must, therefore, be placed upon the importation of laborers, who have heretofore been obtained from other Pacific Islands, such as the New Hebrides and Solomon groups. Large numbers of these laborers, who are usually black, have been imported under labor contracts extending for three years, and which are subsequently renewed.

The attention of the British Government has been directed to this subject, and its investigations have revealed the fact that the conditions under which these laborers are transported and controlled differ very slightly from actual slavery. The labor used on the German plantations in Samoa is of this character.

It will be readily understood that the importation of these people under contracts made with them opens a vast field for tyranny and oppression. From my own observation of the condition of these laborers I am quite satisfied that it differs only nominally from the condition of negro slavery in the United States while it existed, with this disadvantage, that the laborers in Samoa are controlled by overseers representing a corporation, with little opportunity for mitigation of the harshness naturally incident to their position. The laborers, therefore, do not have even the advantage which the negro slaves had in the United States, of the presence and the the immediate care of their masters, who had a very large personal interest in promoting, to some extent at least, their welfare.

MALIE'TO'A'S POSITION.

The first point of difficulty respecting future arrangements, and one which I have considered with no little anxiety and care, is the real position of the present King of Samoa, his relations to the natives of the country and to foreign treaty powers.

Prior to 1869 there had been no attempt to treat Samoa as a consolidated kingdom under one king. It is, however, true that prior to that time the head of the Malietoa family, then Malietoa Tavita, was in fact King of all Samoa. This occurred precisely in the same manner that James I of England became the monarch of the whole of Great Britain.

Of the districts into which Samoa was divided, those on the island of Upolu were the controlling ones—Tuamasaga, Aana, and Atua. The Malietoa in question becoming the recognized head of each of these districts, was also recognized as the King of the whole country. It is contended by those who oppose the claims of Malietoa that this did not make him, in any sense, a king of all Samoa, but that after his death the country returned to the previous condition of having a head of each district separately. On the other hand the adherents of Malietoa claim that his family has always been the governing one, and that the other great rival family of Tupua is a junior branch of the same. To settle satisfactorily a question of this sort upon evidence all traditionary is practically impossible, and I have not considered it of very great importance, as the question how far Malietoa should now be recognized rests, in my judgment, on other grounds. Before passing to the native tradition on the subject, however, it is proper to note the recognition in the Steinberger constitution of two great families of Malietoa and Tupua, a similar recognition in the election, under a constitution prepared with much care by the foreign consuls prior to Steinberger's visit, of two kings, one from each family, and the provision of the Lackawanna peace, of a king from one family and a vice-king from the other.

All this conclusively shows the existence throughout of a division of the people into two great parties, which has always needed only some exciting cause to develop it into an active antagonism, if not actual hostility.

After patient consideration of the whole subject, and having heard and duly weighed every phase of native and foreign opinion, I am constrained to the conclusion that Malietoa, the present King, is entitled to be recognized as the sovereign of the country, and that his moral right to be treated as such by the treaty powers in any future arrangement for the government of the group is clear and indisputable, and that there are no circumstances which warrant his forcible deposition. This conclusion does not necessarily involve the continuance of the office of king of the group if that be deemed inadvisable. This question I shall consider hereafter. But it seems to me clear that if the conclusion be reached to dispense with a king, then the moral right of Malietoa should be recognized in some way, as, for example, by obtaining his voluntary retirement on a moderate pension, under an arrangement similar to that under which Thackembaugh, King of Fiji, yielded his sovereignty of the Kingdom of Fiji.

The reasons for my conclusion that Malietoa is entitled to such recognition are based entirely upon the clear and explicit manner in which his title has been frequently acknowledged and confirmed by native and foreign action in the last ten years.

In the native war of 1869-'72 the question at issue was not between a Malietoa and a member of any other family, but between the two Malietoas (uncle and nephew), and in the strife the native population was generally engaged, taking sides with either one or the other.

I mention this only incidentally, as the result of this war was not to establish any one as king, but a government of the Taimua. At the time of Steinberger's visit in 1873, while he refers to the family and tribal jealousies, he seems to have found Malietoa Laupepa recognized as the greatest chief.

Before the return of Steinberger a form of government had been prepared by the consuls and native chiefs, in which two kings were provided for; but on his second visit he told them that there could be but one king, and they selected Malietoa, who was generally recognized until illegally deposed.

After the war of 1876-'79 Malietoa Talavou was crowned and the old government dispersed. Almost immediately the war broke out afresh, but continued only a short time, until the Bismarek peace of December, 1879, put an end to it; and the natives of the opposition, having agreed to end the war, entered into a solemn treaty of peace, recognizing Malietoa Talavou as king for life, with Malietoa Laupepa as regent, to "attend to the work of the king."

Having in a few months violated their agreement, civil war again ensued, but was terminated by the Lackawanna peace of July, 1881, in which it was, after long-continued deliberation, again agreed by treaty that Malietoa Laupepa should be king and Tupua Tamasese vice-king, the term of office being left for the determination of the government. This determination was solemnly made by the Taimua and Faipule, who agreed in February, 1883, that the settlement would not be disturbed by any discussion of the king question for seven years.

Even in the Mohican peace, 1886, the government of Malietoa is recognized, and the representatives of "Tamasese and his party" again pledged themselves to live in peace and friendship—a pledge broken, as usual, without delay.

Such being the repeated native recognition of Malietoa's position, what has been the action of foreign powers? The treaties of the United States and Germany were concluded with the then existing government, through plenipotentiaries, before the crowning or recognition of Malietoa Talavou.

In August, 1879, Sir A. Gordon, desiring to negotiate a treaty, was advised by all the consuls to treat only with Malietoa, and accordingly did so, while at the same time representatives of all those Governments united in negotiating with Malietoa the municipal convention.

In the Bismarck peace of December, 1879, the consular agreement of March, 1880, the refusal to countenance the crowning of Tamasese as King of Atua in April, 1881, the Lackawanna peace of July, 1881, the Mohican treaty of 1886, and in the consular relations up to the present time, the three powers have recognized Malietoa as the king and his government as the only Government of Samoa. This was emphasized as late as last May by the issue of a joint consular proclamation denying any recognition of Tamasese by these Governments. Copies of this proclamation, and also of the Mohican agreement, are herewith inclosed, marked Inclosures H 1, 2, the other papers mentioned having been heretofore referred to as Inclosures B 5, 6, 7, 8.

In the face of this record I am unable to rest upon any other opinion than that the recognition of Malietoa is a necessity of the situation. The present condition of native opinion I made the subject of careful investigation, and reached the conclusion that, in the present division of sentiment between the old factions, headed respectively by the families of Malietoa and Tupua, the former bear the relation to the latter of about three to two, with about one-seventh of the population neutral and satisfied to support the winning side in such a civil strife.

Public opinion in Samoa is regulated by the chiefs in each locality, and of these a larger proportion are the supporters of Malietoa. During my stay there I saw evidence of disintegration in the forces of the opposition, which was restrained only by the outside influence to which I have referred.

I can not feel any doubt that, if a king is to be supported, Malietoa is the only one who could fill that position. Among his supporters there is absolute unanimity on this point, while in the opposition, Tamasese, the present leader, is neither a chief of the highest grade nor a man with the qualities of a leader of men; but being at present the chosen head of the Tupua family, must be dealt with as such and treated as its representative. In that party there are factions adhering to the fortunes of other chiefs, one of whom, Mataafa, is a chief of much higher rank than Tamasese. If the followers of the latter were recognized in any substantial way it is hardly doubtful that divisions would at once arise among them as to future leadership.

One consideration in favor of the support of Malietoa as the head of the Government as a prerequisite of future arrangements is that no better opportunity can occur for teaching the natives a lesson of fidelity to their solemn engagements. If Malietoa is supported by the powers, and permitted to suppress the rebellion, or if the powers order the dispersion of the forces of the latter, such action can be justified upon the solid ground of compelling these people to adhere to their treaties so often made, and to the definite understanding of 1883, that the arrangement made in 1881 should not be disturbed, even by discussion, for seven years.

This course would be simply to hold the natives to their own agreement. It need not exclude the future consideration of a change of rulers under such stable government to be established as will guaranty a fair expression of the popular will.

Any other course would be practically to give the natives opportunity for a new illustration of fickleness and inconstancy, and would operate, so far as the treaty powers are concerned, to stultify the record of their past action.

The only difficulty in the recognition of Malietoa's sovereignty to the extent suggested grows out of the attitude of the German Government with respect to him. So far as the local authorities of that Government there are concerned, I perceived during my stay a condition of almost practical non-intercourse with the King, which extended so far that Mr. Travers declined not only to call on him, but on one occasion when he came to my rooms, at a time when Malietoa was there, having some conversation with Mr. Thurston and myself, declined my invitation to come in and hear with us what the King had to say. Mr. Travers did not call on the King at all, although he had recognized his position by sending him the written communication, before referred to, of his assumption and subsequent laying aside of the functions of acting consul-general.

In an early consultation, before Mr. Thurston's arrival, Mr. Travers and I agreed that there was no occasion for any official communication to the King respecting our visit. I made none, but on reflection deemed it proper and courteous to make an informal call on the King, and I stated to him that I had come to Samoa not in any official relation to his Government, but as the confidential agent of my own Government to make an inquiry into the political condition of the country.

On Mr. Thurston's arrival, he also called on the king, and the latter having advised us of his desire to return our calls, Mr. Thurston came to my rooms on shore,

where we received the call together without any formality. It was on this occasion that Mr. Travers came to see me and was invited to join in the conversation, with the result stated.

As an instance of how the feeling of irritation on the part of German officials may be promoted and increased by baseless rumors and fabrications, I may refer to the so-called proclamation which was reported at Berlin and referred to as having been issued by Malietoa's Government and to contain insulting expressions. I have already advised you that no such proclamation was issued, and that the paper of which I furnished you a copy and translation was, beyond doubt, a clumsy forgery, concocted probably by some person interested in increasing the friction between the German and Samoan Governments.

Believing so thoroughly as I do that this unfortunate feeling towards Malietoa is entirely the result of misunderstandings, for which, as I have endeavored to show, he is not altogether to blame, and being assured from my observations that there are no ill feelings towards the German Government, I venture to hope that the suggestions already made may lead to the removal of the difficulty arising from this cause.

In ascertaining the duty of the powers in the present situation, it might be objected that there is at present no real government over the group. This is largely true; but it has sufficiently appeared, I think, that this condition of things is due, not only to the weakness of the native government, but quite as much to the fitful, inconsistent, and unauthorized foreign interference.

An end must now be put to this, and justice requires that, so far as may be, the evil effects of it should be removed, and that hereafter the action of the powers should be harmonious and their citizens and subjects restrained from all intermeddling with such government as may be decided upon.

LEAST POSSIBLE INTERFERENCE WITH NATIVE CUSTOMS.

In any effort to establish stable government in Samoa certain native characteristics must be borne in mind in connection with the customs already mentioned. They are extremely susceptible to any display of force. The presence of a man-of-war will enable the representatives of the nation to which it belongs to extort from the natives almost any promise or agreement. Such engagements, however, they are very indifferent about adhering to, and will break them as readily as they enter into them, when it is considered safe to do so. Their idle habits, the natural result of climatic influence, and the fertility of the soil, promote uneasiness and restlessness, which find vent in great freedom of criticism of Government officers and the readiness with which, after a brief season of peace, they embrace schemes of revolution and promote civil discord and war.

The possession of office they look upon as a right or perquisite which should not long be enjoyed by any one set of chiefs, but ought to be subject to distribution like any other possession. This naturally results from community in the ownership of all property; and although contemporaneous history teaches us that such theories concerning office are not peculiar to Samoa, nevertheless it is intensified there by the cause stated.

Going beyond the smaller communities, the same principle asserts itself in the jealousy of rival families to secure and retain the higher offices and their perquisites. Of course, their traditions and customs naturally foster a tendency to resort to arms to settle questions of leadership or position.

I am careful to refer to the characteristics of these natives which bear upon their susceptibility to governmental control, because much of the past failure to progress towards stability of government has been owing to the fact that heretofore they have been disregarded.

The attempts to establish modern government have been premature because they have disregarded the principle illustrated by all human history, that modern stable government is a *growth*, not a manufacture.

Foreigners have constructed plans involving something like a modern parliament or congress for these people, to whom a more appropriate model would be the Saxon Witenagemot, which was the forerunner of both parliament and congress. Thus has been overlooked the historical fact that the most prized features of constitutional government are but developments of early traditions and customs of much the same character as many of those which the Samoans have inherited from their ancestors.

While many of these customs would naturally wither and die in the presence of enlightened modern ideas, there are others which would expand and grow into laws, all the more enduring because rooted in the traditions of the race.

It follows, then, that my first suggestion respecting the future government of the country is, that there should be as little interference as practicable as to affairs purely native, including the relations of the natives among themselves, and especially the administration of their local interests,

If a stable government is set up, the only points at which, at the outset, to touch the natives are taxation and the administration of criminal law. I omit purposely the settlement of the land claims against them, considering that matter as requiring temporarily special treatment.

So far as direct taxation shall be found necessary, it would be better in the beginning to distribute it per capita, and hold the governor or other head officer of the district responsible for the collection of the assessments within his district. The result of this would be that the taxes of the inhabitants of each village would probably be paid by the village in gross; that the example of a well-governed community of white men, coupled with the exercise of judicious, disinterested influence upon the native chiefs, would be the best reliance for ultimately overcoming and abolishing the doctrine of community, if that should be found as desirable as it now seems to me.

The main difficulty respecting the local administration of criminal law can only be made to disappear by the existence of a well-organized central government; and as to this, recourse should be had, as far as practicable, to judicious pressure upon the native administrators of the district, who could very speedily be made to understand that criminals must not only be tried and condemned, but also punished.

FOREIGN INTERVENTION.

The material question now to be determined is the character, extent, and methods by which the expressed desire of the three powers to co-operate in the establishment of stable government in the islands may be most effectively carried out.

My own conviction is doubtless already apparent, that the extent of this intervention, to be effective and successful, must be more systematic and comprehensive than seems to have been contemplated by my instructions. The central government must be, for a time at least, administered by the three treaty powers, or through such agencies as they may select. There should be, in the first place, a quadripartite treaty, to which the three treaty powers and the Government of Samoa should be parties, and which would be practically the constitutional basis of the new government.

While avoiding too much detail, this instrument should clearly define the conditions under which the government is to be carried on, which might be done by having the constitution agreed upon annexed to the treaty as a schedule and connected with it by a reference. The treaty should contain a mutual guaranty by the three powers, as between themselves, of the neutrality and autonomy of the new government; it should also contain the proper stipulation that each power will prevent its citizens or subjects from performing such acts, to be specified, as experience has shown materially interfere with the peace and well-being of the natives. Such would be the sale to the natives of arms and ammunition, or intoxicating liquors, and exciting among them rebellion and civil strife.

PRINCIPLES OF FUTURE GOVERNMENT.

The executive power may be vested either in a council or a King and Vice-King, as heretofore. I am inclined to think that the idea of a King is pleasing to the native mind; and in that case an arrangement for the future may be made, following closely the lessons of the past, by compelling a return to the agreement by which Malietoa should be recognized as King and Tamasese as Vice-King, with a term of office limited to an alternation in the tenure of these offices between the two families of Malietoa and Tupua. The King and Vice-King should be elected by the Taimua. I feel sure that this arrangement would be acquiesced in immediately if proposed by the three powers. Whether or no there be a King, the real executive power must be exercised by officers who must, for a long time, be white men, appointed by the Samoan Government upon the nomination of the treaty powers.

The executive functions would naturally divide themselves into three classes, each requiring one of these officers, who would be in the nature of a cabinet, if there be a King, or an executive council, if there be none. In the latter case, I would advise that the chosen heads of the two great families be also members of the executive council.

The three divisions of the executive business would be, one headed by a secretary, who would correspond to what is called a secretary of state or premier, including foreign relations, the authentication and custody of laws, and he may also be charged with the duties of public prosecutor; the second, of land surveys, public works, and generally matters of interior administration, including harbor and quarantine regulations, and third, treasury and revenue. These officers might be called secretaries of state, interior, and treasury, respectively; although, for a simple government appropriate to that country, I would prefer more unpretentious titles, such as secretary, surveyor-general, and treasurer. I am sure that no little harm has been done in countries just merging into civilization by the use of high-sounding titles which convey

no meaning to those who bear them. If the theory of tripartite control should be determined upon, one of these three offices could be held by a nominee of each power, and in that case they should be of equal grade.

The legislature should be formed on the model familiar to the country, consisting of two branches, to be called the Taimua and the Faipule. The upper house should be composed of chiefs selected by the districts, and the lower house of representatives, the numbers and mode of selection to be so adjusted as to secure the difference of tenure and checks and balances which are the object of having two branches of the legislature.

The three foreign officers should have seats in the Taimua, with the right of debate; and if such a check should be deemed requisite, all laws passed, before going into effect, might require the approval of two, or, if preferred, all three of the foreign officers; and regular meetings of the legislative bodies should not be held oftener than once a year.

The judicial department should consist of a chief judge, who should be a white man, appointed by the three foreign executive officers, or a majority of them, his term of office to be sufficiently long to give stability to the administration of justice. There should also be a native judge selected by the Taimua, who should sit with the chief judge in all cases to which a native is a party. The chief judge might be removable for cause by the concurrent vote of the three foreign executive officers, such act of removal, however, to be approved by the three treaty powers; and pending such approval the removal might operate as a suspension. The King, Vice-King, and the native associate judge should be removable only upon proceedings in the nature of an impeachment and trial thereon.

The jurisdiction of the court so constituted should extend to the hearing of all appeals in cases where they are provided for, to all matters now included within the jurisdiction of the municipal magistrate at Apia, and to such other matters as may be provided by the treaty to be made, as before suggested.

The local magistrates should be appointed by the foreign executive officers, or a majority of them, upon the nomination of the chief judge. I would also invest the chief judge or the public prosecutor, as may be preferred, with the appointment and superintendence of the police, and thus fix upon him the entire responsibility for the administration of justice and the preservation of order. The vesting of such power in the chief judge is not in accord with the best theories of government, but as a practical measure, adapted to the necessities of the case, I believe it would operate satisfactorily, as a similar arrangement has already done in Apia.

With respect to the distribution of jurisdiction between the court so created and the extraterritorial consular court, I have carefully considered a memorandum on that subject made by Mr. Travers and am prepared to recommend it. I therefore quote it verbatim:

"The consular jurisdiction shall remain unaltered—

"(1) As far as the civil jurisdiction is concerned.

"All civil suits between two subjects of the same nationality shall be decided by the competent consular court.

"(2) All crimes, etc., committed by a subject of a nation having a consul in Samoa shall be dealt with by such consul.

"There shall, however, be exempted from the consular jurisdiction—

"(1) As far as civil jurisdiction is concerned, (a) all suits between one subject of a consular power and a subject of another power, whether represented by consuls or not; (b) all land-claims suits.

"(2) As far as criminal jurisdiction is concerned, all cases of police offenses, so far as they are now under the jurisdiction of the municipality.

"The new government's courts shall accordingly deal—

"(1) With all civil or penal suits against subjects of nations not represented by consuls.

"(2) With all police offenses, as stated before.

"(3) Land cases, but under a specially constituted court."

Mr. Thurston expressed the opinion that the consular jurisdiction should remain unaltered, but this plan, afterwards discussed by Mr. Travers and myself, was not submitted to him.

Separate and distinct from the permanent judicial system, I would earnestly recommend the establishment of a temporary court or commission for the determination and settlement of all claims by foreigners of title to land. Such a court should be composed as suggested under the head of "Land Title," and should be upon the model of the international court in Egypt.

In these propositions for a government for the future I have not endeavored to go into details, nor to frame what might be called a constitution, but merely to enumerate the leading features sufficiently to indicate the character of the government which I think is required.

So far as details are concerned, several plans of government have been framed which will be found to bear much resemblance to each other, and which afford sufficient material as a guide in the elaboration of a specific scheme of government by those who may be charged with that duty.

(1) A constitution prepared by the consuls before Steinberger's return to the islands. This provides for a purely native government, and is accompanied by an estimate of income and expenditures. The provision for two kings in this constitution is nominally an unnecessary one, the suggestions already made on this point being such as would, without question, be accepted if proposed by the powers. (Inclosed, marked Inclosure I 1.)

(2) What is known as the Steinberger constitution of August, 1873, prepared by him and adopted when he was in control of the Government. (Inclosure B 1.)

(3) Draft proposals of Mr. Thurston, received from him by mail—being an amendment of suggestions furnished by him to Mr. Travers and myself at Apia. (Inclosed, marked Inclosure I 2.)

(4) Memoranda on this subject submitted to me by two of the foreign residents, one of which includes also an estimate of income and expenditures. (Inclosed, marked I 3, 4.)

The suggestion of creating a system of elections by which foreigners should vote I do not think advisable in the present condition of the foreign society in Apia. All such proceedings would tend simply to intensify the jealousies arising from difference of nationality and other causes. Some future system may be developed by which foreign residents may, if they desire a voice in the government of the country, acquire some sort of citizenship or denizenship, as in Hawaii, but at present I feel perfectly clear that the foreigners there should acquiesce in the natural result of voluntary residence in a foreign country. Any other position is inconsistent with intervention by their Governments which is intended for and secures their protection.

OBJECTIONS TO TRIPARTITE CONTROL.

My instructions having contemplated a tripartite control of the native government, I have set forth principles which seem to me best adapted for it. Mr. Thurston also considered himself bound by his instructions to do the same thing, and has made a proposal, already referred to.

Mr. Travers agreed that whatever should be determined upon must be carefully provided for in the treaty, such as I have suggested; but he was emphatically of the opinion that an effort by the three powers to carry out details of government in Samoa by joint action would be absolutely futile. His plan, as suggested to me, was that the three powers should by the treaty select one to administer the government of Samoa, under the arrangement proposed, as the agent of all, fully guarantying the rights of citizens and subjects of the other two powers. I have now, and expressed to him, grave doubts of the practicability of the tripartite control. My instructions undoubtedly contemplate a local native government there of some force, and that the part to be performed by the three powers would not be so much that of administration as oversight.

I doubt whether it is understood, either at London or Berlin or in Washington, that the real function of the intervening powers in Samoa will of necessity be actual administration of government. Nothing short of this, at least for a time, will remedy the existing condition of things.

I share, to a very great extent, with Mr. Travers the apprehension that a government substantially of representatives of the three powers will be constantly disturbed by international dissensions of the same nature, though perhaps to a much less degree, as those which have characterized the government by the consuls. This government—the only one for the last two years—has been, to some extent, of the character of the proposed tripartite control, and no one can doubt that it has been an absolute failure.

The difficulty which I saw in Mr. Travers' plan—and frankly suggested to him—was the very apparent one of reaching a conclusion, satisfactory to the three powers and their citizens and subjects, as to which one of the three powers should be deputized for this work of administration. There are reasons why I should deem it improper for our own Government to assent to the delegation of the sole power of administration in these islands to either Great Britain or Germany. There are two serious objections to the sole control of the latter Government:

(1) The concentration of German interests almost entirely in one company, which has exercised in the past, and would undoubtedly exercise in the future, a dominating influence over all local German officials in Samoa.

(2) While there are a large number of German residents at Apia, they are, with few exceptions, employes of the great German Company. While the other foreign residents are either British or American, the prevailing language among foreigners is English, which the Germans usually understand, while the British and American sub-

jects do not understand German. Under these circumstances, the administration of government and of the laws in the German language would be a great hardship, which the use for the same purpose of the English language would not be.

I frankly expressed these views to Mr. Travers in response to his equally frank admission that when he proposed a control by one power, deputized by treaty with the others, he really meant a control by his own Government, urging as the sole ground of this claim what he claimed to be the predominance of German interests.

On the other hand, Mr. Thurston did not admit that German interests predominated, and statistics from both points of view will doubtless be furnished in the reports of these gentlemen.

If it were true that German interests did predominate, it would be, to my mind, an additional reason why Germany should not be allowed to control the Government; and there are reasons why the British Government should not be selected for the sole control of these islands.

As is the case with Germany, so Great Britain is pursuing a policy of the annexation and acquisition of the South Pacific islands, which renders it incumbent upon the United States, if they desire absolutely to secure the future autonomy and neutrality of this group, to object to the assumption by either of those powers of the absolute control of the Samoan Government, even under the most guarded treaty.

The only solution of this difficulty that I can see is that the other powers shall consent to the selection of the United States as a single power to exercise the necessary oversight in connection with the new government to be formed.

The freedom of our country from any disposition to absorb territory in that region was fully recognized by the representatives both of Great Britain and Germany.

The fact that our concern in the matter does not arise from the preponderance of the interest of our citizens, but solely from a desire, arising from a national policy, to preserve the independence and neutrality of this group, is a reason why there should be a greater degree of confidence in the disinterested action of our Government, and the conservation of the interests of the native population, to whom the country really belongs, as well as those of foreigners who have located themselves and their business interests there.

I need only add on this subject that I believe that the practical control of the islands by the Government of the United States would be the result which would best satisfy the larger proportion of the foreign residents of Samoa.

MUNICIPALITY OF APIA.

The present municipal government of Apia has been referred to as affording an example of what might be done in the way of tripartite control. While this municipal arrangement has been to some extent a success, so far only as the preservation of peace and order was concerned, its history emphasizes the objections to tripartite government rather than encourages the extension of it. It has been distinguished by constant differences between the consuls, and in the appointment of officers the international distinctions have been strictly observed, the nationality of a candidate having often more to do with his selection than the question of his capacity and fitness for the duties of the office.

In this connection I would recommend that, whatever plan be adopted for establishing a stable government, it shall include the abolition of the present government of the municipality, as it will then be no longer needed, having been simply a makeshift for the preservation of order during the practical suspension of all government for the last two or three years.

EXPENSES OF THE GOVERNMENT.

It was my intention in connection with the plan of government to present also an estimate of probable receipts and expenditures; but it is impossible to do this intelligently until after the scheme of government has been matured in detail. One point, however, it is proper that I should suggest for your consideration in connection with future negotiations between the powers.

While a considerable revenue can be raised from taxes upon property and business of foreigners, it is neither practicable nor just to put upon them the burden of supporting the government of the country, and therefore the best method of raising the required revenue from the natives with the least friction will be a very important point to determine. A government which costs them something will undoubtedly be more valued and better appreciated by the natives; but care should be taken that whatever direct tax may be laid upon them shall be sufficiently moderate to be readily collected, and to accustom them gradually to such burdens.

The easiest method of taxing the natives would undoubtedly be by impost duties, which could be so adjusted as to yield considerable revenue without being felt, as is

a direct tax. If, however, it should be deemed advisable to resort to this method of taxation it will be necessary to make some modification in existing treaties, and therefore this subject must not be overlooked.

After a form of government has been determined upon it will not be difficult to estimate the necessary amount of taxation and expenses. As the abolition of the municipality has been recommended, and I think would naturally follow the establishment of a government, its present resources of revenue would then be available for the general government.

I have no hesitation in expressing the opinion—and upon this point Mr. Thurston Mr. Travers, and I fully concur—that there will be no difficulty whatever in raising from the country itself, by taxation, a sufficient annual sum to pay all the expenses of such a government as is required.

AMERICAN INTERVENTION IN THE PACIFIC.

To return to the subject of sole control. Whether our Government would be willing to undertake it, even with the consent of the other powers, is a question which of course I cannot determine.

I do not believe that a vigorous and decided interest in the welfare of these native communities would be in opposition to the declared policy of our Government, but that it would fall within the limits of exceptions, not only well defined, but which have been enunciated and adhered to by successive officers in charge of our foreign affairs, of all parties.

What is known as our general policy of non-interference is too well defined to render any restatement of it necessary. It had its origin in a period when modern commerce was in its infancy; when the United States comprised a few communities along the Atlantic slope; when the vast Western domains, now opened up and settled by a progressive population, were unexplored regions; and when the Pacific coast was almost as far, for all practical purposes, from the centers of population in the United States as are now the plains of Siberia or the deserts of Africa. It would not be surprising, therefore, if the policy originating so early in the history of our Government should have been found to have been enunciated more broadly and uncompromisingly than is consistent with the present demands of our civilization and progress; and, indeed, the history of our diplomacy shows that, while this general doctrine has been repeated even up to the present time, with unusual consistency by all parties controlling the Government, it has nevertheless, been found necessary, from time to time, to support action in particular cases which would have violated the general rule by treating them as exceptions to it.

The enunciation of the Monroe doctrine first qualified the general policy of non-intervention and prescribed the limits to which it was to be thereafter confined. This public notice to the world that we would not submit to an extension of the European system to this *hemisphere*, or to the establishment upon it of European colonies in addition to those then existing, was put upon the express ground that we should regard such action as dangerous to our peace and safety.

The true limitation, therefore, of the doctrine of non-intervention with the operations of any European powers was thus stated. It was that such action should not be permitted as might be considered by us dangerous to our peace and safety.

It would be impossible, in view of the marvelous growth of the United States in population and its resources, and the extension of its territory, both by acquisition and settlement, that this limitation by President Monroe should at all periods of our history be geographically the same.

Although perhaps there exists—at least to some extent—a popular impression that the Monroe doctrine was intended to apply to acquisitions by foreign powers upon this continent, neither the terms in which the doctrine was originally stated nor the action of our Government since will be found to justify any such conclusion.* A very early application of the spirit of this doctrine to a country not embraced in the continent will be found in our diplomatic correspondence respecting Cuba; and while the United States have refused to interfere with the possession of that island by Spain, it was declared more than sixty years ago by Mr. Clay, and has been repeated in substance many times since, that we would not consent to the occupation of Cuba and Porto Rico by any other European power.

So in the Pacific. As the extension of our commerce and the settlement of our Pacific coast made it apparent that the possession by a European power of the Sandwich Islands would be dangerous to our peace and safety—indeed, more so than would be true as to the South American Republics—our Government has not hesitated to declare that their conquest or occupation by one of the great powers of Europe would be a result which we would not hesitate to prevent by force of arms if necessary.

*The term used is "hemisphere," which, as the map shows, includes nearly all of Polynesia.

This statement has been repeated substantially though in different terms, by Mr. Webster, Mr. Legaré, Mr. Clayton, Mr. Marcy, Mr. Fish, Mr. Blaine, Mr. Frelinghuysen, and yourself.

The relation of the Samoan group to the future commerce of the Pacific is the same in kind, though at present less in degree, as that of the Hawaiian group. At the present time the transatlantic steam traffic being exclusively carried on in foreign bottoms, and our own steam-ship lines being mainly engaged in the coast trade, the only trans-oceanic lines which carry the American flag to foreign ports are to be found on the Pacific. One of these lines consists of steamers, in all respects creditable to the flag they bear, which pass monthly each way between our own country and Australia, directly through the Samoan group; and there is every reason to believe that, with settled government there, arrangements will be made by which these steamers will touch at Apia, and thereby largely increase a commerce which, already carried in sailing vessels, includes American goods to the annual value probably of more than \$200,000. This, it must be remembered, is without any development of the great natural resources of the islands, and unstimulated by the export to the United States of any of the commodities which can be raised there undoubtedly to the same extent as in the Hawaiian group, and the natural market of which would be the port of San Francisco.

It is now quite certain that an interoceanic canal across the Isthmus of Panama is one of the possibilities of the not very distant future, and it needs only a glance at the map to see that when that fact is accomplished the key of maritime dominion in the Pacific, and to some extent the intercontinental commerce of the world, will be held, not alone by Hawaii, but jointly by Hawaii and Samoa.

I have endeavored to hint at, rather than to discuss, the grounds of my conviction that in order to preserve to our country the opportunity of having its share in the future commerce of the Pacific, which, excluding continental trade, must, from the immense number of inhabited islands alone, be of such magnitude as will make all present conjectures seem but trifling, it is of the first importance that the United States should strengthen the bonds heretofore existing between Hawaii and this country, and should promote the establishment of similar bonds to connect with us indissolubly the interests of the Samoan group, which is now drifting about, as it were, seeking the oversight and care of some power to do for it what I have tried to show it can not accomplish for itself—the establishment of stable government for the future.

I am well aware that ignorance of the present resources and future possibilities of the Pacific islands produces a lack of interest in this subject on the part of our countrymen who have not by some special circumstances been led to examine into them. In my own case I have found that before visiting that region I had little or no conception either of its true character and relation to the commerce of the world or the political importance to our country of more defined action in behalf of the preservation at all hazards of the autonomy of the two groups of islands to which I have specially referred.

Many of our intelligent public men advocate the doctrine of absolute inattention with respect to all matters transpiring beyond our immediate borders; but it is not likely that such a policy would commend itself either to the merchants of the Pacific coast already interested in this trade; the farmers of the Great West, to whom the existing demand makes so meager a return for their crops; those who live upon the profits of manufactures, to whom the South Pacific offers the prospect of new and increasing markets; or to the ship-builders of the Atlantic coast, who have not abandoned the hope that they will yet be called upon to build the ships which shall carry at least a fair proportion of the commerce of the world.

The intelligent foresight of our Government has, at a time when the future of that region was much less certain than it is now, secured exclusive rights on the island of Tutuila in a harbor probably not equaled, and certainly not surpassed, in the Pacific.

In alluding to this harbor, a writer in a recent number of the Nineteenth Century, after referring to the acquisition of it by the United States, laments that it "has thus passed forever from the hands of the British," and then adds, "The question here that naturally arises is, why did not England secure its possession?"

Having thus so long ago acquired this foothold in the South Pacific, it would be short-sighted indeed if we were to permit the advantage of this action to slip away from us by leaving the way open to European domination in this group.

It is because of the conviction that the situation in these islands requires more active intervention in their domestic affairs than was contemplated by my instructions to secure to our own people the rights and privileges which naturally belong to them that, while reporting the best plan that I could devise in accordance with the instructions, I have been constrained to go beyond it and to urge more independent action on the part of this Government than has been heretofore contemplated.

I believe that, even with respect to Hawaii, its condition demands very close attention on the part of our Government, with possibly the emphatic intimation of a purpose to prevent that country from drifting into such a condition as would tend to bring about results which we have repeatedly asserted that we would not permit.

So far as Samoa is concerned, all that I have suggested I believe could, with proper effort, be accomplished, with the assent of the two other powers now co-operating with us. It involves to our Government little or no expenditure of money, the resources of the islands being quite adequate to the support of such a government as I have proposed.

As the course proposed would be under a treaty with England and Germany, and strictly in accordance with the wishes of the Samoan Government, it would be far removed from an ordinary case of annexation or the assumption of a protectorate, which is usually accomplished by intervention not requested or desired by the people concerned.

The moral influence so exerted would rest upon the principles already asserted by our Government respecting Cuba and Hawaii, and the nomination of officers of the Samoan Government would be taking the same action for the protection of American citizens and interests in Samoa as has already been taken to some extent for the like purpose in Egypt and Japan.

I have, etc.,

GEO. H. BATES.

List of documents submitted herewith.

- A 1. Mr. Bates to Mr. Travers, September 2, 1886.
- A 2. Mr. Bates to Mr. Thurston, September 2, 1886.
- A 3. Mr. Thurston to Mr. Bates, September 5, 1886.
- A 4. Mr. Travers to Mr. Bates, October 13, 1886.
- A 5. Mr. Bates to Mr. Thurston, September 25, 1886.
- A 6. Mr. Thurston to Mr. Bates, September 29, 1886.
- B 1. Constitution of May 18, 1875 (Steinberger).
- B 2. Memorandum of E. L. Hamilton.
- B 3. Agreement about neutral territory.
- B 4. Request of Samoan Government to consuls.
- B 5. Bismarck agreement, December 15, 1879.
- B 6. Bismarck treaty, December 23, 1879.
- B 7. Agreement of foreign consuls and Samoan Government, March 24, 1880.
- B 8. Lackawanna treaty, July 12, 1881.
- C 1. Article in Samoa Times, November 16, 1878.
- D 1. King of Samoa to Queen of Great Britain, November 5, 1884.
- D 2. King of Samoa to Queen of Great Britain, November 12, 1884.
- D 3. King of Samoa to Consul Churchward, November 12, 1884.
- D 4. King of Samoa to Consul Canisius, December 1, 1884.
- D 5. Samoan annexation act.
- E 1. Proclamation, Dr. Stuebel, January 23, 1885.
- E 2. Dr. Stuebel to King, January 23, 1885.
- E 3. King to Dr. Stuebel, November 20, 1884.
- E 4. Dr. Stuebel to King, October 7, 1884.
- E 5. King to Admiral Knorr, April 10, 1886.
- E 6. King to Admiral Knorr, May 10, 1886.
- E 7. Admiral Knorr to King, May 9, 1886.
- E 8. Vonholzendorff to King, May 14, 1886.
- E 9. King to Emperor of Germany, December 29, 1884.
- E 10. Dr. Stuebel to King, February 19, 1885.
- E 11. King to Dr. Stuebel, April —, 1885.
- E 12. Dr. Stuebel to King, April 10, 1885.
- F 1. Map of German land claims.
- F 2. Copy of deed and affidavit.
- F 3. Certificate of Government of Samoa as to certain claims.
- F 4. Memorandum respecting native land court of New Zealand.
- F 5. Map of English land claims.
- G 1. King to Dr. Stuebel, July 12, 1886.

- G 2. Dr. Stuebel to King, July 18, 1886.
- G 3. Mr. Alvord to Mr. Von Oertzen, April 1, 1882.
- G 4. Mr. Alvord to Mr. Goddefroy, April 1, 1882.
- G 5. Mr. Alvord to Mr. Nelson, April 1, 1882.
- G 6. Mr. Alvord to Mr. Von Oertzen, May 15, 1882.
- G 7. Mr. Alvord to King, May 15, 1882.
- G 8. Mr. Alvord to Mr. Von Oertzen, May 17, 1882.
- G 9. Affidavit of G. B. Pritchard, jr.
- H 1. Proclamation of consuls, May 27, 1886.
- H 2. Mohican treaty, June 8, 1886.
- I 1. Constitution of Samoa proposed by consuls, 1875.
- I 2. Draft proposals, Mr. Thurston.
- I 3. Memorandum on Government of Samoa.
- I 4. Memorandum on Government of Samoa.
- K 1. Mr. Powell to Mr. Maben, September 27, 1886.
- K 2. Mr. Maben to Mr. Powell, October 1, 1886.
- K 3. Municipal regulations of Apia.
- K 4. Post regulations of Apia.
- K 5. Municipal balance sheet for 1885.
- K 6. List of licenses issued in Apia.

[Inclosure A 1.]

Mr. Bates to Mr. Travers.

APIA, September 2, 1886.

SIR: The informal conferences which you and Mr. Thurston and I have had make it apparent that there is a lack of unanimity between us as to the course of proceedings which it was intended by our Governments that we should adopt in effectuating the purposes of our visit to Samoa.

I must confess that I am deeply impressed by an apprehension that the result of this difference will be to impair very seriously, even if it does not defeat, the result to which it was hoped our investigation and report might contribute.

I therefore feel it to be my duty to address you in writing for the purpose of formulating the precise point of difference, as I understand it, and as I shall feel constrained to report it to the Government of the United States.

This will give you a definite statement of my view not only of my instructions, but also of what I conceive and what was considered at Washington to be the understanding between the three Governments pursuant to which we are now here. It will also enable me to verify my statement of your position, and to be corrected by you if I do not state it accurately. Nothing would be further from my wish than to misrepresent your views even in the slightest degree.

Under my instructions, and from my personal interviews with the Secretary of State, it is very clear to me that we were required to be here simultaneously, because *conference on the spot* was one of the prime objects of our Governments in sending us here; that while the details and manner of investigation were left quite fully to our discretion, that investigation was to be largely one conducted jointly. And while each of us will be expected to make a separate report to his own Government, I am expressly instructed to include in my report the remedies for existing troubles which shall commend themselves to the judgment, not of myself alone, but of us all.

It is manifest that it will be impossible for me to carry out this portion of my instructions because of the position assumed by you respecting our duties and functions. It is equally impossible to account for the presence of this instruction to me unless the United States Government understands the arrangement entered into respecting this investigation as being different from that which you have derived from your instructions and kindly communicated to me.

You consider, if I received correct impressions from you, that we have no official relation to each other; that it is merely an act of grace and favor on the part of any of us to confer with both or either of the others; that any conference between us is confidential, and that, therefore, if you should communicate to me any proposed

remedies which should commend themselves to your judgment, I would not be at liberty to refer in my report to any conferences with you or to the suggestions which you might have made.

You will permit me to say that, in my judgment, if my Government had understood the proposed meeting here in the light of your views about it, as expressed to us, it would have perceived in advance that the results of such an investigation would throw much less light upon the problem presented than an investigation conducted upon the principles usually resorted to for the ascertainment of truth.

Even assuming that your view is correct, I am not yet informed that you consider your discretion limited as to the methods which you will adopt for informing your own mind. In that case I must regret that you could not feel yourself justified in uniting with Mr. Thurston and myself in a joint examination of those persons here whose views any of us would think entitled to consideration, either by reason of length of residence here or otherwise. Such an inquiry would result in obtaining the views of such persons with much less bias than would probably affect them in conversing with us separately, and it would enable us, by inquiries suggested from different points of view, to sift the opinions expressed and apply those tests which such evidence has always been found to require under every civilized system of investigation.

A great advantage of such an investigation would be that, even if we should differ in our conclusions, we would at least have the same evidence from which to draw our conclusions, and each of us could subject it to analysis and criticism in such manner as to give those who must act on our report a better understanding of the facts than can possibly be derived from one or even three *ex parte* examinations.

Another benefit which it seems to me would have resulted from joint action, up to a certain point at least, is this: Certain definite principles appear to me, from the correspondence between the three Governments, to have been finally agreed upon. By a comparison of views and official papers we could, it is to be hoped, have determined upon certain points which could be considered settled, and possibly also, by a concurrence or comparison of views, have agreed upon certain preliminary points as needing no discussion by us.

I believe that Mr. Thurston's opinion of our duties and functions agrees substantially with my own; but in order to correct any possible error on this point I transmit to him a copy of this letter.

I have, etc.,

GEO. H. BATES.

[Inclosure A 2.]

Mr. Bates to Mr. Thurston.

APIA, September 2, 1886.

SIR: I hand you, herewith inclosed, a copy of a note which I have addressed to Mr. Travers under this date. I have endeavored to state the position assumed by each of us in our relation to each other here, and have ventured that I understand your views to correspond in substance with mine. I should be glad to know from you if I have been correct in this statement.

I have etc.,

GEO. H. BATES.

[Inclosure A 3.]

Mr. Thurston to Mr. Bates.

H. M. S. MIRANDA,

Apia, Samoa, September 5, 1886.

SIR: I have the honor to acknowledge, with thanks, the receipt of your letter of the 2d of September, inclosing copy of a letter which you have addressed to Mr. Travers, the German commissioner.

I concur with you in thinking that it would have been of advantage if in certain respects the commissioners had been able to conduct their inquiries in concert.

Allow me to take this opportunity of thanking you for the assistance and cordial co-operation which you have accorded me in the performance of my duties at Samoa. I have etc.,

JOHN B. THURSTON.

[Inclosure A 4.]

Mr. Travers to Mr. Bates.

APIA, October 13, 1886.

MY DEAR MR. BATES: I entertain a hope that after your return from Tutuila I might have a chance of having some further conversation with you on the subject of our business—I mean Samoan affairs and reforms.

After the letter you addressed to me on the 2d last month, pointing out the necessity of a free exchange of opinions between the commissioners, and after having explained to you the same day this letter reached me that I would be only too happy to converse with you at any moment, and with the greatest frankness, on any subject you might think desirable to talk over with me, I was led to believe that our common stay in Apia would afford us ample opportunities to exchange freely our views on the various topics of our mission.

I am sorry to say that hope has only partly been fulfilled, and, having regard to the very few days you will still remain with us, may I ask you kindly to inform me whether and at what time I may have the pleasure of a talk with you? If more convenient to you, I am ready to come on board ship; but should you prefer to come on shore, I shall be delighted to see you at luncheon in the consulate, so that we may have a long conversation before or after luncheon, as it suits best your time and convenience.

Yours, sincerely,

TRAVERS.

[Inclosure A 5.]

Mr. Bates to Mr. Thurston.

U. S. S. MOHICAN, OFF NEIAFU VAVAU,
Tonga Islands, September 25, 1886.

MY DEAR MR. THURSTON: We have been a few days in this port, having intended going on to Neukalofa, but have waited a day or two longer for Mr. Baker, who went to the Volcanic Islands, as Captain Day promised him a passage back with us. He has just returned, and we will probably sail to-morrow.

After stopping a day or two at Tonga I shall return to Apia and wait in that vicinity for the mail steamer northward from Tutuila about October 17.

I have had a faint hope that I might have the good fortune at Tonga to meet you again. While nothing new has occurred, I would be very glad to discuss some points with you.

I hope to be at Apia again by to-morrow (Sunday) week, and wish very much you were going to be there too for a few days. Aside from the unfortunate difference of opinion as to the scope of our mission, the principal regret I have about my visit there is that your stay was so short, as I can not help feeling that good might have come from fuller conferences, especially on some points which have since occurred to me, and also upon the details of plans for the future government of the group. However, we can simply do our best under the circumstances as they are.

Cordially reciprocating the sentiments of your note from Pago Pago, which I duly received, I am,

Very truly, yours,

GEO. H. BATES.

P. S.—Any communication may be addressed to me in care of the captain of the steam ship *Mariposa* at Auckland.

[Inclosure A 6.]

*Mr. Thurston to Mr. Bates.*GOVERNMENT HOUSE, FIJI, *September 29, 1886.*

MY DEAR MR. BATES: Your note of the 25th from Vavau reaches me just as our New Zealand steamer is going out, hence this brief note.

I am sorry for many reasons that my stay was short at Samoa, but frankly it was more than long enough to discover that our good German colleague and ourselves differed upon first principles, and that, bound as he was by his instructions (so opposite to ours), no real satisfaction to us could have resulted.

The salient points of difference marked by me were, (1) the German commissioner's instructions do not refer to or include any consideration of the possibility of fostering an autonomous native government worthy of recognition, and (2) that he had no official relations with us.

Now, I am not unacquainted with the value and uses of private diplomatic interchange of views between officers of Governments in our position. But I did not go, if I understood my instructions rightly, to meet the German commissioner altogether privately and unofficially.

It seems to me that the Government of Germany has not made its instructions harmonious with those issued to its representatives by the Governments of the United States and Great Britain.

This variance will probably form the subject of explanation hereafter.

In the mean time I shall make the best report and recommendation in my power without permitting myself to drift into the undecided position proposed by Mr. Travers.

These, therefore, are my views. For the rest, I am confident the German Government inclines to solve the difficulties by assuming control in Samoa on behalf of herself and the other powers concerned. This subject is not referred to in my instructions, but on the contrary I am informed that there is to be no movement in the way of "annexation," and no assertion even of "individual predominance."

I do not think, as before said, that any good would have proceeded from prolonged conference had I staid six months, while, for reasons given ably in your note to Mr. Travers, a satisfactory inquiry upon our part was in a *very great* measure rendered impossible.

I am sorry to hear of such disastrous news from the Island of Niuafo. These volcanic disturbances are most serious occurrences.

Let me know, if you have time, what you thought of Tonga.

Your several papers on Fijian affairs will be forwarded by book post, and I trust may interest you.

Wishing you a happy return to your wife and family, and in the faint hope that I may be one day in your neighborhood,

Believe me, yours, very faithfully,

JOHN B. THURSTON.

[Inclosure B 1.]

DECLARATION OF RIGHTS.

[Samoa Times, August 17, 1878.]

The following is a copy of the constitution drawn out by Colonel Steinberger and agreed to by the Samoans in 1875, and which we reprint at the request of a number of our readers. It will be noticed that there is scarcely a section of it but what has been violated by the present "Government; "

We, the people of Samoa, who laid the foundation of our Government at Mulinuu, on the 21st day of August, A. D. 1873, impressed with a sense of all human weakness, and bending before the power of Almighty God, do now ordain and establish the constitution for Samoa.

This is in order to establish justice, to give us domestic tranquillity, promote the general welfare, and cause us to be respected as a nation among the nations of the earth. The origin of our Government is by the action of our chiefs and rulers of Samoa, and we give thanks to God for the peace and good will that we are enjoying, and the unity which enables us to choose rulers for the secure establishment of our Government. God has made of one blood all the people of the earth; peace, unity, happiness, and the love and fear of God are among the blessings of the earth. Guaranties for the liberty of the people, and the power of the law will be our safety; to man belongs the sacred rights of life, limb, liberty, freedom from oppression, the earnings of his hands, and the productions of his mind. Government and laws are not for the protection of chiefs and rulers only, but for the people; each shall be free to come and

go, to till his land, to earn his bread, to trade and barter, and appeal to the majesty of the law for protection. The execution of the law will operate upon the chiefs and rulers as well as the subject; all will be equally judged for a violation of the law. Protection is hereby published for the safety and welfare of all the inhabitants of these islands, that people and chiefs may enjoy protection alike under the same law; that each may be secure in their lands, their lots, their habitations, and all property, and should a chief, or ruler, or governor, or any public functionary act in violation of this constitution he shall no longer retain his position.

As we have merged from barbarism through the teachings of the missionaries, and come to know the living God through the love, patience, and teachings of these teachers of the Holy Word, so will we maintain our faith and recognize the truth that we are powerless without God's aid; that we will support our church, observe the Sabbath, respect our pastors, and adhere to the Word of God, but religious freedom shall be accorded to all the sound promptings of the heart, and the entire freedom of conscience is the right of all men; therefore, it is our solemn desire that no law shall be enacted at variance with the Word of our Lord God or the spirit of His Word.

Now, in enacting our Government, we pray for the charity and protection of all the civilized nations of this earth, that our Government be recognized, and our laws respected, as we will respect and give protection to the foreign element now and hereafter to be amongst us.

CONSTITUTION.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a House of Chiefs or Nobles and a House of Representatives.

SEC. 2. The House of Representatives shall be composed of members chosen every second year to sit in council with the nobles and establish laws for the nation. This representative body shall have a voice in the business of the Kingdom, and no law shall be passed without the approbation of the majority of them. Such representatives shall be elected by ballot by the people of each district. The actual enumeration shall be made within one year from the assembling of the first Parliament, and a new enumeration made every five years as subsequent laws of election may direct. The number of representatives shall not exceed 1 for every 2,000 people, and shall be chosen from the islands of Manua, Olosega, Ofu, Annuu, Tutuila, the districts of Atua, Tuamasaga, and Aana, of Upolu, Manono, Apolima, Savaii. When vacancies happen in representatives from any district, the House of Nobles shall issue writs of election to fill such vacancies. The House of Representatives shall select their speaker or head, and other officers, and have the sole power of performing articles of impeachment.

SEC. 3. The House of Chiefs or Nobles shall be composed of 2 chiefs from Manua, Olosega, Ofu, Annuu, and Tutuila combined, 2 from Atua, 2 from Tuamasaga, 2 from Aana, 1 from Manono and Apolima, and 6 from Savaii, making 15. This body shall be known as the Taimua, and consist of high chiefs selected by their people, and such nominations shall be presented to the King for approval. Warrants of nobility shall be issued to such chiefs, and they shall sit in Government council to give advice, and aid in making and maintaining laws. The King shall consult with the Taimua respecting the affairs of the Kingdom. The present Taimua to be the Government of Samoa, to be obeyed and respected until such time as the King and representative body (Taimua and House of Representatives, are chosen and fairly established according to this constitution. That they be the governing power of the land, and recognized as the supreme power; that vacancies be filled and the laws be executed by them.

SEC. 4. With veneration for our customs and ancient traditions, and to maintain inviolate the great families who have sprung from a race of Kings, and to give greater security to our people, it is decreed that the royal blood be acknowledged and shall be perpetuated in the great houses of Malietoa and Tupua. The King chosen from one of these families shall reign for the period of four years, and upon the expiration or of demise, then the succession shall fall to the other of the two families. That there shall be a rotation in the line of Kings between the two families of Malietoa and Tupua, with the succession alternating in the two families. If within the prescribed time of four years a vacancy should happen by death, impeachment, or resignation, then the vacancy shall be filled from the other house or family, and serve for a period of four years and not for the unexpired term. The King shall be chosen by the Taimua, the Malo, and Faipule, as the chosen representatives of Samoa, now assembled at Mulinuu. The King makes oath to adhere to, preserve, protect and defend the constitution of Samoa, to execute the laws and protect the rights of the people.

SEC. 5. The prerogatives of the King are as follows, viz.: He is the sovereign of the people and the chiefs. He shall have the direction of the army and the implements of war of the Kingdom. He also shall have the direction of the public lands, the poll tax and the land tax. He shall have control of the lands forfeited to the Government from non-payment of taxes, all in conformity to the law. Under the law he shall be the chief judge of the supreme court, and it shall be his duty to execute the laws of the land, also all decrees and treaties with other countries. It shall be his prerogative to form treaties, receive ministers, and confirm agreements with them. He shall have power to control by the army revolutionary districts when the legislative is not in session. His power to transact important business of the Kingdom shall only be exercised when the law has not assigned specified duties to others.

SEC. 6. The King shall appoint 8 governors, 1 for the islands of Manua, Olosega, and Ofu; 1 for Aunu'u and Tutuila, 1 for Atua, 1 for Tuamasaga, 1 for Aana, 1 for Manono and Apolima, and 2 for Savaii. The governor shall be appointed only after the chiefs of said islands have selected a candidate and sent his name to the King. In the interim the Taimua shall appoint such governors. All the governors from Manua to Palealupo shall be subject only to the King and the premier. Each governor shall have direction over the tax-gatherers, and support them in the execution of their duties; he shall preside over the judges of his island or district, and be responsible for the execution of the laws. He shall appoint the judges and give them their certificate of office. The governor shall have charge of the island or district over which he presides, control the militia, Government arms and munitions of war. He shall receive the Government dues and deliver them over to the premier. All important decisions shall rest with him, but subjects shall always have the right of appeal as against unlawful or tyrannical acts of a governor.

The Premier of the Kingdom.

SEC. 7. It shall be the duty of the King (the Taimua in the interim) to appoint some person as his particular minister, whose title shall be premier of the Kingdom. His duty shall be to transact for the King all business connected with the special interests of the Kingdom, and all documents and business executed by the premier shall have the force as though executed by the King's authority. The premier shall be the King's special councillor in all the important business of the Kingdom. The King shall not act without the knowledge of the premier, and the premier shall be entitled to the floor of each house of Parliament, and join in the debates.

Supreme Court.

SEC. 8. The representation body shall appoint four persons, whose duty it shall be to aid the King and the premier, and these six persons shall constitute the supreme court of the Kingdom. They shall give due notice of the time and place of holding court. They shall grant new trials in cases of appeal; life, death, confinement, and fine are with them, and their decisions are final.

Judges.

SEC. 9. Each governor shall appoint four or more judges for his island or district, and give them certificates of office, and they can then only be removed by impeachment. The law shall regulate the term of office. The judges shall give notice of the time and place of holding courts, and shall then enter upon trials according to the prescribed form of law. No judge shall have jurisdiction over land cases as between landlord and land agents or their tenants, or in the matter of taxation, but his duty shall be to try all cases of murder, felony, assault, theft, trespass, and general violation of the public peace, and breaking of the laws. Exceptions may be taken to the judgment of the judges and the courts, and an appeal taken to the supreme court.

ARTICLE II.

SECTION 1. A proper respect for the white residents and sojourners in Samoa who establish business relations with our people, will receive the earnest thought and deliberation of our law-making power, that their lands, their business, and all their rights be protected, trusting in their honest and hearty co-operation and praying for their aid and comfort.

SEC. 2. The introduction of foreign labor upon our islands shall be permitted, but copies of all contracts with laborers must be lodged with the Government, such labor must be voluntary, and their grievances as well as all complaints against them subject to the courts of law and their decisions. Each laborer shall be registered with

name, place of birth or nativity, and approximate age; each one shall be furnished with a Government permit, and at the expiration of their term of contract to be at liberty to depart, to recontract, or remain as citizens of Samoa, with all the rights, privileges and immunities of other people, but subject to the general law.

SEC. 3. Free trade shall be the established system of the Government; there shall be no export or import duties except upon the importation of spirituous liquors, as provided by law.

ARTICLE III.

SECTION 1. There shall be a department of the interior created, with a land commission, and a minister of interior, who shall have jurisdiction of the Government domain. The function of said board of commission will be regulated by law.

SEC. 2. The secretary of the interior will receive his appointment from the King and be a member of the ministry.

SEC. 3. The King shall appoint a minister of finance who shall have control of the department of finance and be a member of the ministry.

ARTICLE IV.

SECTION 1. The Parliament shall meet once each year; both Houses shall combine to determine the day of adjournment, but the law will fix the day of assembly. The premier shall be president of the Upper House (House of Nobles); each House shall choose their other officers and elect their secretaries and clerks.

SEC. 2. The House of Nobles shall have the sole power to try all impeachments, and when sitting shall be under oath; but the articles of impeachment must come from the House of Representatives.

SEC. 3. The time, place, and manner of holding election shall be prescribed by the Parliament, and each House shall judge of the validity of the election of each member.

SEC. 4. Each House may make rules for its proceedings, punish members for disorderly conduct, and a two-thirds vote may expel a member of the House of Representatives. Each House shall keep a minute of their proceedings, and from time to time publish the same.

SEC. 5. All proceedings and law shall be transacted in Samoan, and translated into English; but any white resident or officer of a foreign government other than English shall, upon demand by properly constituted agents, be allowed access to the proceedings of Parliament and the laws, and make a copy in any language.

SEC. 6. Members of both Houses shall receive a compensation to be fixed by the law, but to be in rigid conformity with the necessities of the people and upon rigid economical principles, and they shall, in all cases except treason, felony, and breach of the peace, be exempt from arrest during their attendance at a session of their respective Houses and in going to or returning from the same.

SEC. 7. All bills for raising the revenue must originate in the House of Representatives, so that the people, through their chosen representatives, shall have a voice in the raising of the revenue of the government; but the House of Nobles shall concur in such bills.

ARTICLE V.

SECTION 1. I. The Parliament shall have power to levy and collect taxes, duties, imposts, excises, to pay debts, provide for the common defense and general welfare of Samoa.

II. To borrow money on the credit of the government.

III. To regulate commerce with other nations.

IV. To coin money.

V. To establish post-offices and build roads.

VI. To support a home guard and provide for calling forth the militia, &c., execute the laws, and suppress insurrections.

SEC. 2. I. No bill of attainder or *ex post facto* law shall be passed.

II. No money shall be drawn from the treasury except after an appropriation by the Parliament, and a regular statement of receipts and disbursements of public money shall be published from time to time.

SEC. 3. No island or district shall enter into any treaty with other powers, contract debts, make currency, or make any law except in accordance with the laws of Parliament, which are the laws of Samoa.

SEC. 4. Full faith and credit shall be given in each district for the acts, records, and judicial proceedings of another district.

SEC. 5. The citizens of one island or district shall have like privileges and immunities in every other district.

SEC. 6. A person charged in any island or district with treason, felony, or crime who shall flee from justice and be found in another island or district shall, upon demand, be delivered up.

ARTICLE VI.

SECTION 1. All debts and agreements contracted or entered into prior to the adoption of this constitution shall be valid as against the Government of Samoa.

SEC. 2. I. Members of the House of Nobles and Representatives, and all other officers of the government shall be bound by oath to support the constitution.

II. The constitution shall be above the King.

III. It is adopted by the present Taimua and will be presented to the people for final ratification.

SEC. 3. It is solemnly decreed that after the expiration of seven years, when the people are accustomed to the ballot and realize the sanctity of election, then the Parliament may call a general election to give the people of Samoa the right to resolve the monarchy into a republic. In the action of the Parliament in calling such election the King shall have no voice, and this section of the constitution is not subject of amendment.

SEC. 4. This constitution may be amended by a two-thirds vote of Parliament, but such amendment must be ratified by the people.

The above constitution has been adopted by the Taimua, and we have hereunto subscribed our names and affixed our seals, this 18th day of May, 1875, at Mulinuu, Samoa.

[Inclosure B 2.]

Memorandum respecting the raising of the American flag on Mulinuu Point, May 24, 1877.

This incident having been referred to by Mr. Bates in a casual conversation with me I write down, at his request, my recollection of the circumstances as then stated to him verbally.

At this time (May, 1877) I was very intimate with Mr. Weber, doing considerable business with him, and we were both favorable to Malietoa, assisting him in various ways in his government.

On the 23d May, 1877, the deputation of natives that had gone to Fiji on business connected with a proposed annexation to Great Britain returned to report to the government the result of their mission.

Captain Stewart, the master of the vessel that took this deputation and brought it back, and who claimed to be an American, visited the United States vice-consul, Mr. Colmesnil, immediately upon the arrival of his vessel, and they together came to me with the object of ascertaining whether I would offer any protest or opposition to their project of hoisting the United States flag at Mulinuu Point (the seat of government) on the following morning, and said they were going to inquire of others to the same purpose.

I had no objections to make, and they left.

Early on the morning of the 24th the United States flag was hoisted at Mulinuu Point by Consul Colmesnil, and at the same time a salute was fired by Captain Stewart on shore, ostensibly in honor of the Queen's birthday.

A little while later on the same morning I called on Mr. Weber, and recounted to him the occurrence of the hoisting of the flag, to which he answered, in substance: "I know all about that; Colmesnil was here last night; it was all understood between us;" thus giving me the impression that he was party to the temporary protectorate plan as carried out by Consul Colmesnil and Captain Stewart.

My impression at the time was that the plan was devised and executed in order to forestall the proposed annexation to Great Britain.

E. L. HAMILTON.

UNITED STATES CONSULATE,
Apia, October 9, 1886.

[Inclosure B 3.—From the Samoa Times of June 7, 1879.]

The following is a translation of a document which has this week been received by the foreign representatives from the "Government" party and the Tuamasaga, in reference to the boundaries of the neutral territory.

"We agree with the representatives of foreign Governments in Apia now as follows: (1) We accept the boundaries of the neutral territory from Tiapepe Point to

Letogo, including both those places. These are the boundaries beginning at Tiapepe, thence inland to Suisega; Suisega is inside the neutral ground. The Faalava road is open to war parties; the boundary of Suisega ends there, and thence to above Vaea, at the back of the Catholic Mission house, and thence to the back of Tanumamanono, and bounds there with Lafalafa, and thence on to Letogo water, F. Cornwall's land at Faleula, Mr. Weber's house and land, and Mr. Williamson's house and land, inland of Tanumamanono. (2) If war should break out we will not raise our flag within the neutral ground, and all officials acting under us shall leave Mulinnu. No armed parties shall travel or occupy through nor in a position of the neutral ground after war is declared, nor pass the boundaries. (3) We will inform you, gentlemen, representatives of foreign countries, at once when war shall be declared.

"Signed on behalf of the Taimua and Faipule by—

"SAMOA.
"LETULLI.
"SARUA.
"AMO.

"Signed on behalf of the Tuamasaga and Manono by—

"TAUPAU.
"LEIATAUALE SA
"MATAAFA.
"TUIATAFU.

"Witnesses to signatures and approved by—

"TH. WEBER,
" *Imperial German Consul.*
"ROB'T S. SWANSTON,
" *Her Britannic Majesty's Acting Consul.*
"THOMAS M. DAWSON,
" *United States Consul.*
"J. M. COE,
" *Interpreter.*"

[Inclosure B 4.—From the Samoa Times, July 19, 1879.]

Having been asked upon several occasions upon what authority the foreign consuls have assumed the government of the neutral territory, and made the regulations they have, we now publish the following translation of a letter to the consuls from Malietoa and his government, and from the Taimua and Faipule.

"Gentlemen, you are cognizant of the existing difficulties in Samoa. We therefore address you as gentlemen holding office at Apia, under authority of the great Governments. We desire that you direct your attention to the safety of the property and lands and houses, and the lives of foreigners as well as of others. You will therefore make rules and regulations to repress evil-disposed and disorderly persons, and in addition to repress the selling of intoxicating drinks to Samoans and other Pacific islanders. You will please, gentlemen, also to direct your attention to see carried out all such rules and regulations within the limits of the neutral territory. This agreement shall hold good until such time as the existing troubles in Samoa shall have ceased."

[Inclosure B 5.]

AGREEMENTS.

The following agreements made between the Foreign Representatives resident in Apia, and the King, we publish for public information:

[Translation.]

APIA, December 15, 1879.

This day assembled at Apia, on board H. I. G. M. S. Bismark, the Samoan Chiefs named in this document and appointed on the side by Saleaula, Leulumoega, and Lufi Lufi and their provinces and the chiefs and representatives of their war parties and adherents, and on the other side by the provinces of Manono, Faasaleleaga, Itu o fafine, and Tuamasaga, and

Ua potopoto faatasi i le aso nei i Apia i luga o le Manua o lana Afioga o le Kaisa (Tupu Sili) o Siamani, e igoa o Bismark, o Alii Samoa e tau o latou suafa i le tusi nei.

Ua tofia Alii i le tasi itu, e Saleaula ma Leulumoega ma Lufilufi, ma Latou, Itu Malo, ma Alii, ma Faipule, foi o latou itu taua atoa ma Alii, ma tagata uma, ua au faatasi ma latou.

the chiefs and representatives of their war parties and their adherents.

They meet on board H. I. G. M. S. Bismark, this being a neutral place, and they are appointed to deliberate about the proclamation of peace, in order to restore friendly relations and harmony in Samoa, and also to deliberate about other matters useful for the welfare of Samoa. They shall enter into a treaty about the articles accepted of and agreed upon by them, and then sign the same, to ratify thereby the treaty agreed upon.

For this purpose have now been appointed on the one side by Saleaula, Leulumoega, and Lufi Lufi, and their provinces and the chiefs and representatives of their war parties and their adherents—

- | | |
|-----------------------------|--------------|
| 1. Malua | } Saleaula. |
| 2. Lavea | |
| 3. Masua | |
| 4. Tafua | } Atua. |
| 5. Galu | |
| 6. Mamea | } Aana. |
| 7. Meafaihua | |
| 8. Asiata | } Palauli. |
| 9. Leiataua Piliopo—Manono. | |
| 10. Samoa | } Tuamasaga. |
| 11. Lutu | |
| 12. Alapa | } Tutuila. |
| 13. Leaeno | |

and on the other side by the provinces of Manono, Faasaleleaga, Itofoafine, and Tuamasaga, and the chiefs and representatives of their war parties and their adherents—

- | | |
|---------------|-----------------|
| 1. Sa'u | } Manono. |
| 2. Taupa'u | |
| 3. Faatuono | } Faasaleleaga. |
| 4. Lauati | |
| 5. Asiata | } Palauli. |
| 6. Lana'aia | |
| 7. Tuiatafu | } Tuamasaga. |
| 8. Mataafa | |
| 9. Saga Auaua | } Aana. |
| 10. Taefu | |
| 11. Leasio | } Atua. |
| 12. Leota | |

who then agreed upon the following articles:

ARTICLE I.

The chiefs of both parties accept of the desire of Captain Deinhard, commanding H. I. G. M. S. Bismark, being the same as that of the Foreign Representatives at Apia, to stop the war.

Therefore, peace is now hereby proclaimed. There shall be no more war in Samoa, but peace and friendship shall henceforth be maintained by all the provinces and places of Samoa and their chiefs and people.

Ua tofia Alii i le isi itu o itu Faasaleleaga ma le Itu o Fafine ma le itu malo o manono ma le Tuamasaga, ma Alii, ma Faipule foi o latou itu taua atoa ma Alii ma lagoto uma ua au faatasi ma latou.

Latou te potopoto faatasi i luga o le Manuafo Siamani o Bismark, aua ua tusa lea mea le nun fao ma le lauelele sa fo i.

Ua tofia latou, e filifili faatasi i le faaola o le taua, ina ia toe feafofani ma ufofolele o Samoa uma, e filifili foi i nisi mataupu e aoga i le manuia o Samoa. E osi e latou o le feagaiga i mataupu, ua latou lotogatasi ai ma tali al, opa tutusi ai lea o latou ai le feagaiga na latou lotou

O lenoi ua uma ona tefia.

I le tasi i tu e Saleaula, ma Lenlumoega, ma Lufilufi Itu Malo, ma Alii, ma Alii ma taua atea ma au fatasi ma latou.

- | | |
|-----------------------------|--------------|
| 1. Malua | } Saleasela. |
| 2. Lavea | |
| 3. Masua | |
| 4. Tafua | } Atua. |
| 6. Galu | |
| 6. Mamea | } Aana. |
| 7. Meafaihua | |
| 8. Asiata | } Palauli. |
| 9. Leiataua Piliopo—Manono. | |
| 10. Samoa | } Tuamasaga. |
| 11. Lutu | |
| 12. Alapa | } Tutuila. |
| 13. Leaeno | |

ma I le isi itu e Itu Malo o Manono, ma le Faasaleleaga, ma le Itu o Fafine, ma le Tuamasaga, ma Alii, ma Faipule, foi o latou itu taua atoa ma Alii ma tagata uma ua au faatosi ma latou.

- | | |
|---------------|-----------------|
| 1. Saia | } Manono. |
| 2. Tupau | |
| 3. Faatuono | } Taasaleleaga. |
| 4. Lauati | |
| 5. Asiata | } Palauli. |
| 6. Lana'aia | |
| 7. Tuiatafu | } Tuamasaga. |
| 8. Mataafa | |
| 9. Saga Auaua | } Aana. |
| 10. Taefu | |
| 11. Leasio | } Atua. |
| 12. Leota | |

latou le faia lea mea, ana, latou lotogatasi ai lea i mataupu nei.

MATAUPU I.

Ua talia e Alii o le tasi itu ma le isi itu i le finagalo o Kapitene Deinhard o le Alii vaa o le Manuafo Siamani o Bismarck, ua tusa foi ma le finagalo o Alii tofia o Itu Malo tetele i Apia, ia tuu lava le taua. O le mea lea ua tala'i ai nei, ua faaola le taua.

E le toe tau le taua i Samoa nei, a e tumau lava le fealofani ma le nofofele i aso uma o lumani, o Itu Malo ma nuu uma o Samoa atou ma Alii ma tagata uma.

If at any future day any disturbance should again arise, then a decision and peaceable settlement shall be attempted in an amicable way.

All the chiefs and people of the war parties shall return to their own places, and again turn to their peaceable and friendly occupations, and they shall obediently leave, for their homes, on that day which Captain Deinhard, commanding H. I. G. M. S. Bismark, shall appoint.

ARTICLE II.

The chiefs of both parties do hereby again accept of and ratify all treaties made between Samoa and the Great Governments of the United States, Germany, and Great Britain, especially also, The Apia Municipality Convention, which shall be valid from the day it is made.

ARTICLE III.

Each province of Samoa shall appoint two chiefs to meet together at such place as Captain Deinhard, commanding H. I. G. M. S. Bismark, may point out, to deliberate, and turn their attention to a final settlement with regard to all matters concerning the Government of Samoa.

They will also deliberate and agree about an amicable settlement with regard to all Samoan property which was destroyed and plundered in this war by the war parties of both sides.

They will also deliberate about arrangements by which it will be possible for the minority of the people of one province who dissented from the majority of the people of the same province, to return amicably to their province.

They will also deliberate together with the Foreign Representatives at Apia in order to make it possible to arrive at an amicable arrangement about all foreign property destroyed, plundered, and damaged in this war by the war parties, and also about all points whereby the war parties have trespassed upon the neutral territory.

In case of a dispute between the chiefs and people of a province, because they cannot agree upon two chiefs to be appointed, Captain Deinhard, commanding H. I. G. M. S. Bismark, shall decide and point out the chiefs who are to be put aside and who are to remain.

Captain Deinhard, commanding H. I. G. M. S. Bismark, shall have the right to transfer this arbitership to the Foreign Representatives at Apia, and make them his substitutes.

ARTICLE IV.

This treaty shall be binding from the day on which it is signed by the chiefs appointed on both sides, and it shall be

Afai e toe tupu se faalavelave i se aso o lumanai, ona faasaga lava lea i le fealofani e maua ai se iuga ma se tonu lelei.

Ia toe fo'i atu nei o Alii ma tagata uma o itu tana i latou lava nuu, ia toe faasaga i latou galuea ma latou feau, ia tatau ma le nofolele ma lo fealofani; latau te te a ma le usinaitai i le aso lava e faatonu atu ia to latou e Kapitene Deinhard o le Alii vaa o le Manua Siamani o Bismarck.

MATAUPU II.

Ua toe talia ma faamaunina nei e Alii e le tasi itu ma le isi itu i feagaiga uma ua osia e Samoa ma Itu malo tetelo o le Unaitē Sitete, ma Siamani, ma Peretania, aemaise foi o feagaiga ua osia i le fautuina o le faiaai ma nuu o Apia; e tatau foi ona amataina le pule o le feagaiga i le fautuina o le faiaai ma nuu o Apia i le aso lava, sa osi ai le feagaiga.

MATAUPU III.

E tofia lava nei e taitasi Itu Malo o Samoa tai toa lea Alii, latou te potopoto faatasi i le mea e faasino atu e Kapitene Deinhard, o le Alii vaa o le Manua Siamani o Bismarck, e fai latou filifiliga e faasaga ai i se tonu ataatoa tau mataupu uma o le Malo o Samoa.

Latou te filifili ma lato gatasi foi i se faaiu i le fealofani tau me ana a Samoa, ua faasannoaina ma vetea i lenei taua e itu taua o le tasi i'tu ma le isi i'tu.

Latou te filifili fai i ni sauniga e mafai e ona toe fo'i mai ma le fealofani i lo latou lava Itu Malo o tagata toaitiati, sa latou loto ese, i le toatele o la tatou Itu Malo.

Latou te filifili fai faatasi ma Alii tofia o Itu Malo tetele i Apia, ina ia mafai ona maua o se tonu fealofani i mea uma a papalagi, ua faasannoaina ma vetea ma faaleagaina e itu taua i lenei taua; e faapea foi i mea uma ua solia ai e itu taua i le lanelē ele sa.

Afai e fefinana'i o Alii ma tagata o se Itu Malo o Samoa, aua e le mafai ona latou loto gatasi i taalua Alii e tofia, ona pule lava lea e Kapitene Deinhard o le Alii vaa o le Manua Siamani e igoa o Bismarck e faatonu atu o ai Alii na tu'u ese pe nonofo.

E tu'u faitalia foi e Kapitene Deinhard o le Alii vaa o le Manua Siamani o Bismarck, ona tunina ane e ia lena pule i finauga, ia Alii to fia o Itu Malo tetele i Apia, e fai o latou ma lona sui i lenei mea.

MATAUPU IV.

E mau lava lanei feagaiga, e amata i le aso o lo'o tuuina ai o latou suafa e Alii ua tofia i le tasi itu ma le isi itu.

put into the hands of Captain Deinhard, who will transmit it, at a later day, to the Foreign Representatives at Apia, for safe keeping, but each province of Samoa shall have the right to get a copy thereof if they desire so.

This treaty has been signed and sealed by the chiefs nominated to make the same.

Such was done in presence of such witnesses namely—Captain Deinhard, commanding H. I. G. M. S. Bismarck; and Mr. Weber, Imperial German Consul; and Captain Chuden, commanding H. I. G. M. S. Nautilus. At Apia, on board H. I. G. M. S. Bismarck, on this fifteenth day of December, in the year one thousand eight hundred and seventy-nine.

(L. S.) (Snd.) MA (his x mark) TUA.
LAVEA.
MASUA.
TA (his x mark) FUA.
ALIPIA GALU.
LE MAMEA.
MEA (his x mark) FAIFUA.
ASI (his x mark) ATA.
LEIATAUA PILIAPU.
SAMOA.
LU (his x mark) TU.
ALAPALELEI.
SA'U.
TAU (his x mark) PA'U.
FAA (his x mark) TUONO.
LAU (his x mark) ATI.
ASI (his x mark) ATA.
LANA (his x mark) AIA.
TUIATAFU.
MATAAFĀ.
SAGA LE AUAUNA.
TA (his x mark) EFU.
LEASIO.
LE (his mark) OTA.
LEAENO.

Witnesses—

DEINHARD, *Corvetten Captain, Commandant H. I. G. M. S. Bismarck.*
TH. WEBER, *Imperial German Consul.*
CHUDEN, *Commandant H. I. G. M. S. Nautilus.*

E tuuina atu lenei tusi o le feagaiga i lima o Kapitene Deinhard a e toe tuuina ane e ia i se tasi aso nanei i lima o Alii tofia o Itu Malo tetele i Apia, latou te tausi iai, a e tatau lava ona maua sona ata e taitasi Itu Malo o Samoa pe a manao iai.

O lenei ua tusia ai suafa ma tutu ai faamau faailoga e Alii ua tofia e osi lenei feagaiga.

Ua fai i luma o Molimau toatolu, O Kapitene Deinhard, O le Alii vaa o le Manua Siamani o Bismarck; Ma Misi Uepa, O le Alii Konesula, Siamani; Ma Kapitene H. Chuden, O le Alii vaa o le Manua Siamani o Nautilus; i Apia i luga o le Manua Siamani e igoa o Bismarck i lenei aso e sefulu ma le lima o le masina o Tesema i le tausaga Tasi le afe ma le valu sealu ma fitu sefulu ma le iva—

(L. S.) (Snd.) MA (lona x faailoga) TUA.
LAVEA.
MASUA.
TA (lona x faailoga) FUA.
ALIPIA GALU.
M. K. LE MAMEA.
MEA (lona x faailoga) FAIFUA.
ASI (lona x faailoga) ATA.
LEIATAUA PILIOPU.
SAMOA.
LU (lona x faailoga) TU.
ALAPALELEI.
LEAENO.
SAU.
TAU (lona x faailoga) PA'U.
FAA (lona x faailoga) TUONO.
LAU (lona x faailoga) ATI.
ASI (lona x faailoga) ATA.
LANA (lona x faailoga) AIA.
TUE'ATAFU.
MATAAFA.
SAGA LE AUAUNA.
TA (lona x faailoga) EFU.
LEASIO.
LE (lona x faailoga) TA.

MALIMAU.
DEINHARD.
TH. WEBER.
CHUDEN.

[Inclosure B 6.—Translation.]

APIA, 23rd December, 1879.

This day there assembled on board H. I. G. M. S. Bismarck and hereinafter mentioned Samoan chiefs.

They were appointed by the provinces of Samoa according to Article III. of the treaty made also by Samoan chiefs on the 15th day of this month on board the German ship of war Bismarck, and accordingly met this day to continue the delib-

Ua potopoto faatasi i le aso nei i Apia i luga o le manua o lana Afoga o le Kaisa (Tupu Sili) o Siamani, e igoa o Bismarck, o Alii Samoa ta'u o latou suafa mulimuli ane i le tusi nei.

Ua tofia latou e Itu Malo o Samoa faatautu ma le mataupu e III. o le feagaiga ua osia e Alii Samoa foi i le aso 15 o le masina nei i luga o le manua Siamani o Bismarck. O le mea lea foi ua latou potopoto faatasi ai i le aso nei e toe faasaga i

erations of the 15th of this month, by deliberating now on those matters pointed out in Article III. of the treaty made on the 15th of this month.

For this purpose have been appointed By Atua—Tagaloa and Fualaga.

By the Tuamasaga—Tuiatafu and Mataafa.

By Aana—Le Mana and Taefu.

By Manono—Taupa'u and Sa'u.

By the Itu-o-tane—Masoe and Utumapu.

By the Faasaleleaga—Lauati and Faatuono.

By the Itu-o-fafine—Asiata and Lagaiaia.

By Tutuila—Leaena and Alapa.

who then agreed upon the following articles:

ARTICLE I.

Malietoa Talavou is hereby appointed king for lifetime.

Malietoa Laupepa is hereby made regent, and will attend to the work of the king.

ARTICLE II.

All flags of Samoa, made hitherto, are hereby abolished and a new flag is hereby adopted, to show thereby the unity of Samoa.

The flag is thus:

A red flag with a white cross, and also a white star with five points; the star shall be put in the upper part next to the flagstaff.

The king shall have the right to choose his private flag, but that flag shall be no Government flag.

ARTICLE III.

Each province of Samoa shall appoint two Samoan chiefs, who shall be called Taimua.

The chiefs at present appointed by the provinces of Samoa to direct their attention to the present treaty agreement are now the Taimua, but they may be exchanged on the 21st January of the next year, by each province, for two other chiefs if their respective province is of one mind in that respect.

The provinces of Itu-o-tane, Tuamasaga, and Atua, shall each appoint five Taipule; the provinces of Itu-o-fafine, Aana, Tutuila, and Faasaleleaga each four, and Manono three Faipule.

The Taimua shall be appointed for four years, and the Faipule for three years, beginning from the day of their first meeting at the seat of Government.

After the expiration of their term of office, each province shall again deliberate about their re-election or new election.

The deliberations of Taimoa and of the

filifiliga ua amataina i le aso 15 o le masina nei. Latou te filifili i le aso nei i mataupu ua faatonu ina mai i le mataupu III. o le feagaiga ua osia i le aso 15 o le masina nei.

Ua tofia.

E Atua—O Tagaloa ma Fualaga.

E le Tuamasaga—O Tuiatafu ma Mataafa.

E Aana—O Lemana ma Taefu.

E Manono—O Taupa'u ma Sa'u.

E Itu-o-tane—O Masoe ma Utumapu.

E le Faasaleleaga—O Lauati ma Faatuono.

E le Itu-o-fafine—O Asiata ma Lagaiaia.

E Tutuila—O Leaena ma Alapa.

Latou te faia lea mea, ona latou lotogatasi lea i mataupu nei.

MATAUPU I.

Ua tofia nei o Malietoa Talavou ma Tupu o Samoa i lona ola. Ua faia nei o Malietoa Laupepa ma le Sui Tupu e faasaga e ia i le galuega faa tupu.

MATAUPU II.

Ua lafoaiina nei o fua Samoa uma ua faia i aso ua mavaeina, a ua faia nei o le fua fo'u e faailoatu ai ua faatasi Samoa uma. E faapea le fua: O le fua mumu ma le faaaveau paepae ma le fetu paepae foi ma ona mata e lima; e tuu o le fetu i le itu i luga ua latalata i le la'au. E tuu faitalia foi i le Tupu e fai sana fua o loto iai, a o le fua lea e le se fua o le Malo.

MATAUPU III.

E tofia e taitasi Itu Malo taitoalua Alii Samoa, e ta'ua i latou o Alii Taimua. A o Alii ua tofia nei e Itu Malo o Samoa e faasaga i lenei feagaiga, o i latou nei o Alii Taimua, a e tatau ona fesui'ai ni isi Alii toalua e taitasi Itu Malo pe a loto gatasi ai o lo latou Itu Malo, a e lei o'o atu i le aso e 20 Ianuali o le tausaga fo'u. E tofia foi e Itu Malo o Itu-o-tane ma le Tuamasaga ma Atua o latou Faipule se taitoalima, a o Itu-o-fafine ma Aana ma Tutuila ma le Faasaleleaga e taitofofo, a o Manono toatolu. E tofia o Alii Taimua i tausaga e fa, a o Alii Faipule i tausaga e tolu e amata talu mai le aso e fai ai e latou le potepotoga muamua i le alalafaga o le Malo. Pe a uma tausaga o latou tofiga ona toe filifili lea e taitasi Itu Malo pe faafouina i latou pe tofia ni Alii fo'u. Ia ese le fale pulega o Taimua e faapea foi o Faipule; pe a ese le finagalo o le toatele o Taimua ma le finagalo o le toatele o Faipule ona pule lea o le Tupu pe tonu le finagalo o Taimua, pe tonu le finagalo o Fai-

Faipule shall take place separately. In case the decision of the majority of the Taimoa should differ from the decision of the majority of the Faipule, then the king shall decide which decision shall be valid, or whether the deliberations on the matter in dispute shall be postponed.

The Taimua and Faipule shall assemble every year of their term of office, at the seat of Government, to attend to deliberations about laws and other matters, but they shall not remain at the seat of Government longer than three months every year, and they shall then return to their provinces—with the exception of one Taimua from each province, who shall remain to assist the King (Regent) in superintending the execution of the laws and attending to different Government work in accordance with the laws. They shall also appoint one of their number as Taimua Sili (President).

The King or Regent shall sign all documents by which those laws are published which have been adopted in accordance with the above regulations, and also any other documents if in any accordance with laws that have been passed. But it is necessary that the Taimua Sili shall also add his signature, because he alone will be responsible in all Government matters, if there should be anything in such documents not according to law.

The Taimua who remain with the King (Regent) to superintend the execution of laws and attend to other Government matters shall also deliberate and agree with the foreign representatives in Samoa about all matters concerning foreigners, in accordance with the treaties made between Samoa and foreign nations.

They shall also consult with the foreign representatives in Samoa about measures whereby it will be possible to prohibit or regulate the sale and supply by foreigners to Samoans, and also to other people in Samoa, of intoxicating drinks, arms, and ammunition of war.

ARTICLE IV.

Each province of Samoa shall appoint its own governor, but if a dispute should arise in this matter, then it shall be left to the Taimua and Faipule to appoint a governor for the province disagreeing in opinion, and if the Taimua and Faipule cannot agree, then the King shall decide whether the governor desired by the Taimua or that one desired by the Faipule shall be appointed. The term of the governor's office shall be two years and six months.

The governor shall appoint in his province, in accordance with law, the judges, police, scribes, and other officers, and he shall also superintend in his province the execution of the laws that have been published.

pula, pe tonu ona faatuai o le filifiliga i le mataupu ua latou loto ecese ai. Epotopototo mai o Taimua ma Faipule i le alalafaga o le Malo i tausaga uma a latou tofiga, e faasaga i latou filifiliga i Tulafono ma isi mataupu a e le mafai ona silia o masina e tulu latou te nonofo ai i tausaga e teitasi i le alalafaga o le Malo ona latou toe foi atu lea i o latou lava itu Malo e nonofo nao o Alii Taimua tai toatasi o Itu Malo, e fesoasoani i le Tupu po o le Sui Tupu e tausia i tulafono ma galuega ecese o le Malo e tusa ma tulafono—latou te tofia foi o se tasi o i latou e faia o ia ma Taimua Sili. E tuu ai e le Tupu poo le Sui Tupu o lona suafa i lusi uma o faasalalau ai o Tulafono ua faia e tusa ma faatonuga i luga o le mataupu, nei ma isi tasi foi e tusi ma tulafono e faia. A e tatau lava ona faapoopo ai fai o le suafa o le Taimua, sili ana na o ia lava e taofia i mataupu o le Malo pe a iai se mea e tasi ua le tusa ma le tulafono. O Alii Taimua, o e a nonofo faatasi ma le tupu (Sui tupu) e tausi i tula fono ma isi mataupu, latou te filifili ma lotogatasi foi ma Alii tofia o Itu Malo tetele i Samoa nei i mataupu uma tau papalagi e tusa foi ma feagaiga ua uma ona osia e Samoa ma Itu Malo tetele. Latou te filifili foi faatasi ma Alii o Itu Malo tetele i Samoa nei i sauniga e mafai ai ona vaoia ma faatonuina ai le faatau ma le tuuina atu e papalagi i Alii ma tagata Samoa ma isi tagata ecese foi o i Samoa nei o ava o'na papalagi ma auupega ma mea ecese e aoga i taua.

MATAUPU IV.

E tofia e Itu Malo o Samoa o lotou lava Kovana—a e a tupu ni finauga i lenei mataupu ona tuuina atu lea i Taimua ma Faipule latou te tofiaina se Kovana i le i tu Malo ua fefinaua'i, a ea le maua se tonu a Taimua ma Faipule ona pule atu lea e le Tupu pe tonu le finagalo o Taimua ise Kovana po o Faipule. O tausaga o lona tofiga e lua ma masina e ono. E tofia e le Kovana i lona Itu Malo e tusa ma tulafono o faamasino ma leoleo ma failantasi atoa ma ni isina te tausia foi ma faao'atu i lona Itu Malo o Tulofono uma ua faasalalauina.

ARTICLE V.

The King or Regent shall inform all provinces of Samoa of the day in each year when the Taimua and Faipule shall assemble at the seat of Government and commence their sittings, which shall not last longer than three months; then they shall return to their provinces, and only those Taimuas shall remain who are appointed to assist the King (Regent) according to Article III.

It is the office of the Taimua and Faipule to deliberate and agree upon laws, according to Article III; but it is impossible for the King alone to make laws, his own office being to superintend the execution of the laws that have been made according to Article III.

ARTICLE VI.

For the present the seat of Government is on Mulinuu. But of the chiefs appointed to make this present treaty, and who are now called Taimua, there shall now assemble at the seat of Government one Taimua from each province, and they shall assist the King, take care of the seat of Government, and consult with the foreign representatives.

The other Taimua chiefs then remaining, being one of each province, shall return to their own province to deliberate, according to Article III, on the appointment of the Faipule, and on the exchange of any Taimua among themselves, and also among those Taimuas who remain on the seat of Government. Then all the chiefs appointed shall return to Mulinuu on the 20th January of the next year to commence their Governmental work.

They shall first deliberate on such matters remaining whereby the articles of the new Samoan constitution, as adopted by this agreement, will be more completed, and secondly they shall turn their attention to different laws to be agreed upon according to Article III.

ARTICLE VII.

Deliberations concerning Samoan property destroyed and plundered by the war parties of the last war, shall be postponed until the Taimua and Faipule will be assembled at Mulinuu.

Each province shall endeavour at once to take such measures as will enable that minority of the inhabitants of any such province having been left by them on account of the war, to return there in friendship.

If this is not possible, then it shall be postponed until the Taimua and Faipule are assembled in Mulinuu, and they shall then deliberate on it.

The Taimua chiefs, who now assemble in Mulinuu, are appointed to consult with

MATAUPU V.

E faasilasila atu e le Tupu po o le Sui Tupu, i Itu Malo uma o Samoa le aso i tausaga uma e potopoto mai ai Taimua ma Faipule i le alalafaga o le Malo e amata ai o latou filifiliga faa le Malo—a e le aulia tolu masina ona toe tu'ua atu lea i o latou Itu Malo, a e monofu nao Alii Taimua e Tofia e fesoasoani i le Tupu (Sui Tupu) pe i o le Mataupu III. O le tofiga o Taimua ma Faipule e filifili ma letogatasi e fai tulafono pei o le mataupu e tolu a e le mafia ona faia toa tasi e le Tupu ni tulafono—a o le tofiga lava o le Tupu ona tasi ma faa'o atu o tulafono ua faia pei o le Mataupu e III.

MATAUPU VI.

A o ona po nei o le alalafanga Malo o le Mulinuu. O Alii na tofia e osia le feagaiga nei ua ta'ua nei o Taimua—e potopoto mai nei lava i le alalafaga o le Malo o tai toatasi Taimua o Itu Malo, latou te fesoasoani i le tupu, latou te filifili foi ma Alii tofia o Itu Malo tetele. A o Alii Taimua nei ona totoe lea e taitoatasi o Itu Malo e toe foi atu o i latou i latou lava Itu Malo, latou te filifili ai, i ni Faipule e tofia mai, ma ni Taimua e fesui ai ma latouma Taimua foi ua nonofo i le alalafanga o le Malo pei o le Mataupu III. Ona toe potopoto faatasi mai lea i Mulinuu o Alii tofia uma i le aso 20 o Januali tausaga fou e amata ai o a latou galuega faa le Malo i Mulinuu. Latou te faasaga muamua filifili e mataupu ua totoe e faaatoatoa ai o mataupu o se faavae fou o Samoa ua talia i le feagaiga nei, a o lona lua, latou te faasaga i tulufono esecese o le a finagalo faatasi ai o i latou pei o le Mataupu III.

MATAUPU VII.

E tuu atu i tua filifiliga tau o mea a Samoa ua faasanoaina ma vetea i lea taua e itu taua, sei'a faitalia Taimua ma Faipule pe a potopoto faatasi i Mulinuu. E faasaga nei e taitasi Itu Malo i ni sauniga e mafai ai ona toe foi atu i le fea lofani o tagata toaititi ua tete'a mo lo latou Itu Malo talu o le taua. A le mafai, ona tu'ua lea, sei'a potopoto Taimui ma Faipule i Mulinuu, ona latou filifili ai lea. Ua tofia nei o Alii Taimua ma Faipule i Mulinuu, ona latou filifili ai lea. Ua tofia nei o Alii Taimua e potopoto mai nei i Mulinuu latou te filifili faat asi ma Alii tofia o itu Malo tetele i mea a papalagi ua faasanoaina ma vetea ma faaleagaina e itu taua i lea taua, ma i mea uma ua solia

the foreign representatives about foreign property destroyed, plundered, and damaged by the war parties of their war, and about all matters concerning any trespass upon the neutral ground.

The foreign representatives will appoint the day and place of meeting for their consultation.

ARTICLE VIII.

This agreement shall be valid from the day that the chiefs appointed have signed the same. This agreement shall be delivered into the hands of Captain Deinhard, who will transmit it, on a later day, into the hands of the Samoan Government for safe keeping, but Captain Deinhard shall have the right of getting a copy thereof, which shall be certified as a true copy by the King (Regent), and those Taimua now remaining at the seat of Government affixing their signature thereto.

This agreement has been signed and sealed by the chiefs appointed to make the same.

Done before three witnesses—Captain Deinhard, commanding H. I. G. M. S. Bismarck, and Mr. Weber, Imperial German consul, and Captain Chuden, commanding H. I. G. M. S. Nautilus—at Apia, on board H. I. G. M. S. Bismarck, on this twenty-third day of the month of December, in the year one thousand eight hundred and seventy-nine.

(L. S.) (Sud.) TAGALOA.
 FUA (his x mark) TAGA.
 TUIATAFU.
 MATAAFA.
 LEMANA.
 TAE (his x mark) FU.
 MA (his x mark) SOE.
 USUMAPU.
 LAU (his x mark) ATI.
 FAA (his x mark) TUONO.
 ASI (his x mark) ATA.
 LAGA (his x mark) AIA.
 TAU (his x mark) PA'U.
 S'AU.
 LEAENA.
 ALAPALELEI.

Witnesses—

DEINHARD,
Corvetten Captain, Commandant
S. M. S. Bismarck.

TH. WEBER,
Imperial German Consul.

CHUDEN,
Corvetten Captain, Commandant
S. M. S. Nautilus.

ai e itu tatau i le lanoleele sa. E faasinoina e Alii tofia o Itu Malo tetele, le aso ma le mea, e potopoto ai i le filifiliga.

MATAUPU VIII.

E mau leni feagaiga amata i le aso o lo'o tuuina ai o latou suafa e Alii ua tofia nei. E tuuina atu nei o leni tusi o le feagaiga i lima o Kapitene Deinhard a e toe tuuina aue e ia i se tasi aso uane i ai lima o le Malo o Samoa, latou te tausii i ai a e latou lava oua mau sona ata o Kapitene Deinhard e faamaunua ai o iatou suafa o le Tupu (Sui Tupu) ma Aiii Taimua e nonofo nei i le al iafaga o ie Malo ina in faailoatu ai ua moni ie a uta. O leni ua tusia ai suafa ma tutu ai faamau faailoga e Alii ua tofia e osi leni feagaiga.

Ua faia i lama o Molimau to itulu—Kapitene Deinhard, o le Alii vaa o le Manua Siamani o Bismarck, ma Missi Ueba, o le Alii Konesula Siamani, ma Kapitene H. Chuden, o le Alii van o le Manua Siamani o Nautilus—i Apia i luga o le Manua Siamani e igoa o Bismarck i leni aso e lua sefulu ma le tolu o le masina o Tesema i le tausaga Tasi le afe ma le valu selau ma fitu sefulu ma le iva--

(L. S.) (S. D.) TAGALOA.
 F'UA (lona x faailoga) TAGA.
 TUIATAFU.
 MATAAFA.
 LEMANA.
 TA (lona x faailoga) EFU.
 MA (lona x faailoga) SOE.
 UTUMAPU.
 LAU (lona x faailoga) UTI.
 FAA (lona x faailoga) TUONO
 AS (lona x faailoga) IATA.
 LA (lona x faailoga) GAAIA.
 TAU (lona x faailoga) PA'U.
 SAU.
 LEAENO.
 ALAPALELEI.

DEINHARD,
Corvetten Captain, Commandant
S. M. S. Bismarck

TH. WEBER,
Imperial German Consul.

CHUDEN,
Corvetten Captain, Commandant
S. M. S. Nautilus.

[Inclosure B 7.]

An agreement made between the King and Government of Samoa and the foreign consuls in Samoa.

O le feagaiga ua faia e le Tupu ma le Malo o Samoa ma Konesula papalagi oi Samoa.

Whereas the King and Government of Samoa did, on the 31st day of August, 1879, address a letter to the three Governments of the United States of America, Germany, and Great Britain, requesting them to take some concerted action for the preservation of peace and good order in Samoa, and for the protection of the King and Government thereof: and

Whereas on the 15th day of December, 1879, the civil war in Samoa was terminated in the treaty of peace between the representatives of the opposing forces; and

Whereas on the 23d day of December, 1879, on board H. I. G. M. ship "Bismarck," a permanent agreement was entered into by the representatives of both parties electing and recognizing Malietoa Talavou King for life; and

Whereas on the 12th day of January, 1880, the Imperial German Government sent instructions to the Imperial German consul-general in Samoa that the Governments of England and America had accepted the proposals of the German Government, and ordering him to recognize and enter into an agreement with his colleagues for the protection of Malietoa and his government by the three powers already named in this preamble; and

Whereas on the 14th day of January, 1880, the English Government ordered H. B. M. ship "Danae" to Samoa with instructions to Captain Purvis, commanding, to recognize Malietoa and protect his government in conjunction with the naval forces of Germany and America; and

Whereas the present King and Government of Samoa earnestly desire that this arrangement may be consummated as speedily as possible, for the greater security of life and property within the kingdom, and for the utmost prosperity of the Samoan Islands. Therefore the King, Malietoa Talarou, and the Government of Samoa, the Taimua and Faipule, and Captain Zambusch, Imperial German consul-general, on behalf of the German Government, and Thomas M. Dawson, United States consul, on behalf of the Government of the United States of America, and J. Hicks Graves, Her Britannic Majesty's consul, on behalf of the United Kingdom of Great Britain and Ireland, &c., have agreed upon and concluded the following four articles, to take effect immediately, and to continue in force till ratified, modified, or rejected by the three protecting powers:

Faauta mai, na tusia e le Tupu ma le Malo o Samoa i le aso e 31 o Aokuso 1879 o le tusi i Malo tetel e e tolu, o le malo o le Unaitē Setete o Amerika, ma le malo o Siamani, ma le malo o Peretama Tele, e fai atu ai ia te i latou, e faia taatasi se togafiti, ma ia faatuma uina ai le filemu, ma le nofo lelei o Samoa, ma ia faamamaluina ai le Tupu ma le malo a Samoa; Faauta foi, o le aso e 15 o Tesema 1879 sa faainina ai le taua o Samoa i le feagaiga e nofo filemu ai, na osia e alii tofia o itu taua e lua;

I le ma le tasi mea i le aso e 23 o Tesema 1879, na faia i luga o le manuafo o lana afioga le Tupu Sili o Siamani, ua igoa ia "Bismarck" o le feagaiga tumau na oma lava e alli tofia o itu taua e lua ma ia toita ma talia o Malietoa Talavou e fai ma Tupu, ia atoa ai tona soitina;

Faauto foi, o le aso e 12 o Iannari 1880, na tuu mai ai e le malo o Siamani o le faailoga i le Konesula Sili o Siamani ai Samoa e masilasila ia te ia, na talia e le malo o Peretania filia Amerika na tonu o moa na monatu i ai le Malo Siamani, ua poloaiga foi ia te ia e filifili ma ona uso o Konesula, latou te osia faatasi ai se feagaiga ina ia faamamaluina a ai o Malietoa ma lena Malo e male uma e tolu ua taua i leni tusi;

Faauta foi i le tasi mea, o le aso e 14 o Iannari 1880 na tuuina mai e le malo o Peretania le manuafo e igoa ia "Danae," o lana Afioga le Tupu Tamaitai o Peretania, na poloaiina foi Kapeteni Purvis e ana e pulo i lea vaa, e faailogaina ia Malietoa ma faamamalu i lona malo, faatasi ma le fua manuafo, Siamani, ma Amerika;

Faauta foi, ua matua finagalo lava le Tupu ma le malo o Samoa, ina ia vave oia faataununu o leni filifiliga ina ia mamalu ai lava o le soifua o tagata, ma oloa uma eseese o e ua i leni malo, atoa ma le manuafo o le atunuu uma o Samoa;

O leni, ua finagale faatasi le Tupu o Malietoa Talavou, ma le malo o Samoa, o Taimua ma Faipule; ma Kapetene Zambusch le Konesula Sili le sui o le malo o Siamani, ma Thomas M. Dawson, le sui o le malo o le Unaitē Setete o Amerika, ma J. Hicks Graves o le Konesula o lana Afioga le Tupu o Peretania, e fai foi o ia ma sui o le malo sosoo o Peretania Tele ma Aialani, &c., na finagalo faatasi i latou ma faamamaluina o mataupu e fa, a ta'u atu nei, o le a faataunuuina nei lava ma tun, au lava, seia oo ina faatuma'ina, pe liua, pe faatea'eseina e malo Faamamalu e tolu.

ARTICLE I.

MATAUPU I.

The present King, Malietoa Talavou, shall be supported as the head of the Samoan Government during his life-time, and his successor shall be agreed upon by the three protecting powers.

O lenei Tupu o Malietoa Talavou, e faamamaluina o ia, peiseai o le ao lava ia o le malo o Samoa i ona po uma o lona soifua, a o lona sui i le notoaiga, e filifili faatasi i lea mea Malo Faamamalu e tolu.

ARTICLE II.

MATAUPU II.

There shall be an executive council for the King and Government of Samoa consisting of a citizen of the United States of America, a German and a British subject, and they shall hold the offices, respectively, of minister of justice, minister of finance, and minister of public works.

E iloga isi alii e fesoasoani ai i le Tupu ma le malo o Samoa. O le Alii Unaite Setete, o le tasi lea; ma le Alii Siamani, ma le Alii Peretania, o i latou ia e toatolu. E tofia le tasi o faasaga i Tulafono ma Faamasingoga. E faasaga le tasi i tupe, e totogi ai mea faalomalo. Ae faasaga le tasi i galuaega eseese a le Malo i ala ma fale &c.

ARTICLE III.

MATAUPU III.

The members of the executive council shall be nominated from among the residents of Samoa by the consuls of their respective nations resident at Apia, and they shall hold office from the date of their nomination, which must subsequently be confirmed by the home Governments.

O Alii tofia ia, e filifilia latou e Konesula, ai Alii o mau i Samoa, o ta'itasi le Konesula ma tofi le alii e toatasi o lona itu malo e mau i Apia. E amata foi ona latou faia o latou tofi i le aso ua filifilia ai, a e mulimuli ona faamauina o latou tofi o Alii o Malo Tetele.

ARTICLE IV.

MATAUPU IV.

The members of the executive council shall hold office till their successors are nominated by the consuls, and they shall receive such salaries as may be agreed upon between the Government of Samoa and the consular representatives of the three protecting powers.

E tumau Alii tifa ia i o latou tofia seia filifilia e Konesula o latou sui. E avatu foi ia te i latou se totogi e tusa ma se filifiliga e faia e lea mea e le Malo Samoa, ma Konesula Malo Faamamalu e tolu.

In witness whereof we have signed the same and affixed thereto our seals.

Silasila o le faamaoni o lenei mea, ua tusia ai o matou igoa ma tuuina ai o matou faailoga.

Done at Apia this twenty-fourth day of March, in the year of our Lord one thousand eight hundred and eighty.

Ua faia i Apia i lenei aso e luafulu ma le fa o Mati, o le tausaga o lo tatou Alii, o tasi le afe ma le valu o selau ma le valunafulu.

ZEMBSCH.	[L. S.]
THOMAS M. DAWSON.	[L. S.]
J. HICKS GRAVES.	[L. S.]

O au o MALIETOA TALAVOU.
MALIETOA LAUPEPE.
O au o MATAAFA.

[Inclosure B. 8.]

AGREEMENT.

The following are the articles of agreement concluded on board the U. S. S. Lackawanna on Tuesday, 12th instant:

1. On this day assembled on board the U. S. S. Lackawanna, in this harbor, the Samoan chiefs whose names are hereto signed. They are all true representatives of the war party of Malietoa and of the war party of Tupua, and concerning this matter this is their determination that permanent peace and friendship is hereby established throughout Samoa, beginning from this day.

2. All the war parties scattered throughout these islands shall each return to their respective homes.

3. Malietoa Laupepa is hereby made and appointed King.
4. Tupua Tamasese is hereby made and appointed Vice-King, and the length of their reign shall be left to the determination of the Government.
5. Nothing in this agreement shall interfere with any former treaty made by the Government of Samoa with foreign powers.

In witness whereof we have set our hands and seals this 12th day of July, 1881:

LAUATI,	G. ALIPIA,
TULATAFU,	TAFUA,
UTIMAPU,	SU,
LEIATAUALESIA,	LETUFUGA,
LAGAIA,	TUISALEGA,
ASIATA,	TUITEDE,
MAUGA,	FAITE,
MOEONA,	MOEFAANO.

We, the undersigned, are witnesses to the foregoing agreement and the signatures thereto, this 12th day of July, 1881:

J. H. GILLIS, U. S. N., *Commanding U. S. S. Lackawanna.*
 THOMAS M. DAWSON, *United States Consul.*
 J. HICKS GRAVES, *Her Britannic Majesty's Consul.*
 G. VON OERTZEN, *Acting German Consul.*

[Inclosure C.—From the Samoa Times, November 16, 1878.]

There are judges and judges, but for an upright independent judge, who does his duty without fear or favor, commend me to the Samoa native magistrate Finai, alias Moses Roberts, alias McLeod, alias Saga. In the case of a Chinaman *versus* five natives, for assault, heard before Finai and Leutele, native magistrates, heard at the British Consulate on the 8th instant, Judge Finai, after hearing all the evidence, addressed the prisoners thus: "I am afraid to sentence you as you deserve for you will get your relatives to punish me. I am afraid you will cause me to feel in person your annoyance." Then, to one of the prisoners, who, by the way, recently received three dozen lashes by order of H. B. M. Consul for insulting British subjects, he remarked: "Your father is a bigger man than I, therefore I dare not order you what you deserve." Then to the prisoners collectively: "Still one thing I say, do as you will, I belong to the Government. I am a magistrate and must sentence you to something; Tua, Peni, Toseu, and Gugu will pay \$15 each, and Masugu \$5." Is not this a Daniel come to judgment.

[Inclosure D.]

MULINUU, November 5th, 1884.

Her Majesty QUEEN VICTORIA, *Queen of Great Britain and Ireland:*

YOUR MAJESTY: We are the King and chiefs of Samoa who write to your Majesty to pray and entreat you to receive our request.

It is now nearly a year ago since our King wrote to give over to your Majesty the sovereignty of Samoa.

We have been very anxious while awaiting for an answer, but no answer has been received. Your Majesty: great is our regard for your Government, for we know well our people will be protected and we shall have peace under your rule.

Therefore we entreat your Majesty that our anxiety may be relieved, which arises from our earnest desire that Samoa may be given over to your Government.

It is entirely at the disposal of your Majesty as to whether it is better for us to become an English colony or be connected with the Government of New Zealand.

Your Majesty, our hearts are grieved and our fear is very great indeed with regard to other Governments who desire to take possession of our Government, which is not according to our wish; therefore we entreat your Majesty that you will speedily come to our assistance, in order that you may save us, according to the sentiment expressed in our request.

We wish to make clear to your Majesty. We, the King and chiefs of Samoa, give over our islands to the sovereignty of the Government of England. We rely on the Government of your Majesty to protect our people.

We hope and pray to God that your Majesty and your Government may prosper.

Signed by the King, Vice-King, and forty-eight chiefs.

[Inclosure D 2.—Translation.]

MULINUU, November 12, 1884.

Her Majesty the QUEEN OF GREAT BRITAIN AND IRELAND:

YOUR MAJESTY: This is to make known to your Majesty that the King of Samoa and the chiefs of these islands have sent a petition to your Majesty praying that you would set up your government in Samoa.

We have sent that petition to the governor of New Zealand and have besought him to send it, by means of telegram, to your Majesty, and make known to your Majesty that he has received our petition.

We have informed your Majesty that painful anxiety has taken possession of our minds because we are much afraid of Germany lest she should take our islands against our will.

Your Majesty, we are in distress on account of the Government of Germany lest they should take our islands; therefore we have accepted another treaty with Germany. I wish to make clear to your Majesty, in consequence, that I have accepted the treaty against my will, likewise against the will of my Government, but I have accepted it on account of my fear, for I have thought that if your Government should be set up in these Islands then that treaty will be of no effect.

I have entreated the English consul here to make clear to your Majesty all the reasons of our fear which have led us to accept this treaty and to make clear to your Majesty the meaning of that treaty, and to inform your Majesty of the great regard of myself and Government for your Majesty and the Government of England, and our great desire to give our islands to the Government of your Majesty.

I respect extremely the Government of your Majesty, and I trust that speedily you will receive favorably our petition.

I am,

MALIETOA,
King of Samoa.

[Inclosure D 3.—Translation.]

MULINUU, November 12, 1884.

W. B. CHURCHWARD, Esq.,
Acting British Consul:

SIR: I wish to inform your excellency that I have now written to Her Majesty the Queen of Great Britain, and made known to Her Majesty our petition which has been communicated to the governor of New Zealand; it is mentioned also in this letter.

I have begged your excellency that you would explain to Her Majesty everything that gave rise to my receiving the agreement which was made last night with Germany, I and my government having been much distressed lest our group of islands should be taken by Germany.

I wrote yesterday to the German consul to give me a copy of the agreement with me and my government, but the German consul replied that he could not give me and my government a copy. Then the whole government met together and deliberated what was right to do, and it ended in our rejecting the agreement, and it was not received. Notwithstanding that our distress still continued.

It was getting near the hour of night which was fixed to hold the meeting, and I walked into the road when Tupua Tamasese came down. He spoke to me with distress, and told me the same bad story.

I and Tamasese, bearing in mind the agreement, were very anxious, and I said, "Let us both go down and receive the agreement in order that we may be at peace to-day, and let us wait for the decision of Great Britain."

I beg your excellency to make known to Her Majesty the great love of me and my government for Great Britain, and also our strong desire to give up our group of islands to the Government of Great Britain.

I hope in Her Majesty.

Do not bear in mind this agreement with Germany.

I am determined when the Government of Her Majesty is in these islands, then that agreement shall end. Let not your excellency be offended, but do you make these things clear to Her Majesty the Queen of Great Britain, and do you send this letter by the steamer at Tutuila.

MALIETOA,
King of Samoa.

[Inclosure D 4.]

MULINUU, December 1, 1884.

SIR: I write to make known to you the distress of myself and the Government of Samoa. I am sending, sir, to you a copy of the letter of myself and the Government of Samoa to Her Majesty the Queen of England, praying Her Majesty to join on her sovereignty to these Islands of Samoa, also copies of other letters to His Excellency the Governor of New Zealand.

I wish, therefore, to make clear to you the reason which caused me to accept the treaty which was made last month between my Government and the Government of Germany. It was on account of my fear that if I did not accept that treaty then our islands would be violently seized by the Government of Germany.

Therefore, I and my Government accepted that treaty against our will. There was also another thing, which was not right, done by the German consul. He refused to give us a copy of that treaty, that we might first examine it and fully consider all the articles contained in that treaty; there was no proper deliberation held on that treaty; it was obtained, indeed, compulsorily from our Government.

Sir, the painful anxiety of myself and my Government is great lest the German consul should want to hinder us by means of threatenings, which have come to us in regard to our petition to the Queen of England, and cause difficulties to arise between us and the Government of Germany. Therefore, I respectfully beseech you to aid us and clearly explain to the Government of the United States all the things which have been done in Samoa by the Government of Germany; also the ground of our fear, and entreat the Government of the United States not to agree with the Government of Germany in this matter, and not regard that treaty to our detriment.

I respectfully thank you for your letter together with the letter of the English consul to the German consul concerning the report of Leiatana.

I have rejoiced greatly in this matter.

I likewise respectfully thank you for your kind treatment of myself and my Government in days gone by, on even to the present day.

Since you were appointed to Samoa there has been from you no unkind word.

May you live, sir. I am,

MALIETOA,
The King, your friend.

T. CANISIUS, Esq.,
United States Consul, Apia.

[Inclosure D 5.—Translation.]

SAMOAN ANNEXATION ACT.

The title of this act shall be "An annexation of the Samoan Group, known as the Navigator's Group."

(1) That the Samoan Parliament, in Parliament assembled and by the advice and consent of King Malietoa and his advisers, annexes the Samoan Group to the colonies of New Zealand for the better government of the Samoan people and the foreign inhabitants of the same.

(2) That a deputation be appointed by the King and his advisers to go to New Zealand and confer with the Government of that colony, and to have full power to sign and seal all necessary documents and papers to give effect to the annexation of these islands to that colony, and to have the powers of the King and Samoan Parliament for that purpose.

(3) That all the rights and liberties of British subjects be granted to the Samoan people, as the same is granted to the aboriginals of New Zealand, such as has been granted to them by the treaty of Waitangi.

(4) That Sir George Grey, K. C. B., being the originator of the Pacific Islands and annexation bill of 1883, which was passed by the New Zealand Parliament, and John Landon, who first introduced annexation to the Samoan Government in the Samoan Parliament in June, 1883, be agents to act with and advise the deputation and the New Zealand Government with the view of giving effect to this bill, and for advising and framing rules for the better government of the Samoan people and islands, and have the same powers as the deputation of the Samoan delegates has.

(5) That all the preliminary expenses to be paid out of an authorized* expenditure, pending a vote of the New Zealand Parliament, for the purpose of giving immediate effect of the annexation of these our islands to New Zealand, as the Samoan Government has no funds or revenue of its own.

* Query, unauthorized.

(6) That this bill shall take effect from the date of King Malietoa's signature and seal, and give effect to the annexation of the Samoan Islands, in accordance with the annexation bill passed in 1883, by the New Zealand Parliament, or to any bill that may be necessary to pass by the New Zealand Parliament to give effect to this bill and annexation, and for the better government of the Samoan Islands and of the Samoan people.

Signed and sealed in the presence of my advisers this ninth (9th) day of February, 1885.

SELU,
Secretary and Clerk to the Upper and Lower Houses of Parliament.
LANATI (his x mark),
Speaker of the Samoan Parliament.
MALIETOA,
King of Samoa.

[Inclosure E 1.—Translation.]

Let all the people of Samoa observe during the long period that Malietoa has been King the Government of Germany has been treated with unkindness and injury and all agreements that have been made between the Governments of Germany and Samoa have been repeatedly violated. For that reason I must now make arrangements necessary for the protection of the subjects of my Government and their possessions. This is my view of that which is necessary to be done: that I should take possession of the lands of the village and district of Apia, in which are included Mulinuu and the harbor of Apia, to hold possession under the supreme control (that was under the Government of Malietoa) for the Government of Germany. This is the sign of this—I have hoisted the flag of His Imperial German Majesty in Mulinuu. This is the meaning of it (the hoisting of the flag), that only the Government of Germany will rule for the present over that portion of territory.

Samoans! I tell you now plainly that it is only the territory that is called the Municipality that is taken possession of, but no other portion of land in Samoa is taken possession of.

It is good, too, that you should be well acquainted with the reason of that which is done. It is no unkindness at all to Samoa. The German Government only wish for Samoa to have a strong Government that shall maintain cordial relations with the Government of Germany. When a peaceful solution of these difficulties is effected, the lands now taken possession of will be given up again.

I beseech you to be at peace and to have confidence in the Government of Germany and myself; then Samoa will indeed be prosperous.

I am,

DR. STUEBEL,
Imperial German Consul.

APIA, January 23, 1885.

[Inclosure E 2.]

APIA, January 23, 1885.

To His Majesty KING MALIETOA:

On the 6th of November of last year your Highness and your Government appeared before the German consulate to humble themselves.

You acknowledged thereby that you had for a long time disregarded German treaty rights.

Already, on the 4th of November, your Highness wrote to me that the prisoners who in February, last year, escaped, in consequence of the order of your Government, out of the German prison would be brought back. Subsequently I made an agreement with your Highness' Government. I supposed that difficulties which arose formerly would be removed thereby. Your Highness' Government, however, renewed the old inimical attitude towards Germany. Not all the prisoners were brought back, and those who were escaped again soon after, and your Highness' Government did not think of taking the trouble to return the prisoners. In a letter which your Highness wrote to me on the 20th of November you say that it is generally known that Samoa was to be taken by force by the German Government.

Since then the followers of your Highness have not ceased to malign Germany. Seumanu and Lanati have repeatedly, in meetings, designated Germany as a robber land, as a country of slavery, and as a country without religion. Under these circumstances it was impossible to fulfill the articles of the agreement of the 10th November.

Germany can no longer look upon this state of affairs with equanimity, and I, as representative of the Imperial German Government in Samoa, had to concert measures which were likely to secure the rights and interests of German subjects in Samoa.

For this purpose I shall, in the name of the Imperial German Government, and subject to the approval of the same, take possession, as security, of all the land which now constitutes all the municipality of Apia, as far as your Highness and your Government's sovereign rights are concerned, and the Imperial Government will so long assume these sovereign rights until an understanding has been successfully arrived at with the Government of Samoa which will make German interests secure in Samoa, and will make difficulties such as heretofore have arisen impossible in future.

As a public manifestation of this taking possession, there will be landed in Mulinuu, this morning at 9 o'clock, a detachment of Imperial officers and seamen, and the Imperial flag will be hoisted there.

At the same time I give your Highness the assurance that no hostile action towards Samoa is connected therewith. No one will be molested, and no house or property of Samoans will be injured. I expect, however, that the Samoans themselves will commit no hostile action. Only misfortune would be the result to your Highness and Samoa.

May it prosper with your Highness.

STUEBEL,

Imperial German Consul pro tempore.

[Inclosure E 3.—Translation.]

MULINUU, *November 20, 1884.*

His Excellency the GERMAN CONSUL-GENERAL :

SIR: I have received your letter respecting the report which your excellency has heard, that I and the Government of Samoa have written to Her Majesty the Queen of Great Britain in order that Samoa may be joined to her Government.

To this I reply to your excellency that it is very true that we have thus written, and also that we will hold firmly to that desire. And I also inform your excellency that the report that Germany was about to seize our country was widely spread (general).

And another matter I complain to your excellency, that it was very wrong of Mr. Weber to threaten some of the chiefs of the Government in order that our petition to the Queen of Great Britain should be withdrawn—Morris also came—for that purpose, and that if a letter was not sent (to that effect) then would come great trouble to our government.

I beg your excellency to forbid Mr. Weber, so that he shall desist from again doing anything of the kind. May you live.

I am,

MALIETOA,

King of Samoa.

NOTE.—Mr. Weber is the manager of the German company and the German consul's chief adviser. Morris is Mr. Weber's messenger.

[Inclosure E 4.]

GERMAN.

ENGLISH.

APIA, *den 7. Oktober 1884.*

APIA, *October 7, 1884.*

An König Mahietoa :

HOHEIT: Im vergangenen Jahre habe ich mit deiner Hoheit eine Verabredung getroffen, wonach die Gefangenen aus deutsch-samoanischen Strafsachen ihre Strafzeit in dem deutschen Gefängniss auf dem Lande des Herrn Weber abbüßen sollen.

Die Samoan Regierung hatte damals kein Gefängniss. Da alle Gefangenen wegen Diebstahls auf den deutschen

To King Mahietoa :

YOUR HIGHNESS: In the last year an agreement was made between Your Highness and myself, to the effect that in German-Samoan trials the persons condemned should serve out their time of imprisonment in the German prison on the land of Mr. Weber.

At that time the Samoan Government had no prison. As all prisoners were condemned for thefts committed on Ger-

Pflanzungen verurtheilt waren, so war es billig, dass der Eigenthümer der Pflanzungen für die gestohlene Sachen durch die Arbeit der Gefangenen entschädigt wurde. Die Aufsicht über die Gefangenen stand der samoanischen Regierung und dem deutschen Konsul gemeinsam zu.

Zu Anfang des Jahres war es abermals nöthig geworden, mehr als zwanzig Samoaner wegen Diebstahls auf den deutschen Pflanzungen zu Gefängnisstrafe zu verurtheilen. Das Urtheil war gemeinsam durch den deutschen V. Konsul und den Samoa Richter gefällt worden. Es war dabei ausdrücklich ausgesprochen worden, dass die Strafe auf dem Lande des Herrn Weber in dem deutschen Gefängniß abgebußt werden solle.

Bald darauf ist von der Samoa-Regierung ein Gefängniß errichtet worden und der König hat in einen Brief an den deutschen Vize-Konsul geschrieben, worin er demselben mittheilt, dass er der Ansicht sei, die Gefangenen seien aus dem deutschen Gefängniß nach dem neuen Gefängniß in Mulinuu zu bringen. Dieser Brief ist vom 9. Februar datirt. Der deutsche Vize-Konsul hat ihn erst am 11. Februar erhalten, am Morgen dieses Tages aber sind bereits die sämmtlichen Gefangenen aus dem deutschen Gefängniß entflohen. Der deutsche Vize-Konsul schrieb noch an demselben Tage an den König, dass wenn die Regierung eine Aenderung in der Unterbringung der Gefangenen wünsche, er bereit sei, mit derselben darüber zu verhandeln; die entflohenen Gefangenen müssten sogleich zurückgebracht werden.

Darauf hatte am 12. Februar eine Zusammenkunft des Königs, Lauatis Leota's und Leiatana's mit dem deutschen Vize-Konsul stattgefunden, in welcher der deutsche Vize-Konsul dasselbe Verlangen gestellt hat. Trotzdem schreibt der König an den deutschen Vize-Konsul unter den 18. Februar, dass die Gefangenen nach Mulinuu gebracht und dort in das Gefängniß gesetzt worden seien, in das Strafe abzubüßen.

Der deutsche Vize-Konsul hat diesen Brief am 22. Februar beantwortet und dem Könige geschrieben, dass er gegen die Massregel protestire, dieselbe sei gegen die Verhandlung vom 12. Februar, gegen die Uebereinkunft zwischen dem König und dem deutschen Konsul, gegen die Gerichtsentscheidungen, welche klar und deutlich anordnen, dass die Schuldigen ihre Strafe in dem deutschen Gefängniß abzubüßen haben und gegen den Freundschaftsvertrag zwischen Deutschland und Samoa.

Dasselbe sagt der deutsche Vize-Konsul Molioo Lauati Tuliau und Leiatana Tava in einer Zusammenkunft am 23. Februar. Er sagt ihnen die Gefangenen müssen bedingungslos zurückgebracht werden, und dann wird berathen werden können, was

man plantations, it was thought just and reasonable that the owners of those plantations should get some amercs for their stolen property by the work of the prisoners. The control over the prisoners was especially reserved to the Samoan Government, in conjunction with the German consul.

At the beginning of the year it became again necessary to put in prison more than twenty Samoans, for thefts committed on German plantations. In the judgment given by the German vice-consul and the Samoan judge, sitting together, there was especially provided that the punishment of the said prisoners should be served out in the prison on the land of Mr. Weber.

Shortly afterwards a prison had been erected by the Samoan Government, in Mulinuu, and the King wrote a letter to the German vice-consul, in which he expressed an opinion that the prisoners should be brought over from the German prison into the new prison in Mulinuu. This letter is dated the 9th of February. The German vice-consul has, however, received the same only on the 11th ejusd., and on the morning of this very day all prisoners had escaped out of the German prison. The German vice-consul wrote on the same day to the King that if the Government should wish for an alteration in the keeping of the prisoners he would be quite willing to discuss about that matter with the former, but the escaped prisoners should be brought back at once.

Thereupon, a meeting of the King, Laauti Leota, and Leiatana with the German vice-consul took place on the 12th of February, 1884, in which the latter made the same demand. In spite of that the King wrote, on the 18th of February, to the German vice-consul that the prisoners had been brought to Mulinuu and put in the prison there, in order to serve out their punishment.

The German vice-consul, on the 23d of February, sent an answer to the King to say that he protested against this procedure, the same being in contradiction with what had been stated at the meeting on the 12th of February; further, against an agreement entered into between the King and the German consul, against the sentences of the court (which most clearly and plainly provide that the prisoners should serve their punishment in the German prison), and, finally, against the treaty of friendship between Germany and Samoa.

The German vice-consul told the same to Molioo, Lauati, Tuliau and Leiatana Tava, in a meeting on the 23d of February. He told those chiefs the prisoners should unconditionally be brought back, and that then afterwards the question

in Zukunft geschehen soll, wie es Artikel VII des Vertrages anordnet.

Er sagt ihnen, dass sie den in Artikel II des Vertrags zugesagten Schutz für die Person und das Eigenthum der in Samoa lebenden Deutschen nicht zu gewähren im Stande seien, wie der Fall des Lasei zeige, welcher wegen Mordes eines Arbeiters auf einer deutschen Pflanzung zum Tode verurtheilt, dann zu 10 Jahren Gefängniß begnadigt worden sei und doch frei herumgehe.

Trotzdem schreibt der König an den Vize-Konsul am 25. Februar, dass die Gefangenen nicht zurückgebracht werden.

Wieder schreibt der Vize-Konsul an den König am 27. Februar, dass damit der Vertrag verletzt werde und dass er die Regierung dafür verantwortlich halten werde.

Dann kommt es auf den Wunsch des Königs am 18. März zu einer Zusammenkunft des Königs und einer Deputation der Taimua und Faipule, bestehend aus Molioo, Asiata, Lauati, Mauala und Manoo mit dem deutschen Vize-Konsul.

Darin bitten die genannten Taimua und Faipule wegen ihres Benehmens und Vorgehens in der Gefangenen-Angelegenheit um Verzeihung, sie sähen ein, dass sie Unrecht gethan, sie dächten nicht daran, sich gegen Deutschland und den Vertrag aufzulehnen, sie kämen um sich mit dem Vize-Konsul zu vertragen. Der deutsche Vize-Konsul antwortet ihnen, dass Verzeihung möglich sei, wenn sie die Gefangenen in das deutsche Gefängniß zurückbrächten, oder \$50 für jeden zahlten, zusammen \$1,200, über deren Verwendung der deutsche Konsul, bezw. die deutsche Regierung und der König Malietoa zu bestimmen haben würden und wenn sie ein schriftliches Abkommen mit der deutschen Regierung träfen in Gemässheit von Art. VII des Vertrags, wodurch derartige Konflikte in Zukunft unmöglich gemacht würden.

Wieder kommt es auf den Wunsch des Königs am 25. März zu einer Zusammenkunft des deutschen Vize-Konsuls mit einer Deputation der Taimua und Faipule.

Dieselben erklären, sie wollen die Gefangenen zurückbringen, sie wollen aber keine Vereinbarung in Ausführung des Art. VII des deutsch-samoanischen Vertrags treffen, auch wollen sie zwei am Tage zuvor wegen Diebstahls verurtheilten Samoaner nicht ausliefern, sondern in dem Gefängniß in Mulinuu behalten. Der deutsche Vize Konsul sagt ihnen, dass das Abkommen zwischen dem deutschen Konsul und Malietoa die Unterbringung der Gefangenen in dem deutschen Gefäng-

might be discussed as to what should be done in the future, as is provided in Article VII of the treaty.

He told them that they have not been able to grant the protection guaranteed by Article II of the said treaty to the persons and the property of Germans living in Samoa; that this had been proved in the case of Lasei, who, although condemned to death for murdering a laborer on a German plantation, had afterwards been pardoned to ten years of imprisonment, but was still allowed to walk freely about.

Notwithstanding all this, the King writes to the German vice-consul, on the 25th of February, that the prisoners would not be brought back.

Once more the German vice-consul writes to the King, on the 27th of February, that this would involve a violation of the treaty, and that he would hold the Government responsible for the same.

Thereupon, at the desire of the King, a meeting takes place, on the 18th of March, between the king and a deputation of the Taimua and Faipule, consisting of Malioo, Asiata, Lauati, and Manoo on one part, and the German vice-consul on the other part.

The aforesaid Taimua and Faipule then and there begged to be forgiven for the way in which they had acted and proceeded in the matter of the prisoners in question. They stated, at the same time, that they now saw that they were in the wrong; they had no intention to act against Germany and the treaty; they had come to make friends again with the vice-consul. The German vice-consul replied that they would be pardoned if they either brought back the prisoners to the German prison or paid \$50 for each prisoner, totally, \$1,200, the application of which money to be left to the decision of the German consul resp. the German Government, in concert with the King Malietoa; and if they further would agree, that a written convention should be made with the German Government, in accordance with Art. VII of the treaty, by which in future similar conflicts would be avoided.

Again, at the desire of the King, a meeting takes place, on the 25th of March, between the German vice-consul and a deputation of the Taimua and Faipule. The latter declare their willingness to bring back the prisoners, but refuse to enter into a new agreement, in accordance with Art. VII of the German-Samoan treaty; they further decline to deliver up two Samoans, condemned the day before for theft, but that the same should be kept in the prison of Mulinuu. The German vice-consul told them that the agreement made between the German consul and Malietoa, regarding the keeping of the prisoners in the German prison, remained still in force, and would be so as long as

niss so lange gültig ist, als ein anderes Uebereinkommen nicht geschlossen und dass, wenn sie dem entgegen eigenmächtige Bestimmungen trafen, sie sich einer neuen Missachtung und Verletzung des Vertrages schuldig machten. Darauf schreibt der deutsche Vize-Kontul dasselbe in einem Briefe an den König vom 31. März. Die Gefangenen waren aber nicht zurückgebracht worden und die Regierung hatte keine Anstalten getroffen, das geschehene Unrecht wieder gut zu machen, als ich am 22. Mai von meiner Reise zurückkehrte.

Seitdem sind mehr als 4 Monate vergangen. Ich habe keine Gelegenheit vorübergehen lassen deiner Hoheit und den Taimua und Faipule zu sagen, dass die Sache sehr ernst sei. Die Samoa-Regierung hat nichts gethan.

Die 24 Gefangenen sind nicht in das deutsche Gefängniß zurückgebracht worden. An den Samoanern Samau aus Fagalii und Failava aus Fuaiupolu, welche am 24. März zu je 2 Monaten Gefängniß verurtheilt worden sind, hat die Strafe nicht vollstreckt werden können.

Der Diebstahl des Samoaners Oifo aus Vailele auf der Vailele Pflanzung auf welchen sich das Schreiben des Vize-Konsuls an deine Hoheit vom 7. Mai bezog und viele andern Diebstähle auf der Vailele-Pflanzung auch die in dem Hause des deutschen F. Gabriel in Salesatele von Samoanern begangenen Diebstähle haben nicht untersucht werden können. Die Gefängnisstrafe zu welchen der Samoaner Talai aus Samatau am 14. August wegen Bedrohung des Lebens von Arbeitern auf der Pflanzung in Fatuosofia verurtheilt worden ist, kann nicht vollstreckt werden.

Nach Artikel II des Vertrages zwischen der deutschen und der samoanischen Regierung vom 24. Januar 1879 soll den Deutschen in Samoa der vollständigste und immerwährende Schutz ihrer Person und ihres Eigenthums zu Theil werden. Die Samoa Regierung weiss sehr wohl, dass sie allein nicht die Macht hat die hierfür nöthigen Einrichtungen zu treffen. Aus diesem Grunde ist in Art. VII ausdrücklich bestimmt, dass die Feststellung einer Gerichtsbarkeit und des Verfahrens in Bezug auf Vergehen und Verbrechen der Angehörigen des einen vertragenden Theils gegen die des anderen einer besonderen Vereinbarung zwischen den beiderseitigen Regierungen vorbehalten sei, einschliesslich der nöthigen Bestimmungen über die Ausführung der Bestrafung der als schuldig überwiesenen Personen und dass inzwischen, bis die beiderseitigen Regierungen solche Vereinbarung getroffen haben, alle zwischen Deutschen und Samoanern in Samoa entstehenden Streitigkeiten in bisher gebräuchlicher Weise von dem deutschen Konsul oder dessen Stellvertreter in Ge-

a new agreement had not been entered into, and that if they made, arbitrarily, one-sided alterations, they rendered themselves guilty of new contempts and violations of the treaty. The German vice-consul thereupon writes the same to the King, on the 31st of March. But when I returned from my voyage, on the 22d of May, the prisoners had not yet been brought back, and the Government had done nothing to repair the wrong they had done.

Since then more than four months have passed. I have not missed any opportunity to tell your highness and the Taimua and Faipule that this matter was a very serious one. The Samoan Government have done nothing whatever.

The 24 prisoners in question have not been brought back into the German prison. As for the Samoans, Samau, from Fagalii, and Failava, from Fuaiupolu, each of whom has been sentenced, on the 24th of March, to two months' imprisonment, the sentence thus passed upon the same has not been carried out.

For the theft of the Samoan Oifo from Vailele, on the Vailele plantation, a matter referred to in the letter of the vice-consul to your highness, of the 7th of May, and many thefts more committed on the Vailele plantation, including the theft committed by Samoans in the house of the German subject, F. Gabriel, in Salesatele, it has been impossible to get redress; they have not even been inquired into. The sentence of imprisonment, pronounced on the 14th of August, for threatening the life of laborers on the German plantation in Fatuosofia against the Samoan Talai, from Samatau, could not be executed.

According to Article II of the treaty between the German and Samoan Government, dated 24th of January, 1879, the most perfect and perpetual protection of the persons and the property of the Germans is provided for. The Samoan Government are well aware that they alone are not in a position to make the necessary provisions for the same. It has therefore been especially provided, in Article VII, that the establishment of a proper jurisdiction of the mode of procedure regarding crimes and offenses committed by the subjects of the one contracting power against those of the other should be reserved to a special agreement between the two Governments, including the necessary regulations with regard to the execution of the punishment of those persons who have been convicted, and that meanwhile, and until the two Governments had thus agreed, all disputes arising between Germans and Samoans should be decided in the manner hitherto customary, by the German consul or his substitute, in conjunction with an officer of the Samoan Government. The new mode of keeping

meinschaft mit einem Beamten der Samoa Regierung entschieden werden sollen. Die neuerliche Unterbringung der Gefangenen in dem deutschen Gefängniß ist von mir ausdrücklich mit deiner Hoheit vereinbart worden. Die von dem deutschen Vize-Konsul und dem Samoa Richter gefällten Urtheile lauten ausdrücklich auf Gefängnißstrafe, die in dem deutschen Gefängniß abzubüssen ist.

Aus allem dem geht klar und deutlich hervor, dass die Samoa-Regierung kein Recht hatte, ohne die Einwilligung des deutschen Konsuls zu beschliessen, dass die Gefangenen aus dem deutschen Gefängniß nach dem Gefängniß in Mulinuu gebracht wurden. Indem die Samoa-Regierung diesen Beschluss ausgeführt hat, hat sie die Bestimmungen in Art. II und VII des Vertrages und eine Abmachung verletzt, welche ich mit deiner Hoheit geschlossen habe. Sie trägt Schuld daran, dass an den Gefangenen, welche wegen Diebstahls an deutschem Eigenthum verurtheilt waren, nicht die volle Strafe hat vollstreckt werden können.

Ob die Gefangenen in Mulinuu in ein Gefängniß gebracht, und wie lange dieselben dort festgehalten worden sind, ist ohne Bedeutung. Ich weiss nichts davon, die Gefangenen haben ihre Strafe nur bis zum 11. Februar abgebüsst, sie haben den Rest derselben noch abzubüssen.

Ich habe deiner Hoheit den Gang der Verhandlungen in das Gedächtniß zurückgerufen, welche in der Sache zwischen dem deutschen Vize-Konsul und der Samoa Regierung geführt worden sind. Dieselben zeigen die unzweifelhafte Absicht der Samoa Regierung, sich den Pflichten welche der Vertrag ihr auferlegt, zu entziehen und zu der deutschen Regierung in Opposition zu treten.

Aus den Erklärungen, welche die Taimua und Faipule in den Zusammenkünften mit dem deutschen Vize-Konsul am 18. und 25. März abgegeben haben, geht weiter hervor, dass die Samoa-Regierung versucht hat, bei der Verhandlung ersterer Geschäfte mit dem Vertreter der deutschen Regierung mit lügenhaften samoanischen Intriguen zu operiren.

Ich will annehmen, dass die Samoa-Regierung nicht gewusst hat, dass ein solches Verhalten geeignet ist, die deutsche Regierung zu beleidigen.

Indem die Samoa-Regierung durch ihr Verhalten es unmöglich gemacht hat, dass seit nunmehr 8 Monaten diejenigen Samoaner bestraft werden, welche sich an deutschem Eigenthum und gegen Deutsche und deren Schutzgenossen vergangen haben, hat sie sich einer fortwährenden Verletzung der Bestimmungen in Art. II des Vertrages schuldig gemacht.

Das, was geschehen ist, hat die Nothwendigkeit bewiesen, dass ohne weiteren

prisoners in the German prison is based on a special agreement entered into between your highness and myself. The judgments rendered by the German vice-consul, in conjunction with the Samoan judge, especially provide that the punishment of imprisonment should be served out in the German prison.

From all I have stated before, it is clear and evident that the Samoan Government had no right to decide, without the consent of the German consul, that the prisoners should be brought over from the German prison to that in Mulinuu. In carrying out this decision the Samoan Government have violated the provisions of Articles II and VII of the treaty and the agreement which your highness has concluded with me. It is the fault of the Government, and they are responsible for it, that the punishment which has been awarded to those prisoners who were condemned for thefts on German property, has not fully been executed.

It is of no consequence whether the prisoners have been put in the prison in Mulinuu and kept there. I do not know anything about it. The prisoners in question have suffered their punishment only till the 11th of February; they have still to serve out the rest of their punishment.

I have recalled in your highness' memory the details and the course of the discussions which have taken place between the German vice-consul and the Samoan Government. They show a clear and indisputable intention on the part of the Samoan Government to shake off their duties incumbent upon them by the treaty and to enter into direct opposition to the German Government.

It results from the declarations that have been made by the Taimua and Faipule, in the course of the meetings with the German vice-consul on the 15th and 25th of March, that the Samoan Government have tried to operate with false Samoan intrigues, when transacting with the representative of the German Government matters of the greatest importance.

I am ready to accept that the Samoan Government were not aware that such a behavior is liable to insult the German Government.

The Samoan Government having rendered impossible for the last 8 months to punish those Samoans who have offended Germans and their protégés as well as German property, have rendered themselves thereby guilty of continual violations of the regulations contained in Article II of the treaty.

By all what has happened the necessity has been proved to enter without

Verzug ein Uebereinkommen getroffen wird, wie es in Art. VII des Vertrags vorgesehen ist.

Indem die Samoa Regierung sich beharrlich weigert, ein solches Uebereinkommen zu treffen, macht sich dieselbe einer fortdauernden Verletzung der Bestimmungen in Art. II und VII des Vertrags schuldig. Es leuchtet ein, dass dieser Zustand nicht länger andauern kann, wenn nicht das Leben und Eigenthum der Deutschen in Samoa auf das Aergste gefährdet werden soll. Die Samoa Regierung sollte sich selbst sagen, dass die deutsche Regierung nicht ruhig zusehen wird, wie die Samoa Regierung fortdauernd die ihr aus dem Verträge zukommenden Rechte verletzt. Ich schreibe daher heute an deine Hoheit in der Erwartung, nunmehr ohne Verzug eine Aeusserung der Samoa Regierung zu erhalten, was sie in der Sache zu thun gedenkt.

Mögest Du leben!
Der kaiserliche Konsultsverweser,

DR. STUEBEL.

delay into an agreement as is provided for in Art. VII.

By constantly refusing to enter into such an agreement the Samoan Government are guilty of a continual violation of the regulations contained in Art. II and VII of the treaty. It is evident that this state of affairs cannot last long time, unless the life and the property of the Germans in Samoa being seriously endangered. The Samoan Government ought to be aware that the German Government will not permit that the Samoan Government are going on violating the rights acquired to Germany by the treaty. I therefore write to-day to your highness and expect that I shall get without delay an intimation from the Samoan Government as to what they intend to do in this matter.

May you live!
The Imperial German consul, *pro tempore*.

DR. STUEBEL.

[Inclosure E 5.—Translation.]

KING MALLIETOA'S PETITION TO ADMIRAL KNORR.

APIA, April 10, 1886.

During the whole time in which the Imperial German consul, Captain Zembsch, continued here, beginning with his first arrival in Samoa onwards to the time of his return to Germany, everything done by that good gentleman was exceedingly beneficial, for he did not deviate in any direction, but proceeded directly in the path of the articles in the treaty of mutual good-will between the Governments of Germany and Samoa, as is done by the gentlemen appointed by England and America who act entirely in accordance with all the articles of the treaties of mutual good-will made with the Governments, respectively, of England and America, by means of which peace has continued between us and those two Governments.

No disrespectful actions whatever have been done by the gentlemen of those two Governments, or anything calculated to pervert the meaning of any article in the treaties of mutual good-will with those two Governments which should lead us to show disrespect on the one hand or special regard on the other to any other Government. In most of the matters likewise which have special reference to criminals, they are given over to any Government by those two Governments, and in matters relating to the territory and community of Apia we would be no hindrance to them.

It was thus that Captain Zembsch acted. Far was it from him to pervert any statement of the treaty between Germany and Samoa or seek any occasion to bring about the necessity of an apology from the King and from our Government to the Emperor of Germany and his Government. But not only that, trials during those times were properly conducted. All arrangements were carried out with impartiality and without any desire to obey misleading statements when these were made for benefit of trade.

Your excellency, the representative of the Government of Germany, permit us to call your attention to the fact that many Samoans are now mourning over the deprivation of their lands on which they formerly dwelt, on account of the unjust purchase of them by some in the German firm now under the control of Mr. Weber. Captain Zembsch wished to have a thorough and just investigation of these lands out of regard for those who had been defrauded of their land by those who had no true authority over them, and others who had moved their boundaries so as to inclose land not purchased by them, and in consequence some have now no land on which to plant food to eat. We know well that Captain Zembsch tried to have these matters investigated with justice, and some few lands were returned to Samoans; but this capable and just man seems so to have excited envy so as to lead to his speedy removal from Samoa. The sentiment which he was so earnest to have carried out was "peace for Samoa"

and the continued progress of our Government, and he is known as "Zembsch, the gentleman who acted justly," and it has now become a proverb with us to say, "If Captain Zembsch had not left us no difficulties would have arisen in Samoa."

Another thing we wish to make known to you: In the year 1880, in the month of September, Captain Zembsch presented to us for confirmation by Malietoa Talavon (since dead) the treaty of mutual good-will between Germany and Samoa, on the 24th of January, 1879. It was at first exceedingly difficult for the King and Government to bring themselves to accept it, for there were articles in that treaty not agreeable to us, and we feared lest trouble should arise thereby in the future. But not only that, we were fearful lest it should involve by us a violation of the treaties between England and America and Samoa. We therefore well considered the matter with Captain Zembsch, and he replied to us in his speech that "we need not trouble thereby; Germany will do nothing without first carefully investigating the matter, and the two Governments being united in their actions;" and not only that, Captain Zembsch spoke to the governor of Fiji, Sir Arthur Gordon, to make known his opinion on the matter to Malietoa and his Government. A letter was therefore brought from Sir Arthur Gordon to Malietoa (now dead) written in September, 1880, in which he exhorted us as follows:

"You need be under no anxiety. No trouble will arise to you if you continue steadfast to the meaning of the words of that treaty," &c. It was then that Malietoa was induced to sign the treaty between Germany and Samoa. It was carried out by Captain Zembsch with consideration and due respect. Probably, too, there was in him something of shame, for though it was a treaty between Germany and Samoa, yet some of its articles were first devised by Mr. Weber, having for their object the advantage of the large business under Mr. Weber's control.

At that time Mr. Weber left for Germany and we had strong suspicions that the sole reason for his leaving was to bring about the removal of Captain Zembsch, and the accomplishing of his own purposes. Captain Zembsch left Samoa, leaving behind him the deepest regret for a gentleman so kind and upright in relations to our weak Government.

But now as to treaties between England, America, and Samoa, there has been no deviation from them, nor have they ever been used to the injury of our Government and our authority. At the beginning of 1833, Mr. Weber and Dr. Stuebel, imperial German consul, arrived. Dr. Stuebel began his trials on land questions. They had reference to Samoans who complained they had been deprived of their land as, *e. g.*, the case of Tupua Tamasese in Vailele Faleata, who complained that a certain piece of land which he had sold to Mr. Weber, had, by the removal of the boundaries, been made to inclose a piece of land not sold to him. Might rather than right led to the conclusion of the trial arrived at, and the Samoan judge refused to concur in the decision. Many schemes were used by Mr. Weber to induce unfaithful witnesses to agree with his side, but they were chiefs who had nothing to do with the matter. Tamasese was exceedingly annoyed about it, which continued up to the day on which our Government became divided by means of Mr. Weber (A. D. 1885). But it was not confined to the land question concerning which Tamasese complained.

There was land in Toanua, Fagalele, and Vailele and in many other parts of Samoa, which can be explained to your excellency if you desire it.

Another matter originated with Dr. Stuebel and Mr. Weber, that men who had stolen from the plantations of Mr. Weber in Vailele and Fagalele should be confined in the prison of Mr. Weber. But at the time of Captain Zembsch if any man stole from plantations or any other place belonging to Germans, it was placed in the hands of the King and the Government to seize those men, which was quickly done by authority of the King. A trial would then be held in the German consulate and the prisoner placed in the municipal prison. We suppose that Mr. Weber did not agree with that arrangement, for near the close of the year 1883 Malietoa Laupepa was sent for by Mr. Weber and Dr. Stuebel. The King went to the house of Mr. Weber and found there also Dr. Stuebel and Mr. Coe. They two then gave their opinion to Malietoa. "Our opinion is that it would be well to deliver up prisoners who have stolen from German plantations to be kept in the prison of Mr. Weber, for, though it is called the prison of Mr. Weber, it shall be in reality the prison of the Government of Samoa." Malietoa then replied: "Captain Zembsch did not act thus, but put prisoners in the municipal prison." Mr. Weber and Dr. Stuebel then answered: "That makes no difference. Your prison at Mulinnu is not yet complete, so you can give them up for the present while the Samoan Government prison is being erected at Mulinnu." The matter was then conceded, Malietoa remarking: "Very well; but when the prison at Mulinnu is complete then the prisoners must be placed therein." Prisoners were then placed in the prison of Mr. Weber, Malietoa reluctantly consenting thereto; but yet he accepted it, supposing the words to be sincere because that the new prison at Malinnu is not complete, and that they should be placed there only for the present. Furthermore we supposed that it would still be proper to give over the prisoners to the Government of Samoa, to carry out the judicial (*i. e.*, in the case of

Samoa prisoners), as is done by the representatives of England and America. In the year 1884 Dr. Stuebel went on a voyage of about three months, and G. Von Oertzen, vice-consul, acted for him. He tried to make a new treaty between Germany and Samoa, acting according to the advice of Mr. Weber. Probably, also, it was under the authority of Dr. Stuebel. There were at that time certain prisoners in the prison of Mr. Weber, but they were not well cared for by him, and they made their escape. They were brought back again by Government policemen to the prison at Mulinuu, which was now complete. This was in accordance with the words of Dr. Stuebel and Mr. Weber already quoted in the letter. This we believe has been considered a wrong done to the Government of Germany, that we should put prisoners in the Samoan Government prison at Mulinuu. But at this very time the Tumua party, now in rebellion, were angry, and said: "We suppose Malietoa is selling these Samoans to Mr. Weber in order to get money thereby." They were also offended at treaty between Germany and Samoa because many things in it were not agreeable to them, but it was very clearly explained to them by Selu, the secretary, that they, the Tumua, were wrong, for the articles of that treaty did not originate with Malietoa, and one of the chiefs of Malietoa urged most strongly in his speech, Fagutugutu by name, that prisoners should still be put in the prison of Mr. Weber. "But yet we were one and all sorely troubled, for we thought that the words henceforth were to have no meaning." That a strong government should be established for Samoa we humbled ourselves to the vice-consul, G. von Oertzen, and returned the prisoners to the prison of Mr. Weber, and Malietoa then wrote his opinion to the vice-consul that the prisoners should be placed in the prison at Mulinuu; but the vice-consul refused, and said it is well that they be returned to the prison of Mr. Weber as we had already done. They were placed in Mr. Weber's prison, but remained there a very few days when they again made their escape.

At this time Malietoa was sent for by Mr. Weber, and he read to him a treaty which he had prepared, and containing the provisions on which his mind was set. Mr. Weber then said to Malietoa that if he would accept that treaty he would obtain a large pecuniary reward. Malietoa answered, "That is very difficult for me to do, but suffer me to go and make known the matter to my Government," which was accordingly done. The result was to make us increasingly suspicious. Dr. Stuebel returned from his voyage in 1884. The Chiefs Seu-manutafa and Tofaeco were then commanded by the King and Government to return the prisoners who had escaped. They were seized and taken by those chiefs to Dr. Stuebel, but he refused to receive them, saying "I cannot receive them. Take them away to Mulinuu." About this time two men of Tifitifi, Aana, a Samoan and a Tahitian, were severely beaten, injured by a laborer of Mr. Weber's at the Mulifanna. They were attacked with a knife and wounded. If they had not been strong to resist the attack, probably they would have been killed. The expectation of the King was that the trial would probably be held in a court-house of our Government in Aana or Mulinuu, or in the German consulate in Apia. Dr. Stuebel would not consent to this, so the trial was held at Mulifanna, in the business house of Mr. Weber. The conclusion of the trial was that the Samoan who had been badly wounded should pay \$20, the Tahitian \$10, and that \$10 should be paid for court expenses, and that he should be put in the prison of Mr. Weber for six months with hard labor. The governor of Aana and the chiefs were greatly troubled about it, and in October, 1884, they wrote as follows: "Malietoa, we know well that we are in bondage to the great Governments," the reference being alone to Dr. Stuebel and Mr. Weber. We truthfully and distinctly affirm our conviction that in all the different arrangements and trials carried on by Dr. Stuebel, beginning with his first arrival in Samoa, and onwards to the last trial held by him at Mulifanna in October, 1884:

- (1) That our suspicions have been correct; that he was endeavoring to make our Government of no effect.
- (2) That he was carrying out the purposes of Mr. Weber.
- (3) That he has been continually seeking out means which would bring calamity upon us.

At this there arrived the two German ships of war the Marie and the Albatross, and the King and our Government went and humbled themselves and apologized to Dr. Stuebel, for they had been put into a state of great fear by the letters of the German vice-consul, G. von Oertzen, written in March, 1884. The messenger of Dr. Stuebel (Meisake) also went to Mulinuu and said, "Alas for our Government! Trouble is about to be brought to it by the ships of war if they do not accept that treaty." But the answer to our humbling ourselves and our apology before Dr. Stuebel was that "There can be no reconciliation with you unless you accept that treaty."

Then we deliberated for two days as to some means by which we might be delivered from the unfriendly attitude of Dr. Stuebel and Mr. Weber towards us, and it led to our petition of the 5th of November to Her Majesty the Queen of England. Dr. Stuebel continued to eagerly urge upon us to accept that treaty. We replied it would be a good thing to give us the treaty, that we might examine it and deliberate upon

the meaning of its words, and the King wrote an earnest entreaty to Dr. Stuebel that he would give us the treaty for a day or for a few days, that we might examine it, so as to act with deliberation. This was written on the 10th of November, and an answer was brought from Dr. Stuebel on the same day, which said: "I am unwilling to give you a copy of that treaty, for I wish to consider it with the Government." Meisake, interpreter of Dr. Stuebel, came with a copy of the treaty, but he would not show it to any member of the Government. A few questions were put to Meisake by Selu, the secretary, as follows: "Who would be the treasurer?" "Probably Mr. Weber." "Would the Germans cease to carry out the instructions from the German Government respecting the making of contributions to the Government?" "Yes." "Can the treaty be set aside?" "I know nothing about that." "How about serious criminal offenses?" "They will not be affected by that treaty." We could not by any means obtain light on the stipulations of the treaty, but word was brought from Dr. Stuebel that we would get sight of it on the evening of that day. Meisake also remarked: "If the Government delayed in the matter they would probably soon find trouble brought upon them from the ships of war." There was no other word used among us but the arrogance (or haughtiness) of Dr. Stuebel, and that it would be well for these troubles to be brought upon us, but for us not to accept that treaty. Then the King and Vice-King and Sinafoa—ruler (now in rebellion)—went with the decision not to accept that treaty. But while on their way the King and the Vice-King, in consequence of their fear, suddenly decided they would accept it. They reached the German consulate, but when Sinafoa (now in rebellion) heard the speech of Malietoa to the effect that they would accept that treaty, he was angered and departed in indignation, saying, "Better fight with Germany than that." That same week a reconciliation was effected between the captains of the ships of war, consuls, the King, and Government, and the Marie took its departure. Dr. Stuebel and Mr. Weber then heard the report that a petition had been sent to Her Majesty the Queen. Malietoa was sent for by Mr. Weber. Malietoa went. Mr. Weber said: "Come, put your name to this letter to be sent to England recalling your petition, for I am now thinking of giving over Mulinuu to you." But Malietoa refused to write his name to the letter. At this time Mr. Weber was endeavoring to influence certain chiefs and rulers of the Tuamaraga to appoint another Malietoa and to drive away Malietoa Laupepa. He tried this with Fagutugutu and other chiefs. So also Dr. Stuebel. He sent for Leiātana Samoan and asked him "if it were not possible to substitute for Malietoa some one else." Seamanutafa and the English consul, Churchward, are witnesses to the truthfulness of the statement of Leiātana, made on oath. Dr. Stuebel and Mr. Weber knew well that no other Malietoa acceptable to us was possible. Then they both turned their attention to the Tamua party and Tamasese. For many nights their deliberations were continued in the house of Mr. Weber, the meaning of these meetings being the breaking up of our Government. Their purpose was accomplished in consequence of the Tamua party being led astray by Dr. Stuebel, Weber, and of their unfriendly actions towards Samoa. We know our Government was divided in consequence of the advice of Dr. Stuebel, Mr. Weber being agreeably to the will of the Tamua party. On the evening of January 22, 1885, another meeting was held between the Tamua and Dr. Stuebel and Mr. Weber on board the German ship Albatross. The meeting continued till nearly daylight of the day on which the German flag was raised at Mulinuu. On the 23d of January the flag was first raised at Mulinuu. On that day Tamasese and Ani Anani (now in rebellion) were first at Mulinuu, but were soon followed by officers and forces of the German ship of war, together with a large number of laborers belonging to Mr. Weber, all armed with different weapons. They then raised the flag and built the fort. An armed force was continually there. They broke into the house of the King, threw about at random the things contained in it, in the presence of the King. We were astonished at it. It was as if it were done by some barbarous people (dark people). On a certain day Selu, the secretary, explained everything to the Tamua, showed to them their wrong and their want of affection for Samoa, the more so in that they had been foremost with their groans and sighs on account of the unjust conduct of Dr. Stuebel and Mr. Weber, whom now they rejoiced to obey. Then Manono, ruler of Samatau (rebel), the same man who said to Malietoa, "It is plain that we are to be the slaves of Germany," said to Selu, "It is true what you say; a person belonging to my town was consigned at Mr. Weber's prison for six months with hard labor and was fined; \$100 of this was paid, but of the other \$50 Mr. Weber said to me that it should be remitted." That was the trial held by Fatuosofia of the Mulifanua, August, 1884. Talae was the name of the man of Samatau pardoned by Mr. Weber. In the evening of the 27th of January another meeting was held in the house of Mr. Weber; present, Dr. Stuebel, Mr. Weber, Tamasese, &c. The meeting continued till nearly daylight. The decision was that the Tamua party should go to Leulumoega and set up their government there, and that Tamasese should be their King. That was the counsel given by Dr. Stuebel and Mr. Weber, and it was added for a very few days would they continue at Aana. When their flag should be raised and Tamasese anointed

king, then the two would devise some scheme to bring the Tamua and Tamasese to Mulinuu to establish their government and to drive away Malietoa and his government. All these statements were confirmed by Sinea, the wife of Tamasese (since dead). She told them to Lanafi, Pau, Selu. She went weeping to those chiefs and explained all the words given above and many other similar statements. "Alas," she said, "for you and Malietoa. Dr. Stuebel and Mr. Weber told the Tamua party and Tamasese at the meeting last night to depart quickly to-day to Aana (Leulumoega), and set up their government, which will be brought to pass to-morrow. Then a force will be landed to drive away Malietoa and his government. If there should be any difficulty in getting them away, then trouble would come to Malietoa, &c. The statement was also confirmed by Manoo (ruler of Samatau, now a rebel); he told it to Leiatana, and the statements were also confirmed by other men. On the 23th January there came one of the officers of the ship of war and we strongly suspected that the report we had heard was about to be verified in action. The officer came in front of the house of Malietoa, took his stand there, and called out three times, "Malietoa," and beckoned with his hand three times. We then prepared to leave, but a message was first sent from Malietoa to Dr. Stuebel to inquire if this was his decision. He replied, "No;" the opinion of Malietoa was wrong. That officer had no thought of driving them from Mulinuu. On the same day the Tamua party and Tamasese left Mulinuu and went to Leulumoega; they raised their flag and appointed Tamasese as their king. Mr. Weber went to the Mulifanua to his house there. The chiefs went there to him and carried on their deliberations and made their decision. Mr. Weber rested not. He went often subsequently to the Mulifanua and exhorted the rebellious party to be courageous. A number of men gathered together called a military force and continued so to this day. The house of Mr. Weber in Apia is used even to the present time for their meetings. Another house of Mr. Weber has been erected at Leulumoega, and the report is generally circulated that guns are still being sent there to be sold. Had it not been for Mr. Weber and Dr. Stuebel our islands would now have been at peace. They have been continually exhorting the party in rebellion not to be discouraged; German ships of war were at hand which would inflict heavy punishment upon Malietoa and establish the Government of the Tamua. Many are the schemes to which they two had recourse in order that they might frighten Samoans to join the party in rebellion and thereby confirm their untruthful statements sent to the Emperor and the just Government of Germany. One thing we know as true: an armed force had gathered in Leulumoega. We considered that the King and the Government had better have an armed body-guard. We sent to Dr. Stuebel a letter requesting this from Dr. Stuebel, but he forbade it. He would not allow such a number of men at Mulinuu. But we even put our lives thus in jeopardy on account of our fear of Germany. On the 18th of December, 1885, there came a letter from Mr. Weber that we should pay \$1,441 rent for residence at Mulinuu, and that we should likewise leave Mulinuu on the 31st of that month. If we should not obey that notice he would make his complaint to Dr. Stuebel, Imperial German consul. But though the deeds of Mr. Weber for the land seem to be complete and by means of his devices the name of Malietoa is signed in them, yet we maintain that the lands would prove to be still ours if the matter could be investigated with impartiality. A letter was then reluctantly sent to Mr. Weber stating that they would pay down the sum of \$5,000 as payment for Mulinuu. Mr. Weber refused, being ruttely unwilling to accept it. We left Mulinuu on the 31st of December and came to Apia. We then raised our flag. When Dr. Stuebel saw our flag raised he came to the King and told him to pull down the flag. The King refused, and said: "It is with you to do what you please. If it is with your will to put it down, carry out your own will." He then went on board the ship of war Albatross and returned with an armed force, and at the same hour put down our flag. The English and American consuls have protested against all the past actions of Dr. Stuebel even up to the day on which our flag was hauled down. Our indignation had become very great at that hour. We thought it would be better to rush on death and perish at the hands of Dr. Stuebel but no longer to endure it. A disturbance seemed likely to arise, but the English and American consuls earnestly entreated us to avoid everything of that kind as it would only lead us into further difficulty. We obeyed the good advice of these consuls and left Dr. Stuebel to work out his own will. We then decided to send some members of our Governments to make inquiries from the great Governments of England, America, and Germany as to whether the actions taken by Dr. Stuebel were carried out by the authority of the Government of Germany. Accordingly Seumanutafa and Tuiletufuga went and returned with the good report from England, America, and Germany that his excellency Admiral Knorr was about to be sent to bring about a peaceable settlement of all the differences between the Government of Germany and the Government of Samoa. We rejoiced greatly in that good report. But notwithstanding that, the intimidation of Mr. Weber was not yet complete. Mr. Weber is well acquainted with the Samoan custom that not so much stress is laid upon written words as upon spoken

words. The latter are retained in the mind and believed in. Accordingly on the 12th of April, 1886, a Samoan chief, Tialigo by name (who lives on the land of Mr. Weber), went to the Chief Tofaeono, in this the Vaimauga district, and spoke as in the following account: "Come, for I am commissioned by Mr. Weber to tell you his words, which are as follows: 'Tell Tofae that this my final word to him, that he should turn away from and abandon the Government of Malietoa, for the Government of Tamasese is established. There is no further hindrance to it. The Government of Malietoa will not be again known, nor will any respect whatever be shown to it by Germany when the ships of war arrive. Do you likewise urge upon Tofae that he cease to be longer deceived by men who are leading him astray, that he cease any longer to listen to the lies of the American and English consuls. They will not have a word to say when the vessels arrive, for the decision of the English, American, and German Governments is that all affairs in Samoa should be controlled by Germany. That is why these German vessels now on their way are being sent, while no English and American vessels are coming. Do you therefore urge upon Tofae speedily to turn away (from Malietoa) ere these vessels arrive, by which means he and the Varimanga will escape all fines, for there will be no inquiry or deliberations held then, nor will treaty relationship any longer be observed; the English and American consuls do not speak true words to the Government and the King but tell them only incorrect statements. But if Tofae should not quickly turn away from Malietoa then I will inclose the land where they dwell with a fence and send a man to occupy it. Tell Tofae that Tamasese and his Government can be brought to Mulinuu to remain there, but he will be the means of this if he will only turn, because the Government of Tamasese has been really established.'" I then asked, "If those things are indeed done how about England and America, Tialigo? Those Governments will not be again known, but all words will be ended by Germany; they will be put an end to by the German consul now in Samoa, the captains of the ships of war taking no part in the matter."

In the troubles which have arisen in years gone by and in the battle fought on July 12, 1877, Mr. Weber has been the prime mover in those troubles. But still, notwithstanding these unworthy intimidating actions on the part of Mr. Weber toward us, the account of which we have had to give, we shall continue to rely on the righteous dealings which are characteristic of the German Government, as the representative of which, sir, you have come. We trust it will lead to a thorough and impartial investigation of these difficulties with a view to their speedy determination and the restoration of mutual good will. For our anxious fear is great at the words so groundlessly cast about that we are at variance with the Government of Germany, a statement which is confined alone to Dr. Stuebel, and of which the Government of Germany will probably be ashamed, who are far from any desire of retaining in mind against us any statement of such a kind.

Your excellency, let the righteous dealing and the kind regard of the Government of Germany be manifest towards our islands so feeble and so few, as it was in the days of Captain Zembsch, who continued so short time with us. For it is because Dr. Stuebel has been brought into subjection to Mr. Weber that this cessation of friendly relationship has occurred.

Your excellency, we await your action with respect and strong reliance on the Government of Germany and on your excellency.

I am,

MALIETOA,
King of Samoa.

SELU,

Secretary,
Apia, April 20, 1886.

His Excellency Admiral KNORR,
Commander of the Fleet of War Ships of His Majesty the Emperor of Germany.

[Inclosure E 6.]

GOVERNMENT HOUSE, May 10, 1886.

SIR: I am commanded by His Majesty Malietoa, King of Samoa, to express his sorrow at the strange and remarkable treatment to which His Majesty has been subjected by the officers and servants of His Imperial Majesty the Emperor of Germany.

Your excellency is aware that a solemn treaty now exists between Germany and Samoa by which the Empire to which you belong is as much bound as she is with England or the United States of America. In the face of this treaty His Majesty the King of Samoa hears with astonishment and regret that you, accompanied by Dr. Stuebel, the German consul did upon last Saturday proceed with M. I. M. S. "Bismark" to visit certain subjects of the Samoan Crown now in rebellion against Malie-

toa—as your excellency must have known—in a friendly manner, a manner calculated to aid and abet them in their rebellion.

His Majesty desires me to point out to you the consequences which are likely to ensue from your strange conduct. His Majesty has heard with profound astonishment that in the presence of a German admiral and under the guns of a German man-of-war the German consul informed the rebels that the German Government has recognized the rebel leader as King of Samoa. I am instructed to point out that the natural result of such an unadvised statement will be the kindling of civil war and the shedding of much blood.

His Majesty the King of Samoa has for years humbled himself to Germany, or rather to its unworthy representatives here, Dr. Stuebel and Mr. Weber, in order to maintain peace, but is now determined to appeal direct to the people and Government of America and England for sympathy and assistance upon a full statement of the whole matter.

His Majesty being bewildered and alarmed by your conduct, and not knowing to what extent the violence of Dr. Stuebel and Mr. Weber may yet lead you, has, after consultation with his ministers, felt compelled to invoke the assistance of the United States consul, under whose guardianship he has placed the Samoan flag, and to whose charge he has entrusted the safety of his people. To add to his alarm he is credibly informed that in your hearing, and uncontradicted by you, Dr. Stuebel stated to the rebels that the English consul had deserted Malietoa.

In what manner your excellency intends to vindicate such conduct to your own Government the King does not know, but if in consequence of your interference there ensue violence and war the guilt will be yours, while we shall have to bear the suffering.

In conclusion His Majesty desires me to remark that you have not shown sufficient courtesy even to acknowledge the receipt of the long letter of grievances sent to you on Friday last.

I have the honor to be, your excellency's most humble servant,

SELU,
Secretary.

To his Excellency Admiral KNORR,
Commanding H. I. M. Fleet, Apia Harbor.

[Inclosure E 7.—Translation.]

CRUISING FLEET, APIA, May 9, 1886.

The Head Chief MALIETOA, *Apia* :

Your letter received, and the following is my answer :

I have not been sent here, as you say in your letter, to settle any difficulties between the Government of Germany and the Government of Samoa.

This is the business of the Imperial political representative at Samoa, Consul-General Dr. Stuebel, whose official actions to investigate I have no right to. And also it is not possible for me to treat with a party Government which in a rough and unthankful manner opposes the treaty not only, but also offers the rightful German influence most objectionable opposition.

KNORR,
Vice-Admiral and Chief of the Cruising Squadron.

[Inclosure E 8.—Translation.]

APIA, May 14, 1886.

To the Head Chief MALIETOA, *Apia* :

Vice-Admiral Knorr requests me to acknowledge receipt of a letter of the Secretary of State, Selu, dated Government House the 10th inst. and to answer the following :

Contents and manner of expression prove that you have for your head chief bad advisers at the Government House.

The admiral cannot hold the writer of the letter, but has to hold responsible the party ordering it for everything what has been addressed to the chief of the German squadron.

In the name of the admiral I have to declare as inadmissible, that in an official letter to which is attached the seal with the name "Malietoa," the person of the Imperial German representative has been attacked by insulting expressions, and that an attempt of a repetition against the respect of the Imperial German Government will cause immediate redress against the only responsible party.

Besides, the letter contains, and to which on account of its irregular form the admiral don't care to go more into, hardly anything else as positive untruths, and controversies with existing circumstances, so that the consequences on all of this basis planned or gone into the actions solely and expressly fall the Government and its head.

Your letter of grievances of the 7th crt. was already answered on the 9th; instead of speaking of impoliteness, it probably would have been better to govern your own politeness and to await an answer which, on account of translating, could under existing circumstances not be done any sooner.

VON HOLZENDORFF,
Captain-Lieutenant and Flag-Lieutenant.

[Inclosure E 9.]

MULINUU, CAPITAL OF SAMOA,
December 29, 1884.

To His Imperial Majesty the EMPEROR OF GERMANY :

YOUR MAJESTY : I write to inform your Majesty that I am deeply distressed on account of the troublesome acts done by subjects of your country in Samoa.

I humbly beseech your Majesty to listen to my complaint.

The first matter of complaint of which I have to inform your Majesty is the agreement which was made on the 10th of November between the Government of Germany and the Government of Samoa.

The method in which it was brought about was very improper, for we did not desire to make it because we were not allowed to see the documents so that we could consult about it and consider it.

I wrote to the German consul to ask him to give me a copy of the agreement, in order that we should thoroughly understand its meaning. He replied that he refused to give me or my Government a copy of the agreement until after we had accepted (signed) it.

I assented to the agreement and our names, Malietoa and Tupua, were signed to it on account of our intimidation by threats. I also inform your Majesty of our withdrawal from the agreement on account of its containing many impracticable clauses.

I therefore beg your Majesty will not assent to that agreement.

I also appeal to your Majesty with reference to the troublesome acts of Mr. Weber, a subject of your country.

He is continually trying to cause divisions among my people in order to bring about disturbances and war in Samoa. I have received much information respecting his working for the purpose of causing troubles to arise in Samoa again.

He is continually scheming and offering bribes to some Samoan chiefs to induce them to comply with his wishes and thus cause a rebellion in my country.

I complain to your Majesty on account of this improper conduct of Mr. Weber, so that he may be compelled to desist from acts by which the blood of the people of my country may be shed.

I hope and pray that God will bless your Majesty and your Government.

I am, your Majesty,

MALIETOA,
King of Samoa.

[Inclosure E 10.—Translation.]

GERMAN CONSULATE,
Apia, February 19, 1885.

YOUR MAJESTY : I have received your letter which you wrote yesterday, in which you make known to me your desire that your forces should assemble at Mulinuu to act as your body-guard.

This is my answer to it—your opinion is correct that it was considered right that fighting should be forbidden in Samoa. To that end the American and English consuls with myself agreed together that letters should be written to your Majesty and the Tumua, in which it was exhorted that no division of the people (male) should begin fighting. Therefore the report you have received concerning Tumua cannot be true that they are about to attack you at the present time.

But in addition to that, the land of the place (district) and the town of Apia have been attached (secured) for the Government of Germany, on account of the disrespectful things you have done to the Government of Germany, and the flag of the Government of Germany has been hoisted as the sign of that thing; it is proper also that that flag has to be guarded by the forces of the German ships of war.

But I cannot permit your forces to assemble together with their weapons of war at Malinuu, or at any other place within the territory which has been attached, for if this is done it is very possible that severe quarrelling will arise between Germany and Samoa.

I wrote to your Majesty on the 29th of February [January], that you are permitted to remain quietly at Malinuu. That opinion is not changed at the present time, but it will be necessary for you to leave Malinuu if you should assemble there your forces.

May you live.

I am,

DR. STUEBEL,
Imperial German Consul.

His Majesty MALIETOA,
King of Samoa.

[Inclosure E 11.—Translation.]

MULINUU, *April, 1885.*

SIR: I have the honor to acknowledge the receipt of your letter of 10th of April, received by me at about sunset.

As you know, on the assembly of my Parliament many men have to be present. I cannot help that a greater number should assemble than at other times.

Do you want to drive me off Mulinuu? If so, tell me and I will go, and my Government, but shall set it up in another place.

I deny any sort of disrespect to the German Government.

It is the custom of Samoa to assemble as they are doing. All my people are quiet and without arms, and will not do anything wrong.

I cannot imagine how you or the captain of the man-of-war can find fault with me or my people on account of my people carrying out their custom, and coming to see me as is usual.

I would ask you to reconsider your command, for if you persist in it, I must move from the point, but I give you notice that the seat of government will only be moved, and my Government will continue its office.

If you should be so unnecessarily severe as to order me from the point, I would respectfully ask you whether your prohibition extends to the whole of the municipality.

May you live.

I am,

MALIETOA,
King of Samoa.

Dr. STUEBEL,
Imperial German Consul, Matafele.

[Inclosure E 12.—Translation.]

IMPERIAL GERMAN CONSULATE,
Apia, April 10, 1885.

YOUR MAJESTY: I am writing to your Majesty, who are well aware of the letters written on the 29th of January and the 31st March, to make known to you that you would be permitted to continue to reside at Mulinuu on condition that your Majesty and your Government should keep quiet. In the letter which you wrote me on the 1st of April you informed me that a great many men had assembled at Mulinuu at that time, but that they were about to go quickly away again. Yet notwithstanding that, a great *talolo* (assembly) was held yesterday, and a very great number of men gathered together at that *talolo*.

But from the present time no great assembly of men shall be allowed at Mulinuu. The captain of the German ship-of-war will not permit anything of that kind, as it is a transgression and disrespect to the authority of the Government of Germany established within the neutral territory.

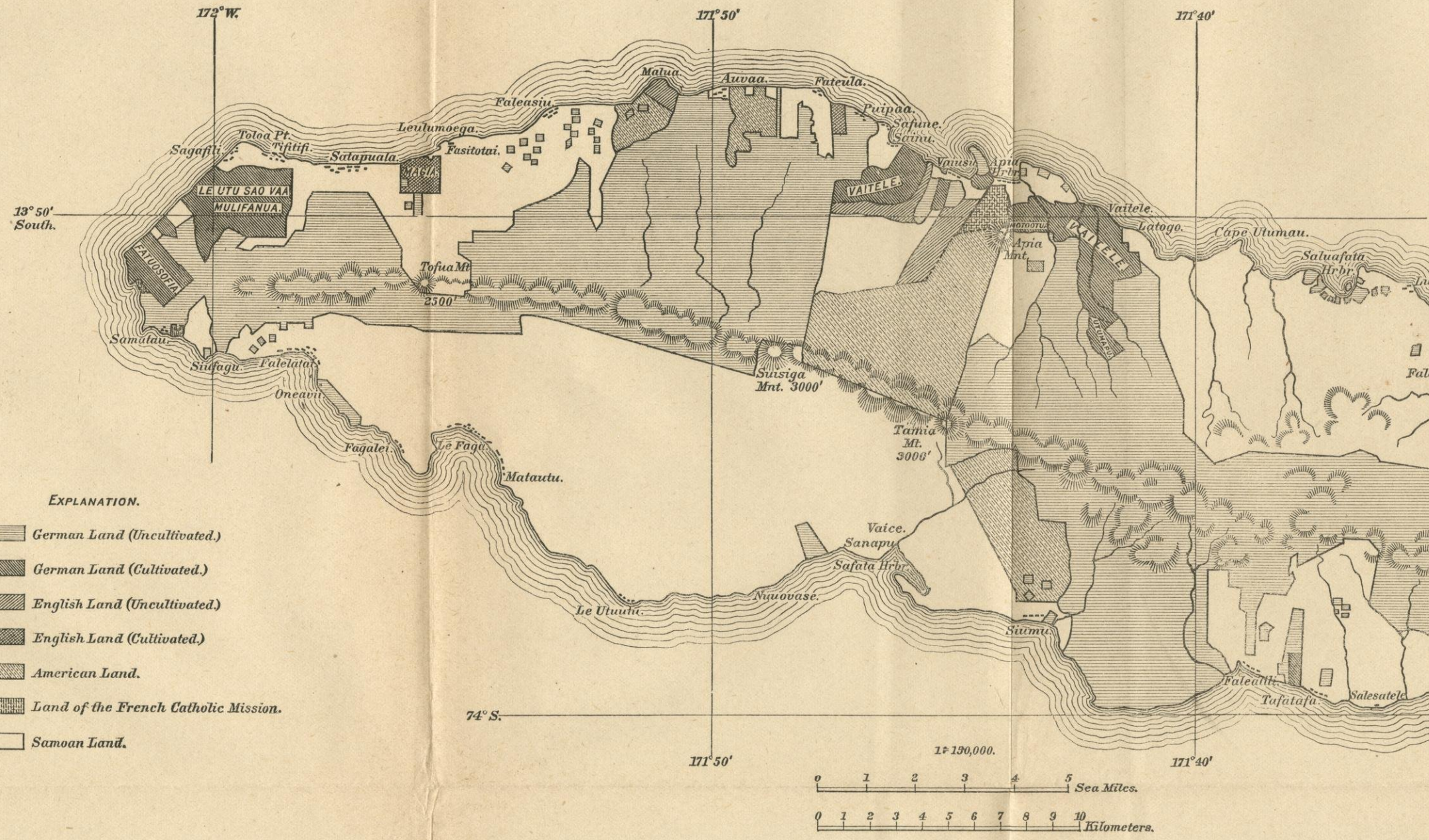
Therefore, I write now to make known to your Majesty that from this day all kinds of assemblies of men who have no families resident there are forbidden at Mulinuu. In which also is forbidden any great meeting, *talolos* of any kind whatever, and likewise the game usually called cricket. Should this law be transgressed the people in general will be scattered by force, and as to your Majesty, it will be necessary for you to immediately leave Mulinuu, together with your Government.

May you live.

DR. STUEBEL,
Imperial German Consul.

NOTE BY TRANSLATOR.—*Talolo* is defined as the taking of food to visitors by a whole district at once. Here it means taking food to the Government by a whole district.

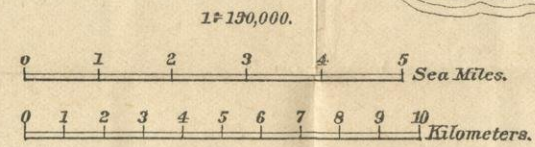
UPOLU ISLAND.



SAVAII ISLAND.



- EXPLANATION.**
- German Land (Uncultivated.)
 - German Land (Cultivated.)
 - English Land (Uncultivated.)
 - English Land (Cultivated.)
 - American Land.
 - Land of the French Catholic Mission.
 - Samoan Land.



REMARKS.

1. The map above only comprises such landed property, cultivated and uncultivated, as is the property of the Deutsche Handels u. Plantagen-Gesellschaft der Stidsee Inseln zu Hamburg, of Mr. Weber and Mr. Wulf, both Germans. The land belonging to smaller German proprietors is not marked out in the map.
2. The German lands, as marked with red and blue, uncultivated and cultivated, comprise a total area of 133,122 acres, of which 7,785 resp. 7,985 acres are under cultivation. Of this area 102,207 acres have been acquired before the conclusion of the German-Samoan treaty in 1879; the rest after this time. Of the latter, 1,005 acres were acquired in 1884, 503 in 1885, and only 18 in 1886, nearly all of which are situated in close vicinity to the plantations already in possession of the Deutsche Handels u. Plantagen-Gesellschaft.
3. The extent of other German landed property may be approximately stated as being c'a 2,000 acres. Added to the area of German lands, as marked in the map above, the total extent of landed property in possession of Germans amounts to 135,122 acres.
4. The extent of English and American property is based on investigation made in 1883, and comprises only the land belonging to the greater proprietors; smaller items of land belonging to different English and American people not being marked.

[Inclosure F 2.]

UNITED STATES OF AMERICA, ss :

On this eleventh day of September, A. D. 1886, before me, Elisha L. Hamilton, vice-consul of the United States at Apia, Samoa, personally appeared William Coe, who, being solemnly sworn in due form of law, doth depose and say that the paper annexed hereto is a true and correct copy of a certain paper writing, the original of which has been compared with the said copy at the time of making this affidavit, and that the said copy is correct in all particulars, including the blank spaces; that deponent first saw the original paper in the land office of the "Deutsche Handels- und Plantagen-Gesellschaft der Südsee Inseln zu Hamburg"; that August Goddefroy then the manager of said company applied to the German consul-general to drive the Samoan chief Asi from the land then occupied by him in Matafagatele, known as Maloe-Falefatu; that the consul-general having demanded the production of the deed under which the said company claimed the land, the original aforesaid was produced at the German consulate for record, whereupon the said consul-general declined to accept the same, and ordered the paper to be returned to Asi, the party who had signed it.

The facts were all stated to me by Captain Zempseh, the consul-general referred to, and I saw the deed, so called, filed in the land office of the German company as a title paper.

Deponent further states that he obtained the said original paper from Asi, at the request of Mr. Bates, for his inspection.

WILLIAM COE.

Subscribed and sworn to the day and year aforesaid, before me.

E. L. HAMILTON,
United States Vice-Consul.

This indenture, made the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, between _____, belonging to _____, of the first part, and Theodor Weber, from Hamburg, and merchant at Apia Upolu, Samoa, of the second part, witnesseth:

That the party of the first part, for and in consideration of the sum of _____, to _____ in hand paid by the party of the second part (the receipt of which is hereby acknowledged), hath bargained and sold, and by these presents does bargain and sell unto the party of the second part, his heirs and assigns forever, all _____ certain piece or parcel of land, situated at _____, being the true and lawful owner thereof, said piece or parcel of land hereafter described being bounded and measuring as follows, viz:

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and also all the right, title, interest, claim, or demand whatsoever of _____, the party of the first part, either in law or in equity of, in and to the above bargained premises and every part or parcel thereof, to have and to hold to the said party of the second part, his heirs and assigns forever.

In witness whereof we have hereunto set our hands and seals the day and year first above written.

(Sig.) ASI, [L. s.]
Party of the first part.
_____, [L. s.]
Party of the second part.

Signed, sealed, and delivered in the presence of—

H. FRIEDRECHEN.
H. B. STERNDALÉ.
TALAGUI.

We the undersigned hereby certify that the above instrument was read and translated to the party of the first part (as above mentioned), and who in our presence declared perfect knowledge of the above and expressed entire satisfaction.

H. F. H. GRAHT.

(Indorsement on the foregoing:) Tusi O fanua oau O Asi, I Apia. Translation: Deed of lands from Asi, at Apia.

I certify that the foregoing is a correct copy of the original, compared by me therewith.

E. L. HAMILTON,
U. S. V. Consul.

[Inclosure F 3.]

MULINUU, 23 *Oktopa*, 1884.

Ua silifia sagata uma O au o Malietoa le Tupu o Samoa O ou iloa lelei o le fanua ua tuu ai i le tusi na pii faatasi i le hesi nei na faatau o Alii Samoa e pule ai e le faapotopoga Amerika ma Falani (F. Cornwall). Au te molimau e ai ma fesoasoani ma faamamalu e ai le faapotopoga Peritania na latou fua leni fanua ma totogi uma le alii Samoa e pule ai le fanua. Au te molimau e muamua lava le faatau o le faapotopoga Amerika ma Falani (F. Cornwall).

MALIETOA,
le Tupu o Samoa.

ASI TAIMUA.
SEUMANATAFFA KAIVANA.
LAUATI FAIPULE.

I hereby certify that the above is a true copy of the original.

RICHARD HETHERINGTON,
Barrister and Solicitor.

H. B. M's CONSULATE,
Samoa, September 18, 1886.

I hereby certify that I have compared the foregoing document with the certified copy, of which it is a true and verbatim copy.

WILFRED POWELL,
H. B. M's Consul.

[Translation.]

Know all men. I, Malietoa, King of Samoa, well know that the lands described in the documents affixed hereto were properly sold by the Samoan chiefs—owners thereof—to the American Company and Falani (F. Cornwall). I will bear witness to this, and will assist and protect the British Company in their surveys of the lands and payments of sums due to the Samoan chiefs who sold the land. And I testify that these lands were first sold to the American Company and F. Cornwall.

MALIETOA,
King of Samoa.

ASI TAIMUA.
SEUMANATAFFA GOVERNOR TUAMASAGA.
LAUATI FAIPULE.

I, Richard Hetherington, of Apia, in Samoa, barrister and solicitor, do hereby certify that the above is a true and faithful translation of the original.

RICHARD HETHERINGTON.

I hereby certify that the above is a true copy of the translation of a certified copy.

WILFRED POWELL,
H. B. M's Consul.

H. B. M's CONSULATE,
Samoa, September 18, 1886.

[Inclosure F 4.]

NATIVE LAND COURT OF NEW ZEALAND

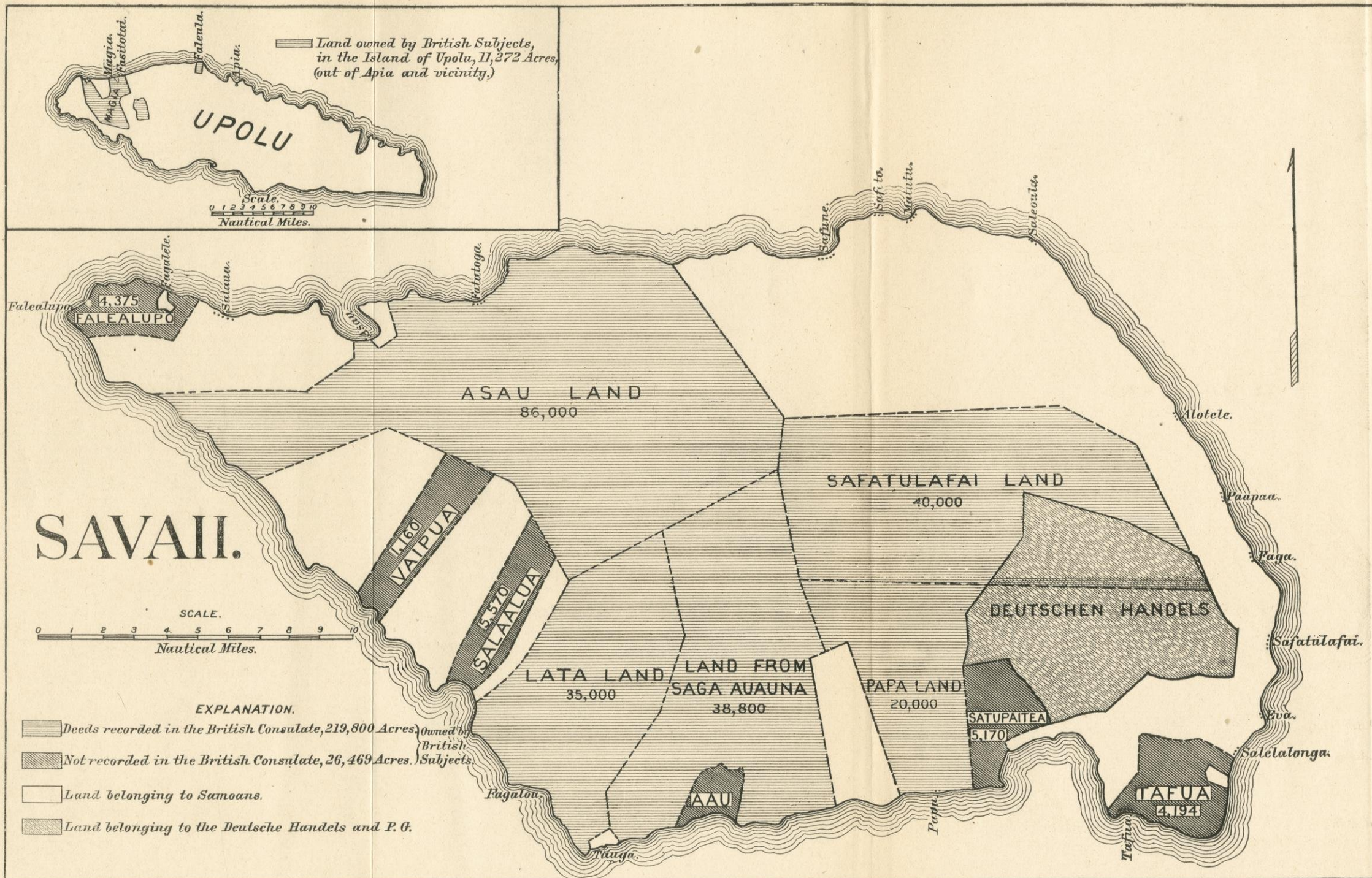
In New Zealand the absolute rights of the natives to their lands are recognized both by treaty and special legislation.

In the first instance the Government claimed the right of pre-emption to native lands, which they construed not into mere pre-emption, but sole right of purchase. This caused great dissatisfaction among both Europeans and natives.

After 1862, the right of dealing with natives in regard to land was thrown open to everybody, as well as to the Government, with this qualification: that native lands must first be passed through the native land court, before which tribunal the native title was ascertained, and it was declared who the owners were, and then either certificates of title or crown grants were issued to the person or persons so ascertained.

By legislation, at the last session of Parliament, private purchases from the natives have been virtually stopped (though not openly avowed), and it must now be done through the Government.

The first act creating the native land court was passed in 1862, and there has been much subsequent legislation upon the subject. The jurisdiction of the native land



court refers only to the ascertainment of titles prior to the disposal of these lands by the natives. The court consists of a chief judge and several associates, all of whom are white men, but some of whom must understand the Maori language. There is an official interpreter, who is sometimes a native. The chief judge is paid about eight hundred pounds a year, and the associate judges are paid from six hundred to seven hundred pounds a year.

The practice is, that whenever a white man wished to purchase a piece of land from the natives he would go to them, deal with them, and arrange the price, try to find out the owners, and probably pay down something on account. Though this transaction had no legal effect, it was usually necessary as a prerequisite to obtain an application by the natives to have their titles ascertained by the land court. After the application is made to the land court it is extensively advertised in a newspaper published in the Maori language and a day fixed for hearing, which is had, whenever practicable, near the spot, when the testimony of the natives who appear is taken. Usually there is no contest, but sometimes cases excite great interest among the natives, and lawyers are employed on both sides.

After the court has heard the evidence and given its decision as to who are the parties entitled, the proposed purchaser, who is usually present, has a conveyance drawn up, which is immediately executed by the natives to whom the title has been awarded, which must be in duplicate, the original being in the Maori language and the translation in English, and the correctness of the translation must be certified by an interpreter licensed by the Government. Then it must be presented to the native lands frauds prevention commissioner, an officer appointed by the governor, who inquires into the consideration, and ascertains that it has all been paid in money and no part of it in ammunition, intoxicating liquor, or any similar commodity, and that the transaction is fair. The certificate of this officer must also be indorsed, and the deed is then recorded and a certificate of title, or its equivalent in a crown grant, is issued to the purchaser.

With respect to the investigation of old land claims, prior to the establishment of the English Government in 1840, there were lands claims commissioners who investigated such matters and ascertained from the natives whether they thoroughly understood the deeds and what they had sold, and whether they understood the consideration, and whether it was reasonable and adequate.

At this time the Government restricted the amount of lands which might be taken under any grant to 2,560 acres, no matter what it purported to convey, or what was the amount of consideration. If it was shown that full payment had been made for a larger number of acres, the excess was taken by the Crown. This provision created great dissatisfaction both among the settlers and among the natives, and the result was that people were slow to go before the land commission to have their titles adjudicated, preferring to rest upon their native titles, which were usually recognized by the natives themselves.

After contests, extending sometimes many years, claimants who had been deprived of the excess of their purchases over the 2,560 acres allowed succeeded in obtaining compensation for what had been taken away from them.

[Inclosure G 1.]

APIA, July 12, 1886.

To his Excellency Dr. STUEBEL,
German Consul-General, Apia:

YOUR EXCELLENCY, SIR: I and my Government have received most correct accounts, the very truth itself, of the sales of guns and ammunition for war by Mr. Weber and his agents to a portion of the Samoan people, known as the rebels.

On this account I do most sincerely protest against the action of Mr. Weber and other foreign merchants, with the greatest humility before Your Excellency, the representative of His Majesty the Emperor of Germany, as such action is a direct violation of the law made by the Samoan Government at Mulinuu October 25, 1880. I shall be pleased to hear that you have succeeded in suppressing the conduct of which I have just been writing.

Your Excellency, I am,

MALIETOA,
King of Samoa.
MAMEA,
Acting Secretary of State.

I certify that the foregoing is a correct translation of the foregoing letter, made from the copy thereof in the Government House at Apia.

E. L. HAMILTON,
United States Vice-Consul.

[Inclosure G 2.]

APIA, July 14, 1886.

To His Majesty King MALIETOA:

YOUR MAJESTY: I received your letter, written to me on July 12 ult., and this is my reply. I am not pleased with the selling of arms by the German merchants, and I am working continually with them in order that they may cease from this business.

Yet from the time this law of October 25, 1880, was made by the Samoan Government up to the present time not one investigation or trial has been held for the breach of this regulation. The reason of this has been on account of the weakness of the Samoan Government. Foreign merchants from different parts of the world have sold guns to Samoans in the years lately past, and they still exhibit and offer guns to Samoans of each government and will continue to do so in the future.

It is the duty of the great powers to have this important matter adjusted properly. As for me, I have already written to my Government on the subject.

May you all live.

I am,

DR. STUEBEL,
German Consul-General.

I certify that the foregoing is a correct translation of the original letter, signed by Dr. Stuebel, and on file at the Government House at Apia.

E. L. HAMILTON,
United States Vice-Consul.

[Inclosure G 3.]

UNITED STATES CONSULATE,
Apia, April 1, 1882.

SIR: I have the honor to acknowledge receipt of your dispatch of yesterday's date, with two inclosures from Haupt-Agentur der deutschen Handels- und Plantations-Gesellschaft der Südsee-Inseln zu Hamburg, August Godefroy, making complaint against Mr. Nelson, of Safune, said to be under American protection, of having "repeatedly imported and sold fire-arms and ammunition, in contravention" to the Samoan law of the 25th of October, 1880, approved by three consuls "residing here."

In reply, I have the honor to inform you that Mr. Augustus Nelson, of Safune, Savaii, is under the protection of this consulate.

I have also the honor to inform you that Mr. Nelson will appear at this consulate Monday, May 15, 1882, to answer to the charge. I have to request that Mr. Godefroy have the witnesses named in his complaint here at that time to substantiate their charge.

I have the honor to be, sir, your obedient servant,

J. E. VARICK ALVORD.

O. VON OERTZEN,
Acting Imperial German Consul, Apia.

[Inclosure G 4.]

UNITED STATES CONSULATE,
Apia, April 1, 1882.

AUGUST GODEFROY, Esq.:

SIR: I have the honor to acknowledge the receipt of your letter of yesterday with a complaint against Mr. A. Nelson, of Safune, "selling arms and ammunition against the order of prohibition issued by the Government, &c."

I have to inform you that Mr. Nelson will appear at this consulate on Monday, May 15, 1882, to answer your complaint. I have to request that you will have the witnesses mentioned in your letter here on that date, to substantiate the charge.

I have the honor to be, sir, your obedient servant,

J. E. VARICK ALVORD,
Acting United States Vice-Consul.

[Inclosure G 5.]

UNITED STATES CONSULATE,
Apia, April 1, 1882.

Mr. AUGUSTUS NELSON :

SIR: I have to inform you Haupt-Agentur der deutschen Handels- und Plantagen-Gesellsch. der Südsee-Inseln zu Hamburg August Godefroy have lodged a complaint through the Kaiserlich Deutsches Konsulat für die Südsee-Inseln in this consulate against you for selling fire-arms and ammunition in Savaii, contrary to laws of the King and Government of Samoa dated the 25th day of October, A. D. 1880.

You will, therefore, please call at this consulate this day to answer to the above charge.

I have honor to be, sir,

J. E. VARICK ALVORD,
Acting United States Vice-Consul.

[Inclosure G 6.]

UNITED STATES CONSULATE,
*Apia, May 15, 1882.*G. VON OERTZEN, Esq.,
Acting Imperial German Consul :

SIR: At a court held at this consulate to-day, before myself and Tuiatafu, relative to a complaint made by "Deutsche Handels und Plantagen-Gesellschaft" against Mr. A. Nelson, of Savaii, viz, "that he had at divers times unlawfully sold to Samoans arms and ammunition" at Savaii, contrary to the laws of the King and Government of Samoa, &c., I have the honor to inform you that Mr. Nelson pleaded guilty to the charge. In consequence of certain extenuating circumstances he was fined \$50 and the costs of court.

I have the honor to be, sir, your obedient servant,

J. E. VARICK ALVORD,
Acting United States Vice-Consul.

[Inclosure G 7.]

UNITED STATES CONSULATE,
*Apia, May 18, 1882.*His Majesty MALIETOA LAUPEPA,
King of Samoa :

SIRE: I have the honor to inform you that the complaint against Mr. A. Nelson, of Safune, Savaii, for selling guns and ammunition in contravention of the laws of the 25th October, 1880, and approved by the consuls residing here, was this day heard.

Mr. A. Nelson pleaded guilty of the charge, but stated that he did not sell any arms until all the foreigners around him had sold them, and he swore he had never heard of the said law.

Decision of court: Fined \$50 and costs of court.

I have the honor to be, Your Majesty's most obedient servant,

J. E. VARICK ALVORD,
Acting United States Vice-Consul.

[Inclosure G 8.]

UNITED STATES CONSULATE,
*Apia, May 17, 1882.*G. VON OERTZEN, Esq.,
Acting Imperial German Consul :

SIR: I have the honor to acknowledge the receipt of your letter with two vouchers relative to "the expenses incurred by bringing up witnesses in re Nelson."

In answer, I have the honor to inform you that the witnesses for the plaintiff having come to substantiate his charge, and without summons from this consulate, will of course pay their own expenses.

I have the honor to return the two vouchers and close the correspondence so far as this case is concerned.

I have the honor to be, sir, your obedient servant,

J. E. VARICK ALVORD,
Acting United States Vice-Consul.

[Inclosure G 9.]

SEPTEMBER 6, 1886.

I, G. B. Pritchard, junior, make oath and say that from the 20th of August, 1886, up to the present time, the German firm of Deutchen Handels und Plantagen, &c., have, through their agent, P. Jensen, at Salailue ou Savaii, sold fire-arms to the natives of Samoa.

The natives do not take the arms away, but put their names on them and pay for them by degrees in Copra; some have already half paid the value of the rifles.

I am of the opinion that in case of war breaking out they would be allowed to take the rifles away from the store without further payment.

The rifles in question are Snider rifles, and the price is fifty dollars (\$50). I have seen sixteen of these rifles in the store at the same time.

P. Jensen has also cartridges which he is selling with the rifles.

GEORGE BAKER PRITCHARD

Witness:

ROBERT FLETCHER.

Sworn at the British consulate, Samoa, this sixth day of September, 1886.

Before me,

[SEAL.]

WILFRED POWELL,
Her Britannic Majesty's Consul.

[Inclosure H 1.]

PROCLAMATION.

We, the consuls of Germany, Great Britain, and the United States of America, hereby give notice that we and our Governments do not, and never have, in any way recognized Tamasese as King of Samoa, and order all Samoans to return to their homes and remain quiet and peaceable.

And we further demand the continued enforcement of the convention especially with regard to the neutral territory of Apia.

DR. STUEBEL,
Imperial German Consul-General.
WILFRED POWELL,
Her Britannic Majesty's Consul.
B. GREENEBAUM,
United States Consul.

APIA, May 27, 1886.

[Inclosure H 2.]

I luga o le "Mohican" le Manuao Unai
Setete i le Taulaga i Apia, Iuni 8, 1886.

U. S. ship of war Mohican, Apia Harbor
June 8, 1886.

O i matou nei ua tofia mai le Malo o Malietoa, ma i matou ua tofia mai i a Tamasese ma lana itu 'au.

Matou te matua tauto atu i le faamaoni o lenei Feagaiga.

(1.) Ia amata mat i le aso nei, ia oo atu i aso o lumanai, o le a tumau le filemu i Samoa ia oo i le faavayau.

We, the representatives of Malietoa and his Government, and we the representatives of Tamasese and his party, do hereby solemnly swear to the following agreement:

(1.) That from this day forward there shall be perpetual peace in Samoa.

(2.) O itu 'au foi e lua, Malieto ma Tamasese o le a nonofo nei lava i le fealofani ma le faaleaiga.

(3.) Ia amata lava i le aso nei e lepetia 'Olo uma ae maise foi e le toe feaveai o fana ma aupega eseese e uiga i taua e tagata uma o Samoa.

O le faamaoni ma lona mau ua tuuina atu ai o matou lima atoa ma o matou faailoga i le aso ma le tausaga ua muamua ona tusia.

Alii a Tamasese :

UO.
LEAVAI.
AUALIITIA.
ILI.
L. AMITUA.
SU'A F.
MAIAVA.

Alii a Malietoa :

AIONO.
TOOMATA.
LEITUALA + faailoga.
MOLIOO.
UTUMAPU.
NAEA.
PAU + lona faailoga.
SELU.

O i matou o Alii tofia o itu Malo tetele matou te molimau i leni feagaiga fealofani.

(2.) That the two parties of Malietoa and Tamasese shall live in friendship and cordial relations.

(3.) That from this date forward all forts shall be destroyed and that no fire-arms of a defensive nature shall be carried by any Samoan.

Tamasese's chiefs :

UO.
LEAVAI.
AUALIITIA.
ILI.
L. AMITUA.
SU'A.
MAIAVA.

Malietoa's chiefs :

AIONO.
TOOMATA.
LEITUALA + his mark.
MOLIOO.
UTUMAPU.
NAEA.
PAU + his mark.
SELU.

We, the representatives of the great Governments are hereby witnesses to the signing of this agreement of friendship.

DR. STUEBEL,
Imperial German Consul-General.
B. GREENEBAUM,
United States Consul.
WILFRED POWELL,
Her Britannic Majesty's Consul.

[Inclosure J 1.]

CONSTITUTION FOR SAMOA.

[From the Samoa Times, Saturday, September 21, 1878.]

The terms for which the first Taimua, consisting of seven members, had been elected in 1873 having expired for some time, the Faipules of the different districts in Samoa elected, in January, 1875, two Kings to represent the two families of Malietoa and Tupua, fearing that otherwise troubles would arise, and besides a Taimua of fourteen was appointed. The Kings were publicly proclaimed at Mulinuu on the 7th of January, 1875, and the foreign consuls were then asked to draft a constitution for the Samoan Government adapted to the circumstances then existing, and to assist in establishing the same on a proper footing; also a committee of seven Taimua members was appointed to consult with the consuls. The latter then went to work at once and succeeded in a few weeks so far as to be able to submit the more essential points of the following document for consultation to the said committee. After lengthy deliberations the largest portion of the proposals made by the consuls had been got through, and were accepted with some alterations. A good number of meetings had already taken place, and laws were being framed to regulate matters wherein the interests of natives and foreigners clashed, when the U. S. S. Tuscarora arrived in Samoa, on the 1st of April, 1875, with Colonel Steinberger, in consequence whereof the matter was dropped entirely by the Taimua and Faipule.

The points of interrogation (?) mark matters which were left to be the subject of future deliberation.

The Kings.

1. There shall be elected by the Faipule two Kings; one from the Malietoa family, and one from the Tupua family. The Kings, or either of them, cannot be deposed except by vote of four-fifths (?) of the Faipule.
2. In case of the death of either of the Kings a meeting of the Faipule shall be immediately called by the Taimua to elect his successor.
3. It shall be lawful for the Faipule to limit the dignity of the King to one representative of either the Malietoa or Tupua family, and his heirs for all time coming.
4. The Kings in coming into authority shall take the following oath: "O au o le Tupu, &c."
5. The Kings shall convene a session of the Faipule once a year, in the month of December, which session is not to extend beyond four weeks' duration. They shall open and dissolve the said sessions of the Faipule in person.
6. They must at the request of two-thirds (?) of the Taimua, convene an extraordinary meeting of the Faipule.
7. It shall be the duty of the Kings to see that the Taimua rightly discharge their duties according to the constitution; and in case of any flagrant neglect of duty they shall have power to convene an extraordinary meeting of the Faipule, at which meeting they shall without delay require the Faipule to investigate the matter, and if it be deemed necessary depose the member or members of the Taimua.
8. The Kings shall have the right of being present at all meetings, and taking part in all discussions of the Taimua. They shall also have an equal vote with any other member of the Taimua.
9. All measures passed by the Taimua or Faipule shall require the signatures of the Kings and president of the Taimua before they come into force.
10. In case of the death of any member of the Taimua the Kings shall at once appoint a Faipule to fill up the vacancy temporarily, as more particularly specified under the Taimua—Art. 3.
11. The Kings, with the sanction of the Taimua, shall have the power to commute sentence of death to imprisonment for life.

The Taimua.

1. There shall be elected by the Faipule for a term of not less than one year, and not more than three years, fourteen Taimua, who shall be eligible for re-election, and who shall remain in office until their successors are elected.
2. No member of the Taimua can be deposed from office except by a vote of two-thirds (?) of the Faipule, in which case they shall at once fill up such vacancy. In case of bad conduct, however, any member or members may be suspended by a vote of two-thirds of the remainder till the next meeting of the Faipule.
3. In case of a vacancy occurring among the Taimua, on account of death, the Kings shall, without delay, appoint a substitute, who shall remain in office only until the next ordinary meeting of the Faipule, when the vacancy shall be filled up.
4. The Taimua on coming into office shall take the following oath: "O au o le Taimua, &c."
5. The entire responsibility of the Government of Samoa rests with the Taimua.
6. The Taimua shall receive and acknowledge representatives of foreign nations, have the power to make treaties, appoint all Government officers, superintend all financial matters, and take charge of Government property.
7. They shall elect one of their number, who shall preside at, open, and close all their meetings, preserve order, and take the votes. He shall only be entitled to vote himself in case of an equality of votes. He shall also sign all official correspondence.
8. They shall appoint a secretary who shall keep records of all their proceedings, and carry on all correspondence.
9. They shall appoint a treasurer who shall keep all accounts and manage all financial business.
10. They shall appoint three standing committees of their number, each to consist of three members; one to keep an oversight of all incoming and outgoing moneys, and annually audit the treasurer's accounts; a second to superintend all Government officers, and see that they rightly discharge their respective duties; and a third to superintend the public roads and Government buildings, and see that these are duly kept in repair; these committees to give a monthly report to the whole Taimua.
11. They shall present a statement to the Faipule during each December session of all important measures transacted by them during the year, and also a statement of the income and expenditure during the year, and an estimate of the same for the following year.
12. No meeting of the Taimua shall be held unless ten of their number be present; and no member shall be allowed to absent himself from the seat of Government a longer

period than three days without obtaining special permission from an ordinary meeting of the Taimua.

13. The Taimua alone shall have the power to alter any law or article of the constitution or to add any new law; but such addition or alteration can only be made after three months' notice has been given to the council (au filifili?), the consuls of the foreign nations and the representatives of foreigners in Samoa. They shall consult with the consuls and obtain their advice before any such law, &c., can be carried into effect, in order that the hearty co-operation and good-will of the great nations may be secured. They shall also give due consideration to any objection of the (au filifili) council against such alteration of constitution or enactment of new laws, but no such objection of the council can have the force of a veto on the action of the Taimua.

14. No law shall be enacted or any alteration of the constitution made affecting the interests of foreign residents, unless after having duly consulted their representatives and obtained their consent.

The Faipule.

1. There shall be appointed by each state (itu malo) forty (?) Faipule, whose names shall be enrolled in a book kept by the Taimua for the purpose. They shall be in office for two years, shall be eligible for re-election, and shall remain in office until their successors are elected.

2. The Faipule on coming into office shall take the oath: "O au o le Faipule, &c., &c."

3. The Faipule shall once a year, during the month of December (?), on being summoned by the Kings assembled at the seat of Government, for the purpose of receiving the annual reports of the Taimua, fitting up vacancies among the Taimua, and transacting any other business which may be necessary or which may be brought before them by the Taimua—250 (?) to form a quorum. They shall also, on receiving a special summons from either the Taimua or Kings, immediately assemble at the seat of Government for the transaction of any extraordinary business, such as specified under "Kings," Articles II and VII.

4. No Faipule shall be at liberty to bring up any matter for consideration without first giving notice of it in writing to the president, who shall read the same to the Faipule on the day previous to its discussion.

5. Any new law or amendment, or alteration of any law or article of the constitution, passed by the Taimua, may be repealed only by a majority of four-fifths (?) of the Faipule who are present at the annual meeting.

6. They shall elect one of their number who shall preside at, open, and close all their meetings, preserve order, and take votes.

7. They shall appoint a secretary, who shall keep records of all their proceedings.

8. The Faipule shall appoint eight (?) of their members from each district to remain at the seat of Government, for the purpose of aiding the Taimua by their advice when necessary, and of laying before the Taimua for their consideration any measures which they may desire to be carried into law; the president of the Faipule ex officio to be a member of this council. They shall be called the "au filifili" (?) (council), and their names shall be enrolled in a book kept for the purpose by the Taimua.

8. Any measures which the council (au filifili) may wish to bring under the consideration of the Taimua must be presented to them in writing; but it shall be lawful for a deputation of them to meet the Taimua for consultation on any case in which the Taimua may specially require it.

10. No member of the Faipule can be deposed from office except by a vote of 200 of his fellow members, when the place thus becoming vacant shall be at once filled up by the state which appointed him. Any member or members of the au filifili may be suspended by a vote of two-thirds of the remainder, till the next meeting of the Faipule, when the case shall be decided as above.

The Faamasino judges.

1. The Taimua shall appoint one chief judge and two assistant judges, who shall hold a supreme court at the seat of Government, try all capital offenses and all cases of appeal from any of the district judges. Two judges may hold the court.

2. The Taimua shall appoint as many district judges as may be necessary, not exceeding thirty, who shall try all ordinary cases that may arise within their jurisdiction.

3. The judges on coming into office shall take the following oath: "O au o le Faamasino, &c., &c."

4. The judges shall hold their appointments for life, unless they prove to be incapable, or are found guilty by the Taimua of bad conduct, or any flagrant breach of the laws; in any which case they shall be at once deposed by the Taimua, and the vacancy or vacancies thus caused filled without delay.

5. The district judges shall keep records of all cases brought before them, and of the sentence passed by them. They shall send an abstract thereof every month to

the chief judge, and report what sentences have been carried out. They shall at the same time remit all fees and fines which have been collected to the treasurer. The chief judge shall also present an abstract of the whole, quarterly, to the Taimua. He shall also pass over monthly to the treasurer all moneys collected for fees and fines at the supreme court.

6. The district judges shall proclaim all new laws, or alteration of the laws or constitution, and collect all taxes imposed by the Government, forwarding them at once to the treasurer. They shall keep full accounts of the same; a copy of which they shall also send on to the Taimua without delay.

7. No district judge shall be at liberty to leave his district for more than one week without the special permission of the chief judge, who shall appoint some one to act in his stead during his absence.

8. No judge of the supreme court shall be at liberty to leave the seat of Government for more than three days without the permission of the Taimua, who shall appoint some one to act during his absence.

The Leoleo.

1. The Taimua shall appoint twenty Leoleo for the seat of Government, and twenty Leoleo for each state (itu malo), whose duties shall be to keep the peace, preserve order, arrest criminals and disorderly persons, and carry out the orders of the judges, under whose authority they shall be. The Leoleo at the seat of Government shall also act as messengers to the Taimua.

2. The Leoleo upon entering upon office shall take the following oath: "O au o le Leoleo," &c.

3. They shall remain in office as long as they conduct themselves with propriety. In the case of any of them being guilty of bad conduct the district judge shall at once suspend him from office, appoint some one to act in his place temporarily, and report the matter to the chief judge, who shall investigate the case, punish the Leoleo, and report to the Taimua, who shall then, if necessary, make a new appointment.

4. The Leoleo shall wear a distinguishing dress, to be decided on by the Taimua, and no other person shall be at liberty to wear it. This dress shall be supplied by the Government and looked upon as Government property.

5. The Leoleo shall have the right to make arrests, quell disturbances, and to call in the aid, when absolutely necessary, of any person.

6. If any Leoleo arrests any person contrary to law, he shall be liable to suspension and punishment according to Law III.

7. No Leoleo shall be at liberty to leave the district in which he has his appointment for more than twenty-four hours without having obtained special permission from the judge of the district, who shall appoint a substitute for him before he grants the leave applied for.

ESTIMATE OF ANNUAL INCOME.

Poll-tax (\$2 per annum for every male, to be levied half-yearly), say	.....	\$20,000 00
Fees, fines, &c., say	.....	5,000 00
		25,000 00

EXPENDITURES.

2 Kings, at \$500 each	.....	1,000 00
14 Taimua, at \$200 each	.....	2,800 00
57 Au Filiili, at \$30 each	.....	1,710 00
223 Faipule, at \$10 each	.....	2,230 00
Chief judge	.....	200 00
2 assistant judges, at \$100 each	.....	200 00
30 district judges, at \$60 each	.....	1,800 00
20 Government Leoleo, at \$50 each	.....	1,000 00
104 district Leoleo, at \$25 each	.....	3,500 00
Secretary of Taimua	.....	100 00
Secretary of Taipule	.....	60 00
Treasurer	.....	200 00
Stationery, &c.	.....	100 00
1 jailer	.....	60 00
2 assistant jailers, at \$50 each	.....	100 00
		15,060 00

Total income	25,000 00
Total expenditure	15,060 00

Balance	9,940 00
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Balance to be expended in erecting Government buildings, repairing roads, and providing for all expenses not included in the above estimate of expenditure.

[Inclosure I 2.—Draft proposals.—Mr. Thurston.]

SAMOAN COUNCILS OF STATE.

(1) *The King's council, or Taimua.*

1. This council to consist of the King, the Vice-King, three foreign nominees, as hereafter provided, and chiefs from the several districts of Samoa, in number as follows: From Aana, 2; from Atua, 2; from Apolima and Manono, 1; from Savaii, 6; from Tuamasaga, 2; from Tutuila, Mauna, Olosega, Ofa, and Aunu'u, 2.

2. The King and Vice-King to be of the Malietoa and Tupua families, with succession to the Kingship alternating in the two families.

3. The chiefs of the King's council, or Taimua, to be elected by the people of the districts named, and to hold their seats for life, but with liberty to resign, and subject to removal for treason, felony, or other high misdemeanor.

4. All vacancies of natives occurring in the council to be filled, as originally, by the election of the people.

5. There should be three foreign members of the King's council, nominated by Germany, Great Britain, and the United States of America. These officers should hold the posts of chief secretary and leader of government, treasurer, and secretary for lands and works, as may be agreed upon by the three powers.

6. These three officers should have seats in the lower council and join in its debates.

7. Provision for the salary of the three officers provided for above should be secured by a permanent appropriation act, and no officer filling either of such offices should be dismissed from his post except in manner to be provided for by law.

8. A certain number (say three) native members of the King's council should be charged with such executive duties as might be necessary, and for which they appeared competent. These offices to be held subject to good behavior.

9. The King's council should appoint the chief magistrate of Samoa and all minor magistrates. The chief magistrate should be an American or European.

10. The King's council should appoint all the officers required for the administration of public affairs in the districts.

The governors or head chiefs of districts to be those elected or actually recognized as such by the people.

11. The King, with the advice of the council, should have the right of *veto*.

12. In the absence of the King the chief secretary should be president of the council.

13. The president should have a casting as well as a deliberative vote.

(2) *The Legislative Assembly, or Faipule.*

1. The Assembly to meet annually in the month of ——— at such place as shall have been decided upon at the annual meeting next preceding.

2. The first meeting to be at ———.

3. The Assembly to consist of representatives from the before-mentioned districts, who should be elected triennially, one representative to be elected for every 2,000 people in the districts severally.

4. The chief secretary, the treasurer, and the secretary for lands and works to have seats in the Assembly.

5. The Assembly should elect its chairman and officers.

6. All laws, including those in respect of revenue and expenditure, to originate in and be passed by the Legislative Assembly; but no laws should in any way affect the municipality of Apia, which, for the present, may be compared to a free city.

7. No laws to be passed affecting the jurisdiction of Her Britannic Majesty's high commissioner's court, nor the consular courts of other foreign powers, excepting of the nature and to the extent that may be determined by treaty.

(3) *Apia municipal council.*

1. The municipal council to consist of nine members, of whom the consuls of the treaty powers should each appoint three, not necessarily their own countrymen.

2. All regulations passed by the council under Art. III of the Convention of the 2d September, 1879, before becoming law to be referred to such consuls, hereinafter called the "Consular Board," who should either approve and return such regulations or suggest such amendments as may be deemed necessary by a majority of such board.

3. Should such amendment not be accepted by the council, the consular board thereupon to appoint a day (not later than one month from the date of such appointment) for the further consideration by the council of the proposed amendments.

Should the suggested amendments of the consular board be adopted the amended regulation thereupon to become law: *Provided always*, That any regulation as originally proposed should become law if passed by a majority of two-thirds of the full council at any meeting subsequent to the day appointed as aforesaid: *And provided further*, That such regulation did not conflict with the jurisdiction of the high commissioner's or consular courts, of which the board shall be the sole judges.

The chief magistrate of Samoa to be the magistrate for the municipality of Apia. He should have jurisdiction over all persons whatsoever in respect of breaches of the municipal regulations and in respect of such other matters as may be conceded by the powers possessing treaty relation with Samoa.

Excepting as regards matters so conceded, the municipal magistrate should have no jurisdiction over subjects or citizens of either of the treaty powers or over any persons properly under their protection in respect of things provided for by any act or order in council heretofore or hereafter to be passed by either of such powers under treaty rights establishing consular or other courts of judicature in the Samoan Islands.

[Inclosure I 3.]

HINTS RE FUTURE GOVERNMENT SAMOA.

The principal object of any government in these islands should be to improve the condition of the natives as well as to give security to the foreigners. To do this effectively what is good in the native laws and customs should be preserved.

The governing power should be natives assisted by intelligent and trustworthy foreigners.

The three countries interested should agree to give one of their number control. Triangular control would be impracticable.

The governor or resident appointed by the controlling power to be approved by the other two, and to be empowered to call in the assistance of any ship of war, if necessary, belonging to any of the three contracting powers.

The government of these islands should not in any way be affected by European complications, otherwise matters here would be kept in a constant state of suspense.

Neither Germany nor Britain are in a position to assume and maintain unbiased control over these islands.

German interests are in the hands of one company, and German rule would be for the benefit of that company alone. The company would really be the ruling power. German policy in Samoa would be very much guided by and subservient to their general foreign policy.

Britain is much in the same position, although her interests here are spread over a greater number of people. Recent events have shown that the British foreign office cannot be trusted to stand firm by local laws and authorities when pressure is brought to bear on it by another great power. The United States is the only power interested in Samoa that is perfectly independent, and could not be influenced by outside complications. On that account she is the only power that can secure to Samoa a stable and independent government in the future.

Samoa and Tonga, controlled by the United States or the Australasian colonies, would form halting stations on the great commercial road between the two great English-speaking nations of America and Australasia.

The executive government should be a governor, appointed by the United States and approved by Britain and Germany, assisted by the high chiefs Malutoa and Tamasese. These two high chiefs would represent the two great parties into which the country is divided, and the foreign governor would, of course, represent the interests of the three powers.

This body would have the sole power of appointing and dismissing officials.

All the laws should be made by a representative body composed of the principal chiefs, this body to be assisted by a white secretary appointed by the board of governors.

The government should consist of three departments, namely, the judicial, which would include the police, &c. (land survey and public works), and the treasury and revenue departments.

Foreign treaties to be altered so that customs duties for revenue purposes can be levied at the principal ports in the group.

The governing machinery in force at the present time to be utilized as much as possible.

The Samoans will never unite under one king; the party feeling existing now has been the growth of generations. Malutoa and Tamasese are the acknowledged heads of their respective parties. Make them equal governors with the resident appointed

by the three powers and you remove all cause of complaint, and you can use these chiefs for the purpose of governing the country.

(1) That he believes that if the better classes of the foreign element living in Samoa were to take control of the government and administer it properly, that they would not only find such action beneficial to themselves, but that they would, as soon as their designs were well understood, have the assistance of all the natives, who would see in this movement prospect of a lasting peace and freedom from the machinations of would-be kings.

(2) That as it is self-evident that there is not in Samoa a native chief who is competent to rule more than a small native community, it is the opinion of the writer that these chiefs should be no longer suffered to misrule more territory than the districts to which they respectively belong, and that even in this they should be more or less under the control of a central government at Apia.

(3) That as it is absolutely necessary for a foreigner to act as premier, such foreigner should, if possible, be of such nationality as has the greatest interest at stake in Samoa.

(4) That it is equally necessary that from four to six other foreigners of mixed nationalities should assist as cabinet ministers, and they in turn have the assistance of from ten to twenty of the most advanced natives and half-castes as subordinates.

(5) All government employes to be obliged to devote their whole time to their duties and not engage in other business.

(6) That employes of the government be paid moderate salaries, and the necessary funds for such purpose and for the other uses of the government to be raised by a poll tax, by import duties on spirits and other goods sufficient only to defray the working expenses, and to erect a few necessary buildings for public purposes.

(7) That it be provided for in the beginning that after a certain period, say two or three years, all offices become vacant and candidates be offered and elected to fill the vacancies, and that any officer who has faithfully performed his duties is eligible for re-election.

The writer could add much more on the subject, but will refrain from so doing, adding only a rough estimate of the probable cost of paying government employes as suggested.

The whole affair would necessarily be very primitive indeed, but would, nevertheless, be a vast improvement over the present inaction.

Premier	\$2,500
Chief justice	2,000
3 ministers, \$1,500	4,500
1 secretary	1,200
1 secretary	1,000
3 secretaries, \$900	2,700
1 pilot (Apia)	1,200
1 pilot (Matauta)	100
10 governors, \$600	6,000
10 faamasinoi, \$400	4,000
10 sheriffs, \$240	2,400
10 under-sheriffs, \$120	1,200
40 petty chiefs, \$120	4,800
80 leo-leos, \$60	4,800
20 soldiers (Apia), \$200	4,000
1 officer	600
1 officer	400
Land	7,000
Buildings and boats	8,400
Extras, &c	5,000
Total	71,000

RESOURCES.

Poll-tax, \$2 on 25,000	\$50,000
Apia municipal rates	6,000
Spirit tax, per gallon, 75 cents—8,000 gallons	6,000
Beer tax, per dozen, 62½—6,000 dozen	3,750
Ad valorem, 3½ per cent. on \$350,000 imports	12,250
Total	78,000

[Inclosure K 1.]

HER BRITANNIC MAJESTY'S CONSULATE,
Samoa, September 27, 1886.

SIR: I have the honor to inform you that I have received a dispatch from Her Majesty's secretary of state for foreign affairs in which I am instructed to request you to retire from the office of municipal magistrate at the expiration of six months from the 3d of April last.

At the same time I would venture to convey to you my expressions of regret on losing the services as police magistrate of so able and efficient an officer as you have proved yourself to be.

I am, sir, your most obedient humble servant,

WILFRED POWELL,
Her Britannic Majesty's Consul.

THOS. MABEN, Esq.,
Municipal Magistrate, Apia.

[Inclosure K 2.]

APIA, *October 1, 1886.*

SIR: I have the honor to acknowledge the receipt of your letter of the 27th instant, in which you state that you have received instructions from the secretary of state for foreign affairs to request me to retire from the position of municipal magistrate of Apia; at the same time expressing your regret at losing the services, as police magistrate, of so able and efficient an officer as I have proved myself to be.

I reply to your letter I beg to say that as you have given me no reasons whatever as to why this remarkable request is made, I feel compelled to assert my rights as a free man and to tell you that I do not consider myself the servant of the British foreign office, but of the municipal board, and when a majority of that body, who elected me, request me to resign, I shall do so, but not till then. Had I been guilty of any dereliction of duty in my capacity as magistrate, I could have understood being asked to retire, but after reading the concluding paragraph of your letter I certainly feel that I would be acting an undignified part were I quietly to submit to the demand of an authority that in this case I do not recognize.

In most civilized countries, where men are employed in an official capacity without any definite term being fixed for their retiring, they—if they have performed the duties of their office faithfully—generally get timely notice that their services will be dispensed with, or a money equivalent for the same, but in this case you, or as you state, the British foreign office, request me to retire from a purely local and hitherto non-political position, when the doing so would cancel any just claim I could have for compensation on account of no notice having been given to me. This I consider not only an unfair but an arbitrary request.

For these reasons, I shall not voluntarily resign my position as municipal magistrate in accordance with the request contained in your letter, but will wait and submit to the decision of the municipal board.

I am, sir, your obedient servant,

THOS. MABEN.

WILFRED POWELL, Esq.,
Her Britannic Majesty's Consul.

[Inclosure K 3.]

MUNICIPALITY OF APIA.

Municipal Regulations, 1879-1886.

Municipal Board, March, 1886.—Dr. Stuebel, Imperial German consul-general; Wilfred Powell, esq., her Britannic Majesty's consul; B. Greenebaum, esq., United States consul; Messrs. H. Martin Ruge, S. Dean, J. E. V. Alvord; treasurer, H. Martin Ruge; collector, municipal magistrate; health officer, Dr. Ross, M. B.; pilot, A. Schmidt; municipal magistrat's, T. Maben.

Concerning the treasurer.

III. A treasurer shall be elected whose duty it shall be to take charge of all public moneys, and to disburse them only under an order from the municipal board. The treasurer shall receive as compensation for his services a commission not to exceed 5 per cent. of all public moneys paid into the treasury during his term of office.

LVI. The treasurer shall receive and take charge of all moneys payable to the municipality and give receipts for the same.

LVII. The treasurer shall not pay out any such moneys except on a draft approved by the municipal board, or on a written order from the municipal board.

LVIII. The treasurer shall keep an account of all moneys received and disbursed, which account he shall render to the municipal board at their meeting on the first Friday of each quarter.

Dated at Apia, Samoa, December 6, 1879, and January 12, 1880.

Concerning public houses and intoxicating drinks.

VIII. No one shall have the right to sell intoxicating drinks by retail without first obtaining a license from the municipal board of Apia, which license shall be paid for quarterly in advance on the first day of January, April, July, and October, at the rate of \$10 per month, provided his sales of such drinks do not exceed \$250 per month; and at the rate of \$12 per month if his sales of such drinks exceed \$250 per month.

IX. Any one convicted of selling intoxicating drinks by retail without a license shall be fined not to exceed \$50 (and one-half of the fine imposed shall be paid to the informer), or shall be imprisoned with or without hard labor not to exceed six weeks.

NOTE.—Retail means less than an original case, or less than 2 gallons of liquor imported in bulk.

X. Any licensed publican who shall sell or supply any intoxicating drink to a Samoan, or to any native of the islands of the Pacific Ocean, shall, on conviction, be fined \$5, or shall be imprisoned six days. Such conviction shall be indorsed on his license by the magistrate, and when two such indorsements have been made thereon, the offender's license shall be canceled immediately.

XI. No licensed public house shall be opened to the public before 5 a. m., nor after 11 p. m. on week days; nor before 1 p. m. nor after 11 p. m. on Sundays, unless a special license has first been obtained for the occasion. Any breach of this regulation shall be punished by a fine of \$10, and such breach thereof shall be indorsed on the offender's license, which may be canceled for the third offense.

XII. Any licensed publican who shall sell or supply liquor to any person in a state of intoxication shall, on conviction thereof, be fined not to exceed \$5, and for the third offense his license may be canceled.

Regulations XIII and XIV amended.

XIII. Any person who shall supply or sell any intoxicating drink to a Samoan, or to any other islander of the Pacific Ocean, without a written order from a person permitted to give such an order shall be fined, not to exceed \$25, or imprisoned not to exceed thirty days.

XIV. Any Pacific Islander found intoxicated, or in possession of intoxicating liquor on his person or his premises shall be fined not to exceed \$10, or imprisoned not to exceed twelve days.

On reasonable suspicion, the police are authorized to enter any native house to make arrests and confiscate any intoxicating liquor.

Dated, Apia, 2d May, 1884.

XV. Any person found intoxicated and disorderly on the public highways shall be fined not to exceed \$10, or shall be imprisoned, with or without hard labor, not to exceed twelve days, and shall be liable for any injury or damage done.

Dated at Apia, Samoa, December 31, 1879.

CVIII. Any person supplying or conveying, or causing to be supplied or conveyed, any intoxicating liquor on board of any vessel in the harbor of Apia without an order in writing signed by the master of such vessel shall, on conviction, be fined not to exceed \$50, or sixty days' imprisonment. If a licensed publican or boatman be convicted of the above offense he shall be liable to have his license canceled.

Dated at Apia, Samoa, April 1, A. D. 1881.

Concerning fire-arms.

XVI. On and after the first day of January, 1880, the sale of fire-arms and ammunition is hereby prohibited without a special license from the municipal board. Any breach of this regulation shall be punished by a fine not to exceed \$200 (and one-half

of the fine imposed shall be paid to the informer), or by imprisonment not to exceed six months, with or without hard labor, or by both fine and imprisonment not to exceed the above-mentioned penalties.

Concerning trades and professions.

XVII. Any person following or exercising any of the professions, trades, or callings enumerated in the schedule annexed to this regulation, whether jointly with any other profession, trade, or calling, or otherwise, shall take out a license and pay a license fee at the rate per year set forth in said schedule. All such licenses shall, on application, be issued by the municipal board, for three, six, nine, or twelve months, on payment in advance of the quarterly fee required in respect of each profession, trade, or calling, and in all cases licenses shall date from the first day of January, April, July, or October, and shall expire on the last day of March, June, September, or December, as the case may be.

XVIII. Persons exercising following, or engaging in any of the professions, trades, or callings enumerated in the schedule aforesaid without a license at any time after the lapse of seven days from the first day of the months of January, April, July, and October, respectively, shall on conviction in a summary manner forfeit a sum not exceeding \$100, or in default of payment shall be imprisoned not to exceed seventy-five days.

XIX. There shall be five classes of licenses in general for stores.

SCHEDULE.

Class I. All stores whose monthly sales are above \$2,000 shall pay for a first-class license at the rate of \$100 per annum.

Class II. All stores whose monthly sales are below \$2,000 and above \$1,000 shall pay for a second-class license at the rate of \$48 per annum.

Class III. All stores whose monthly sales are above \$1,000 and above \$500 shall pay for a third-class license at the rate of \$36 per annum.

Class IV. All stores whose monthly sales are below \$500 and above \$250 shall pay for a fourth-class license at the rate of \$24 per annum.

Class V. All stores whose monthly sales are below \$250 shall pay for a fifth-class license at the rate of \$12 per annum.

Special licenses.

Nature of license :	Per annum.
Attorney, barrister or solicitor	\$60
Auctioneer or commission agent	24
Baker	12
Banks or companies carrying on banking business	60
Barber	6
Blacksmith	6
Boat-builder	6
Butcher	12
Cargo-boat or lighter, plying for hire	6
Carpenter	6
Photographer or artist (not employed)	12
Engineer	12
Engineer, assistant	6
Engineer, apprentice	3
Pilot	24
Printing-press	12
Sailmaker (not employed)	6
Ship-builder	6
Shoemaker	6
Surveyor of land	6
Tailor	6
Watermen (not employed) for each boat	6

LXXIV. Every salesman, bookkeeper, and clerk, whose salary, wage, or pay does not exceed \$75 per month, shall take out a license, for which he shall pay \$3 per annum, and every such person whose salary, wages, or pay exceeds \$75 per month shall take out a license, for which he shall pay \$6 per annum. Any violation of this and the preceding regulation shall be punished according to Regulation XVIII. Board and lodging provided by the employer to be reckoned as salary at the rate of \$30 per month

Unlicensed traders.

XX. All persons other than licensed butchers selling fresh meat within the municipality shall pay a tax of 1 per cent. on their sales.

Concerning fast riding.

XXV. Fast riding through the streets of Apia is hereby prohibited, and the police are hereby authorized and instructed to arrest any person violating this regulation, who shall be fined not to exceed \$5, or who shall be imprisoned with or without hard labor not to exceed six days for each offense, and shall be liable for injury and damages done.

Concerning animals.

XXVI. Any person tying horses or cattle in such a manner that the animals may be on the public roads and paths, or so that the ropes may extend across said roads and paths, shall be fined not to exceed \$2 for each offense of each such animal, and shall be liable for injury and damages done.

This regulation shall not be so construed as to apply to horses and vehicles in waiting in front of any premises, provided that the same do not in any way obstruct the free passage of the road.

Dated Apia, October 3, 1884.

XXVII. For stray animals within the municipality of Apia the fines shall be as follows, viz:

For a horse, not to exceed	\$5 00
For a bull, not to exceed	5 00
For a cow or a calf, not to exceed	3 00
For a pig or a hog, not to exceed	1 00
For a sheep, not to exceed	25
For a goat, not to exceed	25

and the owner shall be liable for injury and damages done.

Concerning public exposure.

XXVIII. The police are hereby authorized and instructed to warn any one when necessary against the indecent exposure of his person in public, and against committing any nuisance in any public place under penalty of being fined not to exceed \$5 for each such offense, or of being imprisoned with or without hard labor not to exceed six days.

Concerning public gatherings.

XXIX. Public assemblies of Samoans from districts outside the Tuamasaga territory will not be allowed within the municipality of Apia without special permission from the municipal board. And on all such occasions the discharge of fire-arms is hereby prohibited when other than blank cartridges are used.

Concerning prisoners and deserters.

XXX. Any one harboring or concealing any escaped prisoner or deserter from a ship of war or merchant vessel shall be fined not to exceed \$10, or imprisoned not to exceed twelve days with or without hard labor, for each offense.

XXXI. Any one aiding a prisoner to escape or a sailor to desert from a vessel shall be fined not to exceed \$10, or shall be imprisoned with or without hard labor not to exceed twelve days.

Concerning assaults upon public officers.

XXXII. Any one assaulting or in anywise molesting any member of the municipal board shall be fined not to exceed \$200, or shall be imprisoned with or without hard labor not to exceed six months, or shall be fined and imprisoned not to exceed the before-mentioned penalties.

Concerning taxes.

XXXIII. A tax of 1 per cent. shall be levied on the real value of all houses and lands, except churches, hospitals, and schools within the town and district of Apia, payable to the treasurer quarterly in advance.

LXXXIII. So much of Regulation XXXIII as applies to the property of Samoans, or other natives of the Pacific Ocean, is hereby repealed, and a poll tax of \$1 per annum, payable in advance, shall be levied on all male adult Samoans, or other male adult islanders of the Pacific Ocean resident within the municipality.

LXXXVI. Any person who shall neglect or refuse to comply with the provisions of municipal Regulations XXXIII, XXXIV, and LXXXIII, shall on conviction be fined not to exceed \$100, or in default to be imprisoned not to exceed seventy-five days.

XXXIV. All male persons of the age of twenty-one years, except ministers of the gospel, priests, teachers, and representatives of foreign Governments, not paying taxes or licenses otherwise, shall pay a head tax of \$1 each annually in advance.

Concerning police.

XXXV. There shall be one chief of police for the municipality of Apia, and as many subordinates as may be necessary to preserve good order and to protect the lives and property of those within the municipality.

XXXVI. All policemen shall be appointed by the municipal board, and shall be subject only to their authority and instructions and hold office during their pleasure.

XXXVII. The chief of police shall have the right to nominate his subordinates, but their appointment must be confirmed by the municipal board; or said nominations may be rejected by the municipal board who may then nominate and appoint such subordinate policemen as they deem most suitable.

XXXIX. There shall be a place where the chief of police can be found when not on duty, and his subordinates shall report to him at such times and places as he may direct.

XL. Any member of the police force who shall receive any remuneration, other than his salary, for any official service, shall pay the same to the municipal board, or be liable to be dismissed.

XLI. Any person interfering with a police officer in the discharge of his official duties shall on conviction be fined not to exceed \$50, or shall be imprisoned with or without hard labor not to exceed six weeks for each offense, or shall be both fined and imprisoned.

XLII. Any policeman who shall leave the service without permission, or without a fortnight's previous notice of his intention to do so, shall forfeit his wages, and may be punished otherwise.

Dated at Apia, Samoa, December 31, 1879.

Concerning supervisors.

XLIV. The supervisors are hereby authorized to hold stated meetings on the first Monday in each month.

XLV. The supervisors shall keep a minute book of their meetings, and report once a quarter all business transactions to the municipal board; and publish annually the first week in January in the local newspaper a full report of the receipts and disbursements on account of the municipality during the past year.

XLVI. So much of Municipal Regulation IV, Vol. I, No. 1, 1879, as says, "and as their office is an honorary one, they shall not receive any compensation," is hereby repealed, and each supervisor shall be paid for his official services, when the funds of the municipality will admit of it, \$5 for every day on which they hold a meeting.

XLVII. The supervisors shall examine and recommend to the municipal board for allowance, or otherwise, all accounts and claims against the municipality.

XLVIII. The supervisors are hereby authorized and empowered to lay out and direct a survey of all roads, streets, and alleys necessary for the public convenience and health within the municipality, and to make the same of an uniform width and even grade as far as possible. They shall also make drains and put in sewers where required, and establish ferries or construct bridges according to public need, or let contracts for the above-named improvements.

XLIX. The supervisors are hereby empowered to lease or purchase any real or personal property necessary for the town and district of Apia, *provided* no purchase of real property shall be made unless the value of the same be precisely estimated by three disinterested persons to be appointed by the municipal board.

L. The supervisors are hereby authorized to lease or erect and furnish a courthouse, jail, hospital, and such other public buildings as may be necessary, and to keep the same in repair.

LI. The supervisors shall act as a board of equalization, and, within ten days after the assessor has reported the assessment completed, they shall give public notice at least ten days before the time when and where they will meet to hear and determine any complaints in regard to the assessment, and to make such changes therein as they may deem necessary in order that justice may be done.

LII. The supervisors shall control the prosecution and defense of all suits to which the municipality is a party.

LIII. No person shall sue the municipality in any case or for any demand, unless he shall first present his claim or demand to the supervisors for allowance. If the demand is rejected the municipality may be sued, and if in such action the plaintiff fail to recover more than the supervisors offered to allow he shall not recover costs.

LIV. Any tax-payer or license-holder may appear before the supervisors and oppose any claim or demand whatsoever.

LV. The supervisors are hereby authorized to draw drafts on the treasurer to defray public expenses approved by the municipal board.

Concerning the treasurer.

LVI. The treasurer shall receive and take charge of all moneys payable to the municipality, and give receipts for the same.

LVII. The treasurer shall not pay out any such moneys except on a draft of the supervisors approved by the municipal board, or on a written order from the municipal board.

LVIII. The treasurer shall keep an account of all moneys received and disbursed, which account he shall render to the municipal board at their meeting on the first Friday of each quarter.

Concerning the magistrate.

LIX. The magistrate's court shall be open every day in the week (except Sundays, Christmas, New Year's Day, Good Friday, Boxing Day, March 22, May 24, and July 4) for the hearing of cases between the hours of 10 a. m. and 4 p. m.

LX. The magistrate shall hand over to the municipal board for examination the minute book of the magistrate's court at their sitting on the first Friday in each month.

LXI. The magistrate shall hold his court at such place as may be provided for him.

LXII. The magistrate shall hold his office during the term for which he is appointed by the municipal board.

Concerning the port of Apia.

LXIV. All vessels (except those belonging to the Samoan Group and engaged in the inter-island or coasting trade) coming into and leaving the harbor of Apia shall take the pilot licensed by the municipal board.

LXV. The pilotage shall be at the rate of \$1 per foot draught of water in, and \$1 per foot draught of water out of port, and the pilot may arrange with any captain for extra service, towing, use of boat, &c.

LXVI. All vessels coming into the port of Apia shall be anchored in such a position as the pilot may direct.

Alteration in Regulation LXVI.

To read after the first sentence:

For changing any vessel from her moorings from one part of the harbor to another, the pilot shall receive \$5.

Dated, Apia, May 2, 1884.

LXVII. The master of any vessel desiring to change her from one place in the harbor to another shall notify the pilot, who shall direct the removal, unless he has good and sufficient reason to the contrary.

LXVIII. The pilot may order the removal of any vessel so anchored as to obstruct the navigation in or out of the harbor, or for any other good and sufficient reason; and any master of a vessel who shall refuse to comply with such order shall be liable to a fine of ten (10) dollars.

LXIX. The throwing of ballast into the harbor is hereby strictly prohibited. And all masters, or persons in command of vessels arriving in the port of Apia, and having ballast to discharge, shall notify the pilot who will inform them where to deposit the same; and the pilot shall take such precautions as he may deem necessary, when any vessel is receiving or discharging ballast, to prevent the same from falling into the harbor. And if any master or mate of a vessel receiving or discharging ballast shall neglect the necessary measures to prevent the same from falling overboard, on complaint of the pilot a policeman shall be placed on board such vessel at the vessel's expense to observe and report such carelessness or neglect, and the master of such vessel shall on conviction be fined for the first offense not to exceed one hundred (100) dollars, nor less than ten (10) dollars and costs of suit, and for each subsequent conviction the fine shall be doubled.

LXX. If any master or person in command of any vessel shall have reason to complain of any action of the pilot he shall make such complaint to the municipal board.

LXXI. A printed copy of the above regulations shall be handed by the pilot to the master or person in command of every vessel which he may bring into port.

Dated Apia, Samoa, January 12, 1880.

Concerning communications.

LXXII. All communications intended for the municipal board should be addressed to the secretary, Thomas M. Dawson, U. S. consul, Apia, Samoa.

Done at Apia, Samoa, January 12, A. D. 1880.

Municipal board of the town and district of Apia.—Zembsch, Imperial German consul-general; Thomas M. Dawson, United States consul; J. Hicks Graves, Her Britannic Majesty's consul.

Concerning the city front.

LXXV. Since it is desirable for the public health that the sea-breeze should circulate freely through the town and not be intercepted by buildings near the water along the shore of the harbor, all persons are hereby warned against erecting or repairing buildings or structures of any kind whatever on the north or sea-side of the present public road between the store of Thomas Throod in Matafele, and the store of Messrs. Ruge, Hedeman & Co., Matautu, without special permission from the municipal board, which permission will only be granted for the erection of boat-houses and similar small structures near the water. Any violation of this regulation shall be punished by a fine not exceeding \$100, or three months' imprisonment with or without hard labor.

Dated Apia, Samoa, January 30, A. D. 1880.

Concerning offenses.

LXXVI. Any person who shall commit any of the offenses specified in the schedule hereto annexed shall be liable to punishment by fine or imprisonment or both of such penalties within the limits prescribed and set opposite to such offense in the said schedule.

Schedule.

Offense.	Penalty.			
	Fine.		Imprisonment with or without hard labor.	
	Maximum.	Minimum.	Maximum.	Minimum.
Burglary or housebreaking	\$200	\$10 00	<i>Days.</i> 180	<i>Days.</i> 12
Breach of the peace or riot	15	1 25	18	1½
Language or conduct calculated to provoke a breach of the peace	15	1 25	18	1½
Assault (except as provided in Regulations XXXII and XLI)	25	1 25	30	1½
Challenging to fight, or two or more persons fighting	15	1 25	18	1½
Keeping a disorderly house	10	1 25	12	1½
Petit larceny (stealing personal property under the value of \$50, or theft or receiving stolen goods)	50	5 00	60	6
Malicious injury and cruelty to animals	*25	*1 25	30	1½
Malicious injury to property	*25	*1 25	30	1½
Contempt of court	10	1 25	12	1½
Obscene or profane language in a public place	10	1 25	12	1½
Perjury	-----	-----	90	30
Illegal detention of animals or personal property	5	1 25	6	1½

* And damages.

Dated Apia, Samoa, February 21, A. D. 1880.

Concerning the municipal board.

LXXVIII. Each of the consuls shall appoint a representative of his nation who shall be a member of the municipal board, and each nation having a treaty with Samoa and a consul at Apia, shall also be represented on the municipal board by one of that nation.

LXXX. The consular members of the municipal board will hereafter act as an appellate court to hear all appeals from the magistrate's decisions, and they must approve all regulations for the government of the municipality before they can be issued or have any binding force upon their countrymen.

Dated at Apia, Samoa, March 8, 1880.

Concerning trading vessels.

LXXXIV. The captain, owner, or supercargo of every vessel entering the waters of the municipality for the purpose of trading shall take out a license within twenty-four hours after arrival. Licenses may be obtained from the treasurer on payment of the sum of \$10. Any breach of this regulation shall be punished by a fine not to exceed \$200.

LXXXV. A printed copy of the preceding regulation shall be furnished by the pilot to the master or supercargo of each trading vessel on her arrival in harbor.

Dated at Apia, Samoa, May 12, 1880.

Concerning appeals.

LXXXVII. After the hearing and decision of any complaint by the municipal magistrate every person against whom judgment is rendered shall be entitled to appeal from such decision to the consular members of the municipal board, provided always that such appeal shall be made by notice given to the municipal magistrate within one week from the date of such decision; provided further that in all cases where the decision appealed against imposes fine or imprisonment security shall be given by the appellant to the municipal magistrate that he will comply with the decision which the appellate court shall pronounce upon such appeal. Upon such notice and security being given as aforesaid the execution of the municipal magistrate shall be postponed pending the appeal. All appeals shall be heard by the appellate court at as early a date as shall be possible after the date of the said notice of appeal, and persons concerned shall be notified of such hearing. No appeal shall lie on account of any defect in form. If it shall appear to the appellate court that any appeal has been made upon frivolous grounds, then, and in such case, payment of costs may be placed upon the appellant by the court. The appellate court may upon the hearing of any appeal rehear the evidence adduced in the court below or may not, and may refer the case to the magistrate for rehearing, and may alter, amend, or annul the decision of the magistrate. The costs of hearing an appeal shall not exceed \$25.

Dated at Apia, Samoa, June 25, 1880.

Concerning Samoan warriors.

LXXXVIII. In view of the present civil war in Samoa, the municipal board of Apia, acting under Article IX of the convention of September 2, 1879, by which they are authorized in case of civil war to "frame and issue such regulations as may be considered necessary for the support and maintenance of neutrality" within the neutral territory, hereby adopt as municipal regulations for neutral territory the following regulations as promulgated by the Government of Samoa.

LXXXIX. *Ua matua sa lava se tagata tau e toe sau i totonu o le Eleele Sa, ma ni auupega e fai ai taua.*

XC. *Ua faasaina foi se tagata tau e sau tafatafao vale i le Eleele Sa.*

XCI. *Afai e iloa se tagata tau i le Eleele Sa, ia taofia e Leoleo, ma ia fesili i ai poo lea lana feau. Afai o se feau tataua, ua lelei; ae afai o se feau faatauva, a ua le moe i le Eleele Sa. Afai foi o se mai ia faaalua i Leoleo lea mai pe moai.*

XCII. *Afai ua tonu o le feau faatauva ma ua le faalogo foi o ia i le faatonu o le leoleo, ia taofia e le Leoleo lea tagata.*

XCIII. *Afai e faamasinoina ma ua tonu ua ana solia se fuaiupu o lenei tulafono, e faasalaina o ia e le sili i le lima o tala, pe tuu i le fale puipui e le sili i aso e ono ma faigaluega mamafa, pe leai.*

XCIV. *E amata ona faasaina lenei tulafono i le vai aso e lima i le afiafi taeco.*

XCV. *E le faasaina mai ma manua e aumai i le fomai.*

XCVI. *E le faasaina foi le faatau o ie ma Tapaa, ae le mafai lava ona moe iinei, e faapea foi vaa e aumai ai mea e 'ai e le sili i tagata e toalua. Afai o se vaa tele e le sili i tagata e toafa. Ua faia e Taimua ma Faipule.*

MALIETOA LAUPEPA,

Le Sui Tupu.

Dated at Apia, Samoa, December 4, A. D. 1880.

Concerning quarantine.

XCVII. A health officer shall be appointed for the municipality of Apia, who shall act under the quarantine laws passed by the municipal board.

Public officers, 1881.

XCVIII. Mr. H. Martin Ruge having been elected treasurer, and Mr. Henry G. Hayes collector for the municipality of Apia, for the year 1881, at a public meeting of the foreign residents of Apia, held in the court-house on December 29, 1880, their election is hereby approved.

XCIX. Messrs. H. M. Ruge, James Laurenson, and Henry G. Hayes are hereby appointed members of the municipal board for the town and district of Apia till January 1, 1882.

Dated at Apia, Samoa, December 31, A. D. 1880.

ZEMBSCH,
Imperial German Consul-General.
THOMAS M. DAWSON,
United States Consul.
J. HICKS GRAVES,
Her Britannic Majesty's Consul.

Taxes, 1881.

C. Regulations XXXIII and XXXIV, vol. I, No. 2, January 7, 1880, municipal regulations, are continued in force for the year 1881, and the municipal board will meet at the court-house in Matafele on the first Monday in February, at 10 a. m., to sit as a board of equalization to adjust any changes deemed desirable in the tax-roll according to the assessment of last year.

Quarantine.

CI. The health officer of Apia shall receive a fee of \$2.50 for every vessel which he boards under the quarantine regulations, and the free use of a boat to and from such vessels. All other services of the health officer shall be paid for extra. All expenses caused to the municipality on account of any such vessel under the quarantine regulations shall be defrayed by such vessel.

Samoa warriors.

CII. All arms found on any Samoan warrior within the neutral territory shall be seized by the police, delivered to the magistrate, and disposed of in such manner as the municipal board shall direct.

I le talitane.

CIII. Afai o se fafine Samoa e talitane auā e totogi o ia, ona aluatu ai lea i le Ofisa su'e ma'i e mau i Apia o le atu tasi i le vai aso sa taitasi uma e maua le tusi e faapea i ai, o lenei fafine e le ma'i afi poo se ma'i faapena. E totogi afatala lenā fafine i le tusi. Afai se fafine e solia lenei sauniga e faasalaina o ia e le sili i tala e lua sefulu ma le lima (\$25) i se soliga e tasi.

Dated at Apia, Samoa, January 18, A. D. 1881.

Municipal board of the town and district of Apia.—Zembsch, Imperial German consul-general; Thomas M. Dawson, United States consul; J. Hicks Graves, Her Britannic Majesty's consul; H. Martin Ruge, James Laurenson, Henry G. Hayes.

NOTICE.

The foreign residents of the town and district of Apia are hereby invited to attend a public meeting at the court-house in Matafele, on Wednesday evening, December 29, at 8 o'clock, to elect a treasurer and a collector for the municipality of Apia for the ensuing year, each of whom will be required to give bonds in the sum of \$2,000, and will not, by virtue of their election, be members of the municipal board.

Dated at Apia, December 23, A. D. 1880.

ZEMBSCH,
Imperial German Consul-General.
THOMAS M. DAWSON,
United States Consul.
J. HICKS GRAVES,
Her Britannic Majesty's Consul.

JANUARY 29, 1881.

CIK. SECTION 1. A quarantine commission for the municipality of Apia is hereby appointed, consisting of the three consuls, who shall give orders in regard to vessels to be kept in quarantine as each case may require.

SEC. 2. To prevent the introduction of infectious or contagious diseases in the town of Apia, no communication, except by signal, shall be held with or from any vessel coming from beyond Samoa into the waters of the municipality of Apia, before the master of each vessel has signed the certificate and bond hereto attached, or before the health officer has admitted such vessel to pratique.

SEC. 3. The pilot, or his substitute, shall go to every vessel nearing this port and coming from beyond Samoa, approaching her on the windward side, taking with him a yellow flag. Before boarding any such vessel he shall have a blank certificate and bond, in the form hereto attached, delivered to the master. Upon completion, signing, and delivering of said certificate and bond, the pilot may board the vessel, and she may enter the port.

SEC. 4. In case the master declines to subscribe the certificate and bond the pilot shall not go on board, but shall direct the master to hoist a yellow flag at the fore (if there is no yellow flag on board the vessel the pilot shall supply the same) and to remain off the port or proceed to the appointed quarantine ground or elsewhere, and anchor where the pilot may direct, and the pilot shall at once report to the health officer.

SEC. 5. Provided always that the pilot may board a vessel under any circumstances if by his not doing so her safety would be endangered. Should the pilot have been obliged to board a vessel coming from beyond Samoa, the master of which declines to sign the certificate and bond, then the pilot shall order the yellow flag to be hoisted and remain on board until the health officer has admitted the vessel to pratique, or has disinfected the pilot, his boat's crew, and boat properly, according to circumstances, and has given permission to the pilot to leave.

SEC. 6. The master of any vessel coming from beyond Samoa shall hoist the yellow flag immediately after being directed so to do by the pilot, and shall keep the same hoisted until the health officer has admitted the vessel to pratique and ordered the yellow flag to be hauled down; and the master or other officer of such vessel shall not allow any communication with or from such vessel except by signal or by the health officer until she has been admitted to pratique by the health officer.

SEC. 7. The health officer on seeing a vessel hoist the yellow flag or on receiving information from the pilot, shall proceed to the vessel and approach her to windward within speaking distance. He shall then by questioning the master ascertain the reason why the former declines to sign the certificate and bond.

SEC. 8. If from the answers of the master he has good reason to suspect that the vessel has any contagion on board, he shall order the vessel to remain in quarantine, to keep the yellow flag hoisted, and he shall at once report to the quarantine commissioners, who shall meet as soon as possible to investigate the case and decide according to circumstances.

SEC. 9. If the health officer has good reason to believe that there is no contagion on board such vessel he may go on board and examine her bill of health, her log-book and journal, and inspect her crew and passengers.

SEC. 10. If the health officer finds after inspection that there is no danger of any contagion being on board, he may admit the vessel to pratique and order the yellow flag to be hauled down.

SEC. 11. If he finds there is danger of any contagion being on board he shall order the vessel to remain in quarantine, to keep the yellow flag hoisted, and he shall report to the quarantine commissioners, taking good care after leaving the ship to dis-infect himself and his boat's crew and boat, as circumstances may require, before he lands or communicates with any other vessel or boat.

SEC. 12. Every master and every surgeon of any vessel which shall have sailed from a place where there shall have existed at the time of such sailing any infectious or contagious disease, or which shall have communicated otherwise than by signal with any vessel or place in which such contagious or infectious disease existed, shall make a true declaration of such circumstances to the pilot and health officer, who shall come on board or alongside such vessel.

SEC. 13. Every master or surgeon of a vessel which shall have on board any person affected with any contagious or infectious disease shall declare the same to the pilot and health officer, and shall not attempt to conceal from the health officer any person so affected, and shall bring every person on board such vessel before the health officer at his request for inspection, and the master of any vessel shall, on the demand of the health officer, produce for inspection by him the log-book and journal of such vessel.

SEC. 14. Every person on board of any vessel arriving at the port of Apia shall answer truthfully and without evasion any question that may be put to him by the health officer or pilot in order to find out whether there is danger of any contagion being on board such vessel.

SEC. 15. No person, save as hereinbefore provided, shall approach or leave any vessel on board of which the yellow flag is hoisted until she has been admitted to pratique by the health officer and the yellow flag has been hauled down.

SEC. 16. A quarantine fee shall be paid by all vessels coming from beyond Samoa, as follows: Vessels whose tonnage does not exceed 50 tons, 50 cents; vessels whose tonnage is over 50 tons and does not exceed 100 tons, \$1; vessels whose tonnage exceeds 100 tons shall pay \$1 more for every 100 tons or fraction thereof, and such fee shall be paid to the treasurer of the municipality.

SEC. 17. Any person committing a breach of any of the above quarantine regulations shall, on conviction, be punished by a fine not to exceed \$200, or by imprisonment, with or without hard labor, not to exceed six months, or by both these penalties.

SEC. 18. All expenses caused to the municipality by any vessel with regard to quarantine shall be borne by such vessel, or by the master, owners, agents, or consignees thereof, and such vessel or persons shall be held responsible for the recovery of such expenses.

SEC. 19. Should any of the statements contained in the certificate signed by the master of any vessel be proved to be untrue, then the master of such vessel shall forfeit the sum stated in the bond, or any part of such sum according to the decision of the quarantine commissioners, and such sum shall be recoverable in the manner provided by section 17.

SEC. 20. All forfeits or fines levied or paid for breaches of quarantine regulations shall be paid to the municipal treasurer, to the credit of the quarantine fund, which shall be used by the municipal board to defray public expenses with regard to the public health of the municipality.

SEC. 21. No owner or any person whatever on board or connected with any vessel put in quarantine, nor any person importing or exporting or intending to export any goods or cargo in any such vessel shall have any claim against the municipality for detention or any loss or expense incurred in connection with quarantine.

Dated at Apia, Samoa, April 1, A. D. 1881.

The quarantine commission of the municipality, as appointed by Regulation CIX, issue this new regulation.

Concerning infection.

1. Any one having any infectious disorder on his premises, and not declaring such to the secretary of the board, shall be liable to a fine of \$200 or six months imprisonment.

2. It shall be lawful for the quarantine commission, on the report of the health officer, to declare any premises infected, to cause them to be isolated, and to have the quarantine flag hoisted thereon. No communication with the outside must then be held, except through a properly appointed channel, under a penalty of \$200 or six months imprisonment.

3. Any one from the outside found communicating with the infected premises, except through the appointed channel, will be liable to a fine of \$200 or six months' imprisonment. He will also remain in quarantine.

4. The isolation will terminate on the favorable report of the health officer.

Dated at Apia, Samoa, July 4, 1884.

CXI.—The pilot shall receive at least \$5 pilotage from every vessel he boards under the quarantine regulations.

Dated, Apia, Samoa, April 29, A. D. 1881.

CERTIFICATE AND BOND.

I, _____, master of the _____, of _____, hereby most truly declare that the name of the port at which the vessel under my command originally cleared from for the present voyage was _____, which port I left _____ days ago.

No epidemic or infectious or contagious disease existed at the said port or in its vicinity within a short time previous to my departure, nor has this been the case at any other port or ports at which I have since called.

No person on board my vessel has been seized by or died of any infectious or contagious disease during my present voyage, nor have I heard of any such disease on board of any vessel that I have communicated with on my way to this place.

I hereby bind myself in the sum of \$1,000 for the truth of the above statements, to be forfeited if after investigation by the quarantine commissioners of the municipal ity of Apia any one of such statements be found to be untrue.

Given on board the _____, this _____ day of _____, 188-.

Master,

Samoa warriors.

CII. All arms found on any Samoan warrior within the neutral territory shall be seized by the police, delivered to the magistrate, and disposed of in such manner as the municipal board shall direct.

I Le Talitane.

CIII. Afai o se fafine Samoa e talitane auā e totogi o ia, ona alu atu ai lea i le Ofisa su'e ma'i e mau i Apai o le atu tasi i le vai aso sa taitasi uma e maua le tusi e faapea i ai, o lenei fafine e le ma'i afi poo se ma'i faapena. E totogi seleni e tasi lenā fafine i le tusi. Afai se fafine e solia lenei sauniga e faasalaina o ia e le sili i tala lua sefulu ma le lima (25) i se soliga e tasi poo tunina o ia i le fale puipui e le sili i aso e tolu-gafalu.

Dated at Apia, Samoa, March 5, 1881.

Concerning violations of the neutral territory.

CXII. If the consuls receive informations that a violation of the neutral territory has been committed they shall inquire into the matter and if, after inquiry, they are of opinion that such violation has been committed, they shall summon the person or persons accused of committing such violation before them and try him or them in conjunction with the native judge. Any person convicted of a violation of the neutral territory shall be punished by a fine not exceeding \$200, or imprisonment not exceeding six months, with or without hard labor, or by both fine and imprisonment not exceeding the above-mentioned penalties. This regulation shall not apply to offense against Regulations LXXXIX to XCVI inclusive.

Dated at Apia, Samoa, May 6, 1881.

Concerning the use of dynamite.

CXIV. The use of dynamite or other explosives within the waters of the municipality of Apia for the purpose of killing fish is hereby prohibited. Any violation of this regulation will be punished by a fine not to exceed \$25, or thirty days' imprisonment with or without hard labor.

Dated at Apia, August 5, 1881.

CXII. Afai e faalogo Konesulatē uma ua solia le Eleele Sā, latou te susesueina, ma ua taofi ua solia, ona faaali atu ai lea i le tagata e toatasi, poo tagata e toatele ua molia. Ua latou solia e o mai i luma o Konesulata e fai ai le faamasinoga o lea tagata e toatasi poo tagata e toatele e faatasi ma le faamasino Samoa, o se tagata ua iloa tonu ua ana solia le Eleele Sā e faasalaina o ia e le sili i le lua o selau (200) o tala, pe tuu i le fale puipui e fai faigaluega mamafa, pe leai, e le sili i masina e ono, pe faaopoopo ia sala e lua. E le faasaga le tulafono nei i soliga i tulafono e 89 e oo i 96.

Ua faia i Apia i Samoa i le aso e 6 o Me 1881.

O le Tulafono i le Tainamaite e Fana i'a.

CXIV. Ua faasaina i le sami o le Municipalite o Apia e faapā ni tainamaite po se tasi mea faapenā e fana i'a. Afai o se tasi tagata e solia lenei tulafono e faasalaina o ia e le sili i tala e lua sefulu ma le lima (25) pe tunina o ia i le fale puipui e le sili i aso e tolu sefulu (30), ma fai galuega mamafa, pe leai.

Ua faia i Apia i le aso e lima (5) o Aokuso, 1881.

Addition to Regulation CXIV.—Concerning dynamite.

The sale of dynamite or other similar explosives to natives is strictly forbidden within the municipality.

No person shall be allowed to keep or sell dynamite or similar explosives until he has given proof to the municipal board that he is able to store it in a light wooden building, distant at least one hundred yards from any inhabited house.

Persons wishing to use dynamite or other similar explosive for the removal of wrecks, or other necessary purpose, shall give due notice to the board, will limit the amount to be used, and fix the time for its use. The person using such explosive shall be responsible for all damage caused by the same.

Any infringement of these regulations will be liable to be punished by a fine of \$25, or in default of payment by imprisonment for thirty days, with or without hard labor.

Dated at Apia, August 3, 1883.

FOREIGN RELATIONS.

Concerning trespass.

CXV. Any person found trespassing on, and thereby doing damage to inclosed land within the municipality of Apia, shall on conviction be compelled to make good the amount of damage done, and shall be fined not to exceed \$25, or in default be imprisoned for any time not exceeding thirty days, with or without hard labor.

Concerning false pretenses.

CXVI. Every person who shall obtain from any other person with intent to defraud any chattel, money, or valuable security, shall be liable on conviction to a fine not exceeding \$100, or to imprisonment, with or without hard labor, not exceeding one hundred and twenty-five days, or to both fine and imprisonment.

Dated at Apia, Samoa, February 6, 1882.

Concerning the magistrate.

CXVIII. The municipal magistrate shall be authorized to punish refractory prisoners, either by a prolongation of their imprisonment or by corporal punishment, the latter not to be inflicted without the consent of the consuls.

CXIX. The magistrate shall not try cases in which he is interested. In such cases he will inform the consuls, who will appoint a magistrate "*ad hoc*."

Dated at Apia, Samoa, June 2, 1882.

Concerning weeding.

CXX. All occupiers of houses in the town and villages of the district of Apia have to weed and keep clear the space between their houses and the public roads. They shall also keep in sanitary condition their entire premises.

The chief of police will see that this is carried out.

Any offender shall be liable to be punished by a fine of not more than \$10, or imprisonment for not more than twelve days, or by both of such penalties.

Dated, Apia, September 1, 1882.

Concerning public roads.

CXXII. All public roads that existed on 2nd of September, 1879, shall be considered as still open for public use.

Any one having closed such a road shall immediately reopen the same or prove his right to close it to the satisfaction of the municipal board.

Dated, Apia, January 5, 1883.

Concerning registration of land sales.

CXXIII. Persons buying or selling taxable real estate within the municipality of Apia shall record the same in the office of the secretary of the board.

Any breach of this regulation shall be punished by a fine not exceeding \$25.

Dated, Apia, February 2, 1883.

Concerning public nuisances.

CXXIV. All public nuisances shall be removed.

1. Anything endangering the safety of public life, health, private or public property shall be considered a public nuisance, and as such be subject to immediate removal on the unanimous order of the municipal board.

2. The magistrate shall give notice in writing to the proprietors or occupants of any property on which a public nuisance is, to remove the same.

3. If the removal be not made within a reasonable time the magistrate will enforce this regulation by a fine not exceeding \$25, or in default of payment by imprisonment not exceeding thirty days, with or without hard labor, and he will order the removal of the nuisance at the expense of the persons so fined or imprisoned.

4. Any resident of this municipality may make complaint of public nuisances in writing to the secretary of the board, who will communicate the same to the board in session, which will empower the magistrate to order the removal thereof, if proved to be such.

Dated at Apia, Samoa, March 16, 1883.

Concerning Mulivai Bridge.

CXXVII. It is forbidden to ride or drive over the Mulivai Bridge, except at a walking pace.

Any person offending against this regulation will be liable to a fine not exceeding \$5, or in default of payment, to be imprisoned with or without hard labor for six days. Any repetition of such offense shall be liable to a fine not exceeding \$10, or twelve days' imprisonment, with or without hard labor.

Dated Apia, July 6, 1883.

Concerning horses.

CXXVIII. It is forbidden to ride on horseback through the towns of the municipality without a proper bridle. Unbridled horses passing through such towns must be led.

Any one offending will be liable to a fine not exceeding \$5, or six days' imprisonment.

Dated Apia, July 6, 1883.

Concerning dogs.

CXXIX. The owners of dogs over three months old, belonging within the municipality, shall register the same in the office of the secretary of the board, and shall take out a license for each one, for which they shall pay the sum of \$2 per annum, payable quarterly in advance. Any dog for which a license has not been taken out by the end of the first fortnight of a quarter, and which is loose in the municipality, shall be liable to be destroyed. Any violation of this regulation shall be punished by a fine of \$5 or ten days' imprisonment.

Dated at Apia, October 5, 1883.

Concerning the public peace.

CXXX. The magistrate is empowered, upon complaint of any one resident within the municipality of Apia, and upon proof of sufficient grounds for such complaint, to bind any person over in any sum not exceeding \$200 to keep the peace.

The magistrate has to obtain the consent of the consul of the nationality to which the offender belongs before taking any proceedings under this regulation. In the event of the offender having no consular representation, the magistrate shall obtain the consent of the three consuls.

Dated at Apia, Samoa, June 6, 1884.

Concerning cattle.

CXXXI. No cattle shall be slaughtered in any part of the municipality where such proceeding would be likely to create a nuisance.

Any person persisting in so doing, after being warned by the police, will be liable to a fine not exceeding \$50, or to sixty days' imprisonment.

Dated at Apia, Samoa, June 4, 1884.

Concerning supplying intoxicating liquor to policemen.

CXXXII. Any person supplying intoxicating liquor to a policeman while on duty shall be punished by a fine of not less than \$10 and not exceeding \$50, or by imprisonment of not less than twelve days and not exceeding sixty days.

Any policeman who shall drink intoxicating liquor while on duty shall be liable to be dismissed from the municipal police force and to forfeit all wages then due to him.

Dated at Apia, October 3, 1884.

Concerning cricket.

CXXXIII. It is strictly prohibited to play cricket on the public road or within 8 fathoms of the public road, such distance to be marked by a rope on all occasions of playing.

Any one found guilty of a breach of this regulation shall be liable to a fine not exceeding \$5, or to imprisonment not exceeding six days.

All damages or injuries received by persons passing on the public road from cricket balls, from wheresoever thrown, shall be paid for by the party throwing or striking the ball.

Dated Apia, November 7, 1884.

Concerning payment of rates.

CXXXIV. After the expiration of the time allowed, any one remaining in arrear of payment of rates shall, on making a settlement of such payment, pay in excess 25 per cent. over and above the sum due.

Dated Apia, May 1, 1885.

Concerning new buildings.

CXXXV. 1. Before erecting any building at or close to a public road within the municipality of Apia, the permission of the municipal board will have to be applied for by laying before the same the plan of the premises, with a sketch of the building to be erected.

2. No building shall be allowed which might prove an obstruction to enlarging a public road in future.

3. No building as a rule shall be erected in advance of the row of existing buildings.

4. Any building erected in contravention of the present regulation must be removed on the order of the municipal board.

Any contravention of this regulation will be punished with a fine not exceeding \$200.

Dated Apia, August 7, 1885.

Concerning buildings.

CXXXVI. 1. All buildings, wooden fences, and walls fronting on any public road within the municipality shall hereafter be erected in accordance with the building and veranda lines determined by the municipal board, a plan of which lines shall be made and kept in the municipal office for inspection.

2. The veranda line shall in no case exceed the distance of 10 feet from the building line as laid down on the plan to be kept on view in the municipal office.

3. No buildings of any description shall be erected in advance of the building line, and no veranda or fence in advance of the veranda line.

4. In the event of the building not being erected on the building line, then it will be permitted to erect a high fence on that line; and in event of no verandah being erected on the veranda line, then an open picket fence not more than 4 feet high may be erected on the veranda line.

5. No offensive buildings, such as water-closets, pigsties, &c., shall be allowed near any public road within the municipality.

6. Any violation of this regulation will be punished by a fine not exceeding \$200 or imprisonment for a period not exceeding six months. The building or fence to be removed at the owner's expense.

Dated Apia, December 24, 1885.

Concerning fireworks.

CXXXVII. No person shall from this date be permitted to fire off any fireworks of any kind on the municipal roads, nor from verandas or balconies abutting onto the same.

Any person violating the above regulation shall be liable to a fine of more than \$10 or imprisonment for not more than fourteen days.

Dated Apia, March 5, 1885.

MUNICIPALITY OF APIA.

REGULATIONS CONCERNING THE PORT OF APIA.

LXIV. All vessels (except those belonging to the Samoan group and engaged in the inter-island or coasting trade), coming into and leaving the harbor of Apia, shall take the pilot licensed by the municipal board.

LXV. The pilotage shall be at the rate of \$1 per foot draught of water in, and \$1 per foot draught of water out of port, and the pilot may arrange with any captain for extra service, towing, use of boat, &c.

LXVI. All vessels coming into the port of Apia shall be anchored in such a position as the pilot may direct. For changing any vessel from her moorings from one part of the harbor to another the pilot shall receive \$5.

LXVII. The master of any vessel desiring to change her from one place in the harbor to another shall notify the pilot, who shall direct the removal, unless he has good and sufficient reason to the contrary.

LXVIII. The pilot may order the removal of any vessel so anchored as to obstruct the navigation in or out of the harbor, or for any other good and sufficient reason; and any master of a vessel who shall refuse to comply with such order shall be liable to a fine of \$10.

LXIX. The throwing of ballast into the harbor is hereby strictly prohibited; and all masters or persons in command of vessels arriving in the port of Apia, and having ballast to discharge, shall notify the pilot, who will inform them where to deposit the same; and the pilot shall take such precautions as he may deem necessary, when any vessel is receiving or discharging ballast, to prevent the same from falling into the harbor; and if any master or mate of a vessel receiving or discharging ballast shall neglect the necessary measures to prevent the same from falling overboard, on complaint of the pilot a policeman shall be placed on board such vessel at the vessel's expense to observe and report such carelessness or neglect, and the master of such vessel shall on conviction be fined for the first offense not to exceed \$100, nor less than \$10 and costs of suit, and for each subsequent conviction the fine shall be doubled.

LXX. If any master or person in command of any vessel shall have reason to complain of any action of the pilot, he shall make such complaint to the municipal board.

LXXI. A printed copy of the above regulations shall be handed by the pilot to the master or person in command of every vessel which he may bring into port.

Dated Apia, Samoa, January 12, 1880.

Concerning trading vessels.

LXXXIV. The captain, owner, or supercargo of every vessel entering the waters of the municipality for the purpose of trading shall take out a license within twenty-four hours after arrival. Licenses may be obtained from the treasurer on payment of the sum of \$10. Any breach of this regulation shall be punished by a fine not to exceed \$200.

LXXXV. A printed copy of the preceding regulation shall be furnished by the pilot to the master or supercargo of each trading vessel on her arrival in harbor.

Dated at Apia, Samoa, May 12, A. D. 1880.

Concerning quarantine.

XCVII. A health officer shall be appointed for the municipality of Apia, who shall act under the quarantine laws passed by the municipal board.

CIX. SECTION 1. A quarantine commission for the municipality of Apia is hereby appointed, consisting of the three consuls, who shall give orders in regard to vessels to be kept in quarantine as each case may require.

SEC. 2. To prevent the introduction of infectious or contagious diseases in the town of Apia, no communication, except by signal, shall be held with or from any vessel coming from beyond Samoa into the waters of the municipality of Apia before the master of each vessel has signed the certificate and bond hereto attached, or before the health officer has admitted such vessel to pratique.

SEC. 3. The pilot, or his substitute, shall go to every vessel nearing this port and coming from beyond Samoa, approaching her on the windward side, taking with him a yellow flag. Before boarding any such vessel he shall have a blank certificate and bond, in the form hereto attached, delivered to the master. Upon completion, signing, and delivering of said certificate and bond the pilot may board the vessel, and she may enter the port.

SEC. 4. In case the master declines to subscribe the certificate and bond the pilot shall not go on board, but shall direct the master to hoist a yellow flag at the fore (if there is no yellow flag on board the vessel the pilot shall supply the same) and to remain off the port or proceed to the appointed quarantine ground or elsewhere, and anchor where the pilot may direct, and the pilot shall at once report to the health officer.

SEC. 5. Provided always that the pilot may board vessel under any circumstances if by his not doing so her safety would be endangered. Should the pilot have been obliged to board a vessel coming from beyond Samoa the master of which declined to sign the certificate and bond, then the pilot shall order the yellow flag to be hoisted and remain on board until the health officer has admitted the vessel to pratique, or has disinfected the pilot, his boat's crew, and boat properly according to circumstances, and has given permission to the pilot to leave.

SEC. 6. The master of any vessel coming from beyond Samoa shall hoist the yellow flag immediately after being directed so to do by the pilot, and shall keep the same hoisted until the health officer has admitted the vessel to pratique and ordered the

yellow flag to be hauled down; and the master or other officer of such vessel shall not allow any communication with or from such vessel except by signal or by the health officer until she has been admitted to pratique by the health officer.

SEC. 7. The health officer on seeing a vessel hoist the yellow flag or on receiving information from the pilot, shall proceed to the vessel and approach her to windward within speaking distance. He shall then by questioning the master ascertain the reason why the former declines to sign the certificate and bond.

SEC. 8. If from the answers of the master he has good reason to suspect that the vessel has any contagion on board, he shall order the vessel to remain in quarantine, to keep the yellow flag hoisted, and he shall at once report to the quarantine commissioners, who shall meet as soon as possible to investigate the case and decide according to circumstances.

SEC. 9. If the health officer has good reason to believe that there is no contagion on board such vessel he may go on board and examine her bill of health, her log-book and journal, and inspect her crew and passengers.

SEC. 10. If the health officer finds after inspection that there is no danger of any contagion being on board he may admit the vessel to pratique and order the yellow flag to be hauled down.

SEC. 11. If he finds there is danger of any contagion being on board he shall order the vessel to remain in quarantine, to keep the yellow flag hoisted, and he shall report to the quarantine commissioners, taking good care after leaving the ship to disinfect himself and his boat's crew and boat, as circumstances may require, before he lands or communicates with any other vessel or boat.

SEC. 12. Every master and every surgeon of any vessel which shall have sailed from a place where there shall have existed at the time of such sailing any infectious or contagious disease, or which shall have communicated otherwise than by signal with any vessel or place in which such contagious or infectious disease existed, shall make a true declaration of such circumstances to the pilot and health officer who shall come on board or alongside such vessel.

SEC. 13. Every master or surgeon of a vessel which shall have on board any person affected with any contagious or infectious disease shall declare the same to the pilot or health officer, and shall not attempt to conceal from the health officer any person so affected, and shall bring every person on board such vessel before the health officer at his request for inspection, and the master of any vessel shall, on the demand of the health officer, produce for inspection by him the log-book and journal of such vessel.

SEC. 14. Every person on board of any vessel arriving at the port of Apia shall answer truthfully and without evasion any question that may be put to him by the health officer or pilot in order to find out whether there is danger of any contagion being on board such vessel.

SEC. 15. No person, save as hereinbefore provided, shall approach or leave any vessel, on board of which the yellow flag is hoisted, until she has been admitted to pratique by the health officer and the yellow flag has been hauled down.

SEC. 16. A quarantine fee shall be paid by all vessels coming from beyond Samoa as follows: Vessels whose tonnage does not exceed 50 tons, 50 cents; vessels whose tonnage is over 50 tons and does not exceed 100 tons, \$1; vessels whose tonnage exceeds 100 tons shall pay \$1 more for every 100 tons or fraction thereof, and such fee shall be paid to the treasurer of the municipality.

SEC. 17. Any person committing a breach of any of the above quarantine regulations shall, on conviction, be punished by a fine not to exceed \$200 or by imprisonment, with or without hard labor, not to exceed six months, or by both these penalties.

SEC. 18. All expenses caused to the municipality by any vessel with regard to quarantine shall be borne by such vessel, or by the master, owners, agents, or consignees thereof, and such vessel or persons shall be held responsible for the recovery of such expenses.

SEC. 19. Should any of the statements contained in the certificate signed by the master of any vessel be proved to be untrue then the master of such vessel shall forfeit the sum stated in the bond or any part of such sum, according to the decision of the quarantine commissioners, and such sum shall be recoverable in the manner provided for by section 17.

SEC. 20. All forfeits or fines levied or paid for breaches of quarantine regulations shall be paid to the municipal treasurer, to the credit of the quarantine fund, which shall be used by the municipal board to defray public expenses with regard to the public health of the municipality.

SEC. 21. No owner or any person whatever on board or connected with any vessel put in quarantine, nor any person importing or exporting or intending to export any goods or cargo in any such vessel shall have any claim against the municipality for detention or any loss or expense incurred in connection with quarantine.

Dated at Apia, Samoa, April 1, A. D. 1881.

CXI. The pilot shall receive at least \$5 pilotage from every vessel he boards under the quarantine regulations.

Dated at Apia, Samoa, April 29, A. D. 1851.

That all vessels over 50 tons leaving the port of Apia for any place outside of the Samoan group shall take a pilot and pay pilotage at the usual rate.

Dated at Apia, Samoa, February 1, A. D. 1884.

[Inclosure K 5.]

DR. *Municipal treasury account, 1885.* CR.

<i>Revenues.</i>		<i>Expenditures.</i>	
To balance of 1884.....	\$1,892 85½	By salaries and wages accounts:	
Assessments.....	2,223 55½	To magistrate.....	\$767 82
Special licenses.....	478 50	To native magistrate.....	120 00
Store licenses.....	737 00	To secretary magistrate.....	129 53
Public-house licenses.....	684 00	To pilot.....	1,800 00
Hawkers' licenses.....	1 00	To police force.....	1,311 50
Trading licenses.....	130 00		\$4,128 85
Dog licenses.....	73 50	By contribution to King Malietoa.....	260 00
Fines.....	666 25	By commission account:	
Prisoners' labor.....	105 62½	To treasurer.....	\$207 65
Cemetery account.....	80 00	To collector of taxes.....	106 11
Pilotage.....	1,713 00	To collector of fines.....	66 08
Quarantine fees.....	216 50		379 84
House rent of pilot station.....	156 00	By bridge-toll four months.....	10 00
Mail-service subscriptions.....	1,047 50	By court-house rent.....	120 00
Extras.....	2 38	By jail-ground rent.....	36 00
		By pilot-station ground rent.....	30 00
		By mail-service account.....	1,672 50
		By Tutinla west-point lights.....	43 00
		By medical services.....	75 00
		By signal flags for pilot.....	35 00
		By flagstaff in Matautu point.....	175 22
		By Vaisigago bridge, building and repairing.....	290 05
		By Mulivai bridge, repairs.....	44 96
		By Osage bridge, repairs.....	1 28
		By Apia wharf, repairs.....	26 06
		By street-lanterns, putting up and maintenance.....	330 37½
		By prisoners' food, &c.....	270 25
		By stationery and printing.....	128 13
		By assessor of property.....	5 00
		By plan of Apia by Th. Mahen.....	30 00
		By indemnity to Grevsmuhl, Crawford & Co.....	100 00
		By extras.....	50 33
		By balance.....	1,965 82
	10,207 66½		
To balance.....	1,965 82		10,207 66½

Examined and found correct.
 THOMAS TROOD.
 APIA, December 31, 1885.

H. MARTIN RUGE,
 Treasurer.

[Inclosure K 6.]

No.	Name.	Description.	Amount.
1	D. H. & P. G.....	Store license.....	\$25 00
2	.....do.....	.....do.....	9 00
3	H. M. Ruge & Co.....	.....do.....	25 00
4	Grevsmuhl Crawford & Co.....	.....do.....	12 00
5	.....do.....	.....do.....	3 00
6	Rosenberg.....	.....do.....	9 00
7	S. Dean.....	.....do.....	9 00
8	McArthur & Co.....	.....do.....	25 00
9	D. S. Parker.....	.....do.....	9 00
10	H. J. Moors & Bros.....	.....do.....	9 00
11	T. Trood.....	.....do.....	6 00
12	.....do.....	.....do.....	3 00
13	Ah Sue.....	.....do.....	6 00
14	P. H. Krause.....	.....do.....	6 00
15	Mr. Voight.....	.....do.....	6 00
16	E. L. Hamilton.....	.....do.....	6 00
17	Mrs. Volkmann.....	.....do.....	3 00
18	C. Netzler.....	.....do.....	3 00
19	Wm. Johnston.....	.....do.....	3 00

[Inclosure K 6—Continued.]

No.	Name.	Description.	Amount.
20	J. Mooney		\$3 00
21	E. Woods		3 00
22	.....do.....		3 00
23	J. Latapie		3 00
24	Ling Sing		3 00
25	P. Fabricious		3 00
26	L. Laferrier		3 00
27	Grevs. Crawford & Co		3 00
28	E. W. Gurr & Co		3 00
29	J. Ryan		6 00
1	Thos. Meredith		3 00
2	Grevs. Crawford & Co	Hotel licenses	36 00
3	Thos. Schmidt	do	30 00
4	J. Johnsen	do	30 00
5	P. Fabricius	do	30 00
6	J. Laferrier	do	30 00
SPECIAL LICENSES.			
1	J. Latapie	Carpenter	1 50
2	Wm. Smally	do	1 50
3	H. Fruean	do	1 50
4	King Ye Long	do	1 50
5	H. Rode	do	1 50
6	W. H. Dunn	do	1 50
7	John S. Kelton	do	1 50
8	Martin Ohmson	do	1 50
9	McMillan	do	1 50
10	Aug. Berrens	do	1 50
11	Ling Sing	do	1 50
12	Ah Mann	do	1 50
13	Ah Fa	do	1 50
14	A. Bohmsach	do	1 50
15	F. Miller	do	1 50
16	D. Kenison	do	1 50
17	J. Watson	do	1 50
18	Pasi	do	1 50
19	Schiller	do	1 50
20	H. Easter	do	1 50
21	Puaa	do	1 50
22	Ah Qui	Cook	1 50
23	G. Laurenson	do	1 50
24	J. Rosenquest	Carpenter	1 50
25	A. Hettig	Blacksmith	1 50
26	J. Bayerline	do	1 50
27	J. Stoltenberg	do	1 50
28	G. Hunling	Assistant black-smith.	75
29	A. Falke	Engineer	1 50
30	J. Axmann	Ovrseer	1 50
31	J. Stehlen	do	75
32	J. Acosta	Barber	1 50
33	T. Schmidt	Sailmaker	1 50
34	Ah Sue	Butcher	3 00
35	Rosenberg	do	3 00
36	E. Woods	Baker	3 00
37	C. Netzler	do	3 00
38	Grevs. Crawford & Co	Butcher	3 00
39	John Davis	Photographer	3 00
40	R. Hetherington	Lawyer	15 00
41	J. E. V. Alvord	Auctioneer	6 00
42	J. Heidlen	Surveyor	1 50
43	L. Deigle	do	1 50
44	T. Maben	do	1 50
45	P. Fabricius	Boatman, 1 boat.	1 50
46	Wm. Nelson	Boatman, 2 boats	3 00
47	R. G. Elliott	Boatman, 1 boat	1 50
48	J. Laferrier	do	1 50
49	P. Xavier	Printer	3 00
50	J. H. Denver	Shoemaker	1 50
51	Ah Fa	Cook	75
52	Ah Chong	do	75
53	Lan Fa	do	75
54	Joe Acosta	do	75
55	Ah Ling	do	75
58	Wm. Burekhardt	Clerk	1 50
59	C. Benthein	do	1 50
60	J. Schaunkel	do	1 50
61	C. Dean	do	1 50
62	J. M. Coe	do	75
63	E. V. Wolverdorf	do	75
64	H. Gebaur	do	75

[Inclosure K 6]—Continued.

No.	Name.	Description.	Amount.
SPECIAL LICENSES—continued.			
65	A. Frings	Clerk	\$0 75
66	R. Schultz	do	75
67	R. Otto	do	75
68	Schultz	do	75
69	Schweikel	do	75
70	J. Anton	do	75
71	E. Burnham	do	75
72	Zuru	do	75
73	A. Constable	do	75
74	J. Ruge	do	75
75	Bindeman	do	75
76	Simson	do	75
77	Joe Hamilton	Salesman	75
78	L. Yandall	do	75
79	F. Prichard	do	75
80	M. Scanlon	Overseer	75
81	Spencer	Clerk	1 50
82	Otto Martin	do	1 50
83	W. H. Strut	Carpenter	1 50
84	Fletcher	Clerk	1 00
85	L. Beckmann	do	75
86	Bray	Salesman	1 50
87	Felice	Carpenter	1 80
88	Peter Paul	do	75
89	Keop	Clerk	75
90	Otto Landstein	do	6 00
91	E. W. Gurr & Co.	Auctioneer, &c.	3 00
92	Ah Sue	Baker	3 00
93	John Ryan	do	282 50
1	D. H. & P. G.	Assessment	50
2	F. Wilson	do	2 25
3	F. Miller	do	1 25
4	E. Hall	do	75
5	Apai (Rarotoga)	do	7 75
6	E. L. Hamilton	do	36 25
7	Theo. Weber	do	1 57½
8	G. Pritchard	do	5 25
9	J. M. Coe	do	1 00
10	F. Axmann	do	53 25
11	H. M. Ruge & Co	do	3 75
12	Aull's estate	do	30 25
13	Greys, Crawford & Co.	do	2 25
14	H. P. Paterson	do	1 75
15	Nancy Thomson	do	25
16	John	do	50
17	A. Young	do	37½
18	Wm. Bruce	do	2 50
19	Williamson's estate	do	2 25
20	U. S. consulate	do	2 50
21	J. M. A. Johnston	do	25
22	British consulate	do	8 75
23	London Mission Society	do	5 00
24	D. H. McKenzie (care of H. J. Wood)	do	1 00
25	Ah Sing	do	1 25
26	Ah Chong	do	3 75
27	C. Frucau	do	16 00
28	Wm. McArthur & Co.	do	8 75
29	do	do	2 25
30	E. Woods	do	6 07½
31	P. H. Krause	do	1 00
32	Frank Moors	House	6 00
33	Thos. Trood	do	10 00
34	H. J. Moors	do	16 12½
35	B. C. Mission	do	75
36	Mary Groth	do	5 90
37	Wm. Johnston	do	25
38	James Devoc	do	1 75
39	A. R. Decker	do	25
40	Wm. Yandall	do	62½
41	Nene (Islanders)	do	25
42	Wm. Coe	do	2 00
43	Wesleyan Mission	do	8 75
44	S. Dean	do	37½
45	Pito (Rarotoga)	do	1 00
46	Tuana (Rarotoga)	do	1 00
47	John S. Kelton	do	11 50
48	German consulate	do	8 75
49	D. S. Parker	do	6 25
50	T. Schmidt	do	

[Inclosure K 6]—Continued.

No.	Name.	Description.	Amount.
SPECIAL LICENSES—continued.			
51	Wm. Nelson	House	\$0 50
52	J. Johnson	do	3 50
53	J. Davis	do	2 75
54	C. Netzler	do	6 25
55	T. Trood	do	1 75
56	John Ryan	do	87½
57	Ah Sue	do	3 75
58	Mrs. Voight	do	8 75
59	Mrs. Volkmann	do	4 87½
60	Thomas Meredith	do	11 25
61	William Cowley, sr	do	4 50
62	Silver estate (Beetham)	do	2 37½
63	H. Frnean	do	2 00
64	A. Brerer (Periera)	do	1 50
65	Morris Scanlon	do	1 50
66	G. Brown	do	87½
67	William Cowley	do	75
68	Hamamum estate	do	87½
69	A. Campbell	do	37½
70	Mary Marshall	do	2 25
71	Catharine Bartlett	do	37½
72	William Schuler, not here	do	37½
73	Rees estate	do	25
74	California Land Company	do	1 00
75	Man Fiji	do	50
76	John Hunt	do	62½
77	Captain Lyons	do	75
78	J. Bayerline	do	20
79	H. Rohdea	do	20
80	Joe Acosta	do	40
81	McArthur & Co.	do	50
82	Ah Lui	do	1 25
83	J. Latapie	do	2 00
84	A. Hettig	do	1 87½
85	German consulate	do	5 00
86	P. H. Krause	do	1 00
87	Wilfred Powell (British consul)	do	10 00
88	E. Yandall	do	37½
89	Peter Paul	do	17½

REPORT OF THE SECRETARY OF STATE.

To the PRESIDENT:

In transmitting to the President, with a view to laying it before the Senate, the general act concerning affairs in the Samoan Islands, which was signed at Berlin on June 14, 1889, the Secretary of State has the honor to make the following observations touching the negotiation of that instrument:

The correspondence transmitted to Congress by President Cleveland on the 8th of February last set forth the acceptance by the Government of the United States of the proposal of Prince Bismarck for the resumption at Berlin of the conference of representatives of the United States, Great Britain, and Germany for the pacific adjustment of affairs in Samoa, which was begun in Washington on June 21, 1887, and suspended on the 26th of the following month.

In a later communication, confidentially addressed to the Senate on the 27th of February last, the President made known the reasons which rendered it advisable to leave to the administration then about to assume office the appointment of representatives of the United States at such renewed conferences.

On the 14th of March last, the President nominated, and on the 18th of the same month appointed, by and with the advice and consent of the Senate, John A. Kasson, of Iowa; William Walter Phelps, of New Jersey, and George H. Bates, of Delaware, to be Commissioners to represent the United States at the conference; and on April 12 following full powers were conferred upon the persons so appointed to meet the Commissioners to be appointed on behalf of Germany and Great Britain for the purpose of considering and adjusting in a friendly spirit all or any questions which should come before the said conference relating to or growing out of the condition of affairs which had lately existed and might still exist in the Samoan Islands affecting the rights, respectively, of the three countries, or their citizens or subjects, in those islands.

The Commissioners received ample instructions touching the nature and scope of the questions which it was thought would demand the attention of the conference, and the views of the President as to the steps proper to be advocated by the United States in settlement of all pending questions connected with Samoa. They were instructed to be governed in the fulfillment of their mission by the most earnest assurance that the Government of the United States desired a speedy and amicable solution of all the questions involved; that while it would steadily maintain its full equality of right and consideration in any disposition of these questions, it was as much influenced by an anxious desire to secure to the people of Samoa the conditions of a healthy, prosperous, and civilized life as it was bound by its duty to protect the rights and interests of its own citizens wherever their spirit of lawful enterprise might carry them; that, in the co-operation of the three Governments, the President hoped and believed that frank and friendly consultation would strengthen their respect for each other, and the result prove that it was not the wish of any of them to subordinate the rights of the native Samoans to the exigencies of a grasping commerce or to the political ambition of territorial extension on the part of any one of the powers maintaining treaty relations with them. They were further instructed that in consenting, at the request of the Emperor of Germany, to re-open, at Berlin, the adjourned proceedings of the Conference

of Washington of 1887, the President, while thus manifesting his entire confidence in the motives and purposes of the German Government, desired it to be borne in mind that the step was the continuance merely of the efforts already made toward an adjustment of pending questions, and not the initiation of a new conference on another basis, inasmuch as the Government of the United States could not admit the conditions directly influencing the deliberations of the Conference of Washington to have been changed by any subsequent occurrences in the South Pacific.

The subjects as to which the Commissioners were instructed fell naturally under five heads:

(1) They were directed to ask the restoration of the *status quo*, in order that the disturbance of the equal rights of the powers in Samoa which had been caused by the forcible intervention of Germany and the deportation of Malietoa Laupepa might be removed, and their footing of equality restored. While the President was unwilling to consider that action of Germany, which immediately followed the suspension of the conferences at Washington, as intentionally derogatory either to the dignity or the interests of the other treaty powers, yet he could not but regard it, under the circumstances, as an abrupt breach of the joint relations of the three powers to each other and to the Government of Samoa, and impossible to reconcile with the frank and friendly declaration of the German Government, preliminary to the meeting of the conference of 1887, that it intended to maintain the status as it had theretofore existed and had neither interest nor desire to change an arrangement found satisfactory to the three Governments. The failure to restore that condition under which only, as it seemed to the President, a free choice could be made by the Samoans would not only seriously complicate, but might possibly endanger, that prompt and friendly solution which all the treaty powers so earnestly desired and which is so vital to the safety and prosperity of Samoa itself. Even were it urged that the forcible intervention of Germany had had consequences which could not be disregarded because impossible to undo, the restoration of the *status quo* appeared necessary to place the powers on that footing of equality which would enable them to provide such future changes as justice and unselfish interest might commend. The restoration of the *status quo*, however, was not to be submitted as an ultimatum which would close the conference or prevent the President from considering any plan put forward as a substitute.

(2) The organization of a stable governmental system for the islands, whereby native independence and autonomy should be preserved free from the control or the preponderating influence of any foreign government; the assistance of the United States, and equally of Germany and Great Britain, to be given to the natives of Samoa to form and administer their own Government. The President was unable to see how the suggested appointment of a governing adviser, or mandatory, by one of the powers, upon the avowed ground of supposed greater interests, could preserve that absolute equality of consideration which could alone justify the co-operation of the treaty powers, or could protect with adequate security the commercial interests of the separate powers, which are in fact the motive and the purpose of any co-operation. The obligation of the Government of the United States in the South Pacific is to protect the rights and interests of our citizens there resident and engaged in any lawful pursuit. It has no desire to dominate, and every wish to develop and strengthen a stable and just government, free from all occasions of trouble arising from, and fostered into, mischievous activity by the avarice and eagerness of competing merchants and land

speculators and the irregular conduct of foreign officials who are, perhaps naturally and excusably but most injudiciously, sympathetic with the prejudices and immediate interests of their resident countrymen. Besides these evils necessarily attending the subordination of Samoan independence to any one predominant alien interest, the United States could not consent to the institution of any form of government in those islands, subject, directly or indirectly, to influences which in the contingencies of the future might check or control the use or development of the right acquired on the part of the United States by lawful treaty to establish a naval station at Pago-Iago and to control its harbor to that end.

Bearing these essential points in mind, it was impressed upon the Commissioners that any intervention of the three powers, which the existing complications might make necessary for administering the Government of Samoa, should be temporary merely, and avowedly preparatory to the restoration of as complete independence and autonomy as is practicable in those islands.

(3) The President was further of opinion that, in any arrangement for the establishment of order and stability in Samoa, too much importance could not be given to the subject of the adjustment of claims and titles to land on the part of foreigners already amounting to more than the whole area of the group and conflicting to a degree involving continual disputes. It was desirable that the ownership of all the lands in the islands should be ascertained and registered; that rules for the transfer of title should be established, with safeguards against transfers for improper or insufficient considerations; and that, if necessary, a composition should be effected whereby a reasonable proportion of the territory might be saved to the natives. The settlement of the land question on some such equitable and comprehensive bases would give the best possible assurance for the stability and success of any government to be established, because removing the main incentive to its disturbance.

(4) In connection with the subject of land tenure, the necessity of prohibiting or regulating the importation and sale of fire-arms and alcoholic liquors naturally suggested itself, inasmuch as many of the land claims had, without doubt, been obtained by ministering to the weakness and passions of the natives by supplying them with those articles. This reproach to civilization should be removed, either by separate or joint adoption of stringent regulations on the subject.

(5) The question of a municipal administration of Apia, as a foreign settlement, under due reservation of extraterritorial rights, did not come within the scope of specific instructions, inasmuch as a system of joint municipal government, through the consular representation of the three powers, had for several years operated with satisfaction under the municipal convention of Apia, signed by the representatives of the United States, Germany, and Great Britain September 2, 1879. The Government of the United States had, indeed, not become formally a contracting party to that convention through ratification, exchange, and proclamation thereof, but the constant participation of the American consul in the tripartite scheme of foreign government thereby provided gave to the convention itself full recognition, and to the principle involved an abundant sanction. Having no special suggestions to make in this regard, and entertaining confidence in the impartial justice of any measure of foreign municipal control which might incidentally come before the conference, the subject was left to the representatives of the three treaty powers with merely a reference to the indisputable fact that peace and order had been promoted in the islands by the estab-

lishment and maintenance of a neutral territory in and about Apia in the common and harmonious interest of the foreigners residing therein.

The American Commissioners, thus instructed, met in Berlin similarly qualified plenipotentiaries of Germany and Great Britain, with whom nine formal conferences were held between the 29th of April and the 14th of June, 1889, on which latter date the results of their labors were embodied in a general act or protocol, declaratory of the views and purposes of the three powers with regard to—

First. The independence and neutrality of the Islands of Samoa, the restoration of peace therein, and the guaranty of equal rights to foreigners there resident.

Second. The modification of existing treaties, and the assent of the Samoan Government to said general act.

Third. The establishment and definition of the jurisdiction of a supreme court of justice for Samoa.

Fourth. The investigation and registration of land titles in Samoa.

Fifth. The administration of the municipal district of Apia.

Sixth. Taxation and revenue in Samoa.

Seventh. Restriction of the traffic in fire arms and intoxicants.

The protocols of the several sessions, herewith submitted, show the discussion which took place on each of these important heads, and indicate the successive stages by which the views of the three Governments thereon came into harmony. The result is, in the main, entirely in accord with the instructions under which the American plenipotentiaries acted. It is proper to observe that the matters in respect of which an agreement seemed most difficult were the restoration of the *status quo*, the formation of a stable government, without preponderance of influence on the part of any of the treaty powers, and the raising of revenue for the maintenance of that government.

As to the first of these points, the chief obstacle to an unqualified renewal of the status which existed when the conferences of Washington were held was found in the reluctance of Germany to admit such a situation as would appear to leave Mataafa, against whom she had declared war, eligible for the free choice of the natives as King. It is confidently believed that the final accord removes these difficulties, and the Samoans themselves, in the exercise of the freedom which they are to continue to enjoy, appear to have effected a practical solution of the matter. Under date of November 8 last the representatives of the three Governments at Apia issued a proclamation recognizing Malietoa Laupepa as King, in conformity with the understanding reached with reference to the restoration of the *status quo*. This was followed on the 4th of December last by a convocation of representatives of all the different districts of the Samoan group, who formally elected Malietoa Laupepa King of Samoa. On the next day, December 5, the consular representatives of the three powers issued a proclamation formally recognizing the King so elected. Copies of these two proclamations are appended, together with a report from the commanding officer of the U. S. S. *Adams*, at Apia, in relation to the election of a King and the announced acceptance of the result by Tamasese.

On the second point, the danger of preponderating influence on the part of any one of the three powers is obviated by taking the chief foreign adviser and judge from a neutral nation. The revenue question has been adjusted, with a due regard to the limited resources of the natives and the obligation of the three powers to share in the burden which, by force of circumstances, it has been necessary to impose in protection of their common interests and for the maintenance of peace and order.

With this brief exposition, the undersigned, Secretary of State, has the honor to place before the President the general act of Berlin of June 14, 1889, in relation to the Islands of Samoa, to the end that it be laid before the Senate for its advice and consent to the ratification thereof. It is hoped that this act may be conducive to the good government of Samoa under native autonomy, and to the lasting settlement of the vexed questions which have agitated the three powers in their complex relations to these islands.

With the general act is transmitted, for the information of the Senate, copy of a note from the Imperial German envoy, dated June 29, 1889, calling attention to the circumstance that, through a mistake of the printer, the fourth paragraph of section 2, Article V was repeated in the signed instrument, and proposing, on behalf of the German Government, that when the general act shall be ratified and proclaimed the repetition of the paragraph referred to shall be omitted. As such omission can not in any wise alter the stipulations of the act, or take away any of its provisions, it does not appear necessary to resort to formal amendment in correction of the error.

The repeated passage will be omitted, as proposed, when the general act shall be proclaimed.

Respectfully submitted.

JAMES G. BLAINE.

DEPARTMENT OF STATE,
Washington, January 7, 1890.

ACCOMPANIMENTS.

(1) General act, signed at Berlin, June 14, 1889, by the plenipotentiaries of the United States, Germany, and Great Britain, in regard to the neutrality and autonomous government of the Samoan Islands, and providing for equal rights therein of the three Governments and their citizens and subjects.

(2) Printers' copy of same.

(3) Protocols of the conference of Berlin, 29th April to 14th June, 1889.

(4) Proclamation by the consular representatives of the United States, Germany, and Great Britain, dated Apia, November 8, 1889.

(5) Report of commander of U. S. S. *Adams*, dated December 5, 1889, with annexes, including proclamation by consular representatives of the United States, Germany, and Great Britain, dated Apia, December 5, 1889, recognizing Malietoa as elected King of Samoa.

(6) Note from the Imperial German envoy to the Secretary of State, June 29, 1889.

GENERAL ACT OF THE CONFERENCE AT BERLIN.

The President of the United States of America, His Majesty the Emperor of Germany, King of Prussia, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India,

Wishing to provide for the security of the life, property, and trade of the citizens and subjects of their respective governments residing in, or having commercial relations with, the Islands of Samoa, and desirous at the same time to avoid all occasions of dissension between their respective governments and the Government and people of Samoa, while promoting as far as possible the peaceful and orderly civilization of the people of these islands, have resolved, in accordance with the invitation of the Imperial Government of Germany, to resume in Berlin the conference of their plenipotentiaries which was begun in Washing-

ton on June 25, 1887, and have named for their present plenipotentiaries the following :

The President of the United States of America :

Mr. John A. Kasson,
Mr. William Walter Phelps,
Mr. George H. Bates ;

His Majesty the Emperor of Germany, King of Prussia :

Count Bismarck, minister of state, secretary of state for foreign affairs,

Baron von Holstein, actual privy councillor of legation,

Dr. Krauel, privy councillor of legation ;

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India—

Sir Edward Baldwin Malet, Her Majesty's ambassador to the Emperor of Germany, King of Prussia,

Charles Stewart Scott, esquire, Her Majesty's envoy extraordinary and minister plenipotentiary to the Swiss Confederation,

Joseph Archer Crowe, esquire, Her Majesty's commercial attaché for Europe,

who, furnished with full powers which have been found in good and due form, have successively considered and adopted—

First. A declaration respecting the independence and neutrality of the islands of Samoa, and assuring to their respective citizens and subjects equality of rights in said islands, and providing for the immediate restoration of peace and order therein.

Second. A declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this act.

Third. A declaration respecting the establishment of a supreme court of justice for Samoa and defining its jurisdiction.

Fourth. A declaration respecting titles to land in Samoa, restraining the disposition thereof by natives, and providing for the investigation of claims thereto and for the registration of valid titles.

Fifth. A declaration respecting the municipal district of Apia, providing a local administration therefor, and defining the jurisdiction of the municipal magistrate.

Sixth. A declaration respecting taxation and revenue in Samoa.

Seventh. A declaration respecting arms and ammunition and intoxicating liquors, restraining their sale and use.

Eighth. General dispositions.

ARTICLE I.

A declaration respecting the independence and neutrality of the islands of Samoa, and assuring to the respective citizens and subjects of the signatory powers equality of rights in said islands, and providing for the immediate restoration of peace and order therein.

It is declared that the islands of Samoa are neutral territory, in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection. The three powers recognize the independence of the Samoan Government and the free right of the natives to elect their chief or king and choose their form of government according to their own laws and customs. Neither of the powers shall exercise any separate control over the islands or the government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said islands, and in view of the difficulties which would surround an election in the present disordered condition of their government, that Malietoa Laupepa, who was formerly made and appointed King on the 12th day of July, 1881, and was so recognized by the three powers, shall again be so recognized hereafter in the exercise of such authority unless the three powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

ARTICLE II.

A declaration respecting the modification of existing treaties and the assent of the Samoan Government to this act.

Considering that the following provisions of this general act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the three powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this act shall be inconsistent with any provision of such treaty or treaties the provisions of this act shall prevail.

Considering, further, that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the three powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the three governments through the medium of their respective consuls in Samoa.

ARTICLE III.

A declaration respecting the establishment of a supreme court of justice for Samoa and defining its jurisdiction.

SECTION 1. A supreme court shall be established in Samoa, to consist of one judge, who shall be styled chief-justice of Samoa, and who shall appoint a clerk and a marshal of the court; and record shall be kept of all orders and decisions made by the court, or by the chief-justice in the discharge of any duties imposed on him under this act. The clerk and marshal shall be allowed reasonable fees to be regulated by order of the court.

SECTION 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the chief-justice shall be named by the three signatory powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honor, impartiality, and justice.

His decision upon questions within his jurisdiction shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination as herein provided. He shall receive an annual salary of six thousand dollars (\$6,000.00) in gold, or its equivalent, to be paid the first year in equal proportions by the three treaty powers, and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the three powers in equal shares.

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.

SECTION 3. In case either of the four governments shall at any time have cause of complaint against the chief-justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and if, in the judgment of such authority, there is sufficient cause for his removal he shall be removed. If the majority of the three treaty powers so request he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

SECTION 4. The supreme court shall have jurisdiction of all questions arising under the provisions of this general act, and the decision or order of the court thereon shall be conclusive upon all residents of Samoa. The court shall also have appellate jurisdiction over all municipal magistrates and officers.

SECTION 5. The chief-justice is authorized at his own discretion, and required upon written request of either party litigant, to appoint assessors, one of the nationality of each litigant, to assist the court, but without voice in the decision.

SECTION 6. In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of king or of any other chief claiming authority over the islands, or respecting the validity of the powers which the king or any chief may claim in the exercise of his office, such question shall not lead to war, but shall be presented for decision to the chief-justice of Samoa, who shall decide it in writing, conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith; and the signatory governments will accept and abide by such decision.

SECTION 7. In case any difference shall arise between either of the treaty powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the chief-justice of Samoa, who shall make his decision thereon in writing.

SECTION 8. The chief-justice may recommend to the Government of Samoa the passage of any law which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the municipal district and for the collection of taxes without the district.

SECTION 9. Upon the organization of the supreme court there shall be transferred to its exclusive jurisdiction—

1. All civil suits concerning real property situated in Samoa and all rights affecting the same.

2. All civil suits of any kind between natives and foreigners or between foreigners of different nationalities.

3. All crimes and offences committed by natives against foreigners or committed by such foreigners as are not subject to any consular jurisdiction; subject, however, to the provisions of section 4, Article V, defining the jurisdiction of the municipal magistrate of the district of Apia.

SECTION 10. The practice and procedure of common law, equity, and admiralty, as administered in the courts of England, may be—so far as applicable—the practice and procedure of this court; but the court may modify such practice and procedure from time to time as shall be required by local circumstances. The court shall have authority to impose, according to the crime, the punishment established therefor by

the laws of the United States, of England, or of Germany, as the chief-justice shall decide most appropriate; or, in the case of native Samoans and other natives of the South Sea Islands, according to the laws and customs of Samoa.

SECTION 11. Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels; nor shall the court take any *ex post facto* or retroactive jurisdiction over crimes or offences committed prior to the organization of the court.

ARTICLE IV.

A declaration respecting titles to land in Samoa and restraining the disposition thereof by natives, and providing for the investigation of claims thereto, and for the registration of valid titles.

SECTION 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise, shall be prohibited, subject to the following exceptions:

(a) Town lots and lands within the limits of the municipal district as defined in this act may be sold or leased by the owner for a just consideration when approved in writing by the chief-justice of Samoa;

(b) Agricultural lands in the islands may be leased for a just consideration and with carefully-defined boundaries for a term not exceeding forty (40) years, when such lease is approved in writing by the chief executive authority of Samoa and by the chief-justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SECTION 2. In order to adjust and settle all claims by aliens of titles to land or any interest therein in the islands of Samoa, it is declared that a commission shall be appointed, to consist of three (3) impartial and competent persons, one to be named by each of the three treaty powers, to be assisted by an officer to be styled natives' advocate, who shall be appointed by the chief executive of Samoa, with the approval of the chief-justice of Samoa.

Each commissioner shall receive during his necessary term of service a compensation at the rate of three hundred dollars per month and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the commission for taking evidence and making surveys (such expenses to be approved by the chief-justice) shall also be paid, one-third by each of the treaty powers.

The compensation of the natives' advocate shall be fixed and paid by the Samoan Government.

Each commissioner shall be governed by the provisions of this act, and shall make and subscribe an oath before the chief-justice that he will faithfully and impartially perform his duty as such commissioner.

SECTION 3. It shall be the duty of this commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice, for the purpose of examination and registration, and that all claims not so presented will be held invalid and forever barred; but the chief-justice may allow a

reasonable extension of time for the production of such evidence when satisfied that the claimant has, after due diligence, been unable to produce the same within the period aforesaid. This notice shall be published in Samoa in the German, English, and Samoan languages, as directed by the commission.

The labours of the commission shall be closed in two years, and sooner if practicable.

SECTION 4. It shall be the duty of the commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall specially report—

(a) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(b) Whether it was for a sufficient consideration.

(c) The identification of the property affected by such sale or disposition.

SECTION 5. The commission, whenever the case requires it, shall endeavour to effect a just and equitable compromise between litigants. They shall also report to the court whether the alleged title should be recognized and registered or rejected in whole or in part, as the case may require.

SECTION 6. All disputed claims to land in Samoa shall be reported by the commission to the court, together with all the evidence affecting their validity; and the court shall make final decision thereon in writing, which shall be entered on its record.

Undisputed claims and such as shall be decided valid by the unanimous voice of the commission shall be confirmed by the court in proper form in writing, and be entered of record.

SECTION 7. The court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners.

SECTION 8. All lands acquired before the 28th day of August, 1879—being the date of the Anglo-Samoan treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the commission, subject to the revision and confirmation of the court.

SECTION 9. The undisputed possession and continuous cultivation of lands by aliens for ten years or more shall constitute a valid title by prescription to the lands so cultivated, and an order for the registration of the title thereto may be made.

SECTION 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant to the person or persons entitled thereto of an additional sum to be ascertained by the commission and approved by the court as equitable and just.

SECTION 11. All claims to land, or to any interest therein, shall be rejected and held invalid in the following cases:

(a) Claims based on mere promises to sell or options to buy.

(b) Where the deed, mortgage, or other conveyance contained at the time it was signed no description of the land conveyed sufficiently accurate to enable the commission to define the boundaries thereof.

(c) Where no consideration is expressed in the conveyance, or if expressed has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(d) Where the conveyance, whether sale, mortgage or lease, was made upon the consideration of a sale of fire-arms or munitions of war, or upon the consideration of intoxicating liquors, contrary to the Samoan law of October 25, 1880, or contrary to the municipal regulations of January 1, 1880.

SECTION 12. The land commission may at its discretion through the local government of the district in which the disputed land is situated appoint a native commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the commission, to be by them reported to the court.

ARTICLE V.

A declaration respecting the municipal district of Apia, providing a local administration therefor, and defining the jurisdiction of the municipal magistrate.

SECTION 1. The municipal district of Apia is defined as follows: Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of the River Fuluasa; thence following the course of the river upwards to the point at which the Alafuala road crosses said river; thence following the line of said road to the point where it reaches the River Vaisinago; and thence in a straight line to the point of beginning at Vailoa—embracing also the waters of the harbor of Apia.

SECTION 2. Within the aforesaid district shall be established a municipal council, consisting of six members and a president of the council, who shall also have a vote.

Each member of the council shall be a resident of the said district and owner of real estate or conductor of a profession or business in said district, which is subject to a rate or tax not less in amount than \$5 per ann.

For the purpose of the election of members of the council, the said district shall be divided into two or three electoral districts, from each of which an equal number of councillors shall be elected by the taxpayers thereof qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the consular representatives of the three treaty powers to make the said division into electoral districts as soon as practicable after the signing of this act. In case they fail to agree thereon, the chief-justice shall define the electoral districts. Subsequent changes in the number of councillors or the number and location of electoral districts may be provided for by municipal ordinance.

The councillors shall hold their appointment for a term of two years and until their successors shall be elected and qualified.

In the absence of the president the council may elect a chairman "pro tempore."

Consular officers shall not be eligible as councillors, nor shall councillors exercise any consular functions during their term of office.

SECTION 3. The municipal council shall have jurisdiction over the municipal district of Apia so far as necessary to enforce therein the

provisions of this act which are applicable to said district, including the appointment of a municipal magistrate and of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said district of person and property, for the assessment and collection of the revenues therein as herein authorized; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said district and not in conflict with this act, including sanitary and police regulations. They shall establish pilot charges, port dues, quarantine and other regulations of the port of Apia, and may establish a local postal system. They shall also fix the salary of the municipal magistrate and establish the fees and charges allowed to other civil officers of the district, excepting clerk and marshal of the supreme court.

All ordinances, resolutions and regulations passed by this council before becoming law 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 be unanimous in approving the regulations referred to them, or should the amendments unanimously suggested by the consular board not be 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.

SECTION 4. The municipal magistrate 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 this act, provided that the penalty does not exceed a fine of two hundred dollars or imprisonment for a longer term than 180 days.

In cases where the penalty imposed by the municipal magistrate shall exceed a fine of twenty dollars or a term of ten days imprisonment an appeal may be taken to the supreme court.

SECTION 5. The president of the municipal council shall be a man of mature years, and a good reputation for honor, justice, and impartiality. He shall be agreed upon by the three powers; or, failing such agreement, he shall be selected from the nationality of Sweden, The Netherlands, Switzerland, Mexico, or Brazil, and nominated by the chief executive of the nation from which he is selected, and appointed by the Samoan Government upon certificate of such nomination.

He may act under the joint instruction of the three powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this general act, and shall apply himself to the promotion of the peace, good order, and civilization of Samoa. He may advise the Samoan Government when occasion requires, and shall give such advice when requested by the king, but always in accordance with the provisions of this act, and not to the prejudice of the rights of either of the treaty powers.

He shall receive an annual compensation of five thousand dollars (5,000.00), to be paid the first year in equal shares by the three treaty powers, and afterward out of that portion of Samoan revenues assigned to the use of the municipality, upon which his salary shall be the first charge.

He shall be the receiver and custodian of the revenues accruing under the provisions of this act, and shall render quarterly reports of his receipts and disbursements to the king and to the municipal council.

He shall superintend the harbor and quarantine regulations, and shall, as the chief executive officer be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia.

SECTION 6. The chief justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the local government of the municipal district under the provisions of this act. Each member of the municipal council, including the president, shall, before entering upon his functions, make and subscribe before the chief justice an oath or affirmation that he will well and faithfully perform the duties of his office.

ARTICLE VI.

A declaration respecting taxation and revenue in Samoa.

SECTION 1. The port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares, and merchandise landed on the islands shall be there entered for examination; but coal and naval stores which either government has by treaty reserved the right to land at any harbor stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SECTION 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands, the following duties, taxes, and charges may be levied and collected, without prejudice to the right of the native government to levy and collect other taxes in its discretion upon the natives of the islands and their property, and with the consent of the consuls of the signatory powers upon all property outside the municipal district, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners.

A.—*Import duties.*

	Doll. c.
1. On ale and porter and beer, per dozen quarts.....	.50
2. On spirits, per gallon.....	2.50
3. On wine except sparkling, per gallon.....	1.00
4. On sparkling wines, per gallon.....	1.50
5. On tobacco, per lb.....	.50
6. On cigars, per lb.....	1.00
7. On sporting arms, each.....	4.00
8. On gunpowder, per lb.....	.25
9. Statistical duty on all merchandise and goods imported, except as aforesaid, ad valorem.....	2 p. c.

B.—*Export duties.*

On copra } ad valorem.....	}	2½ p. c.
On cotton } ad valorem.....		1½ p. c.
On coffee } ad valorem.....		2 p. c.

C.—*Taxes to be annually levied.*

	Doll. c.
1. Capitation tax on Samoans and other Pacific Islanders not included under No. 2 per head.....	1.00
2. Capitation tax on colored plantation laborers, other than Samoans, per head.....	2.00
3. On boats, trading and others (excluding native canoes and native boats carrying only the owner's property), each.....	4.00
4. On firearms, each.....	2.00
5. On dwelling houses (not including the dwelling houses of Samoan natives) and on land and houses used for commercial purposes, ad valorem.....	1 p. c.

	Doll. c.
6. Special taxes on traders as follows:	
Class I. On stores of which the monthly sales are \$2,000 or more, each store.....	100. 00
Class II. Below \$2,000 and not less than \$1,000.....	48. 00
Class III. Below \$1,000 and not less than \$500.....	36. 00
Class IV. Below \$500 and not less than \$250.....	24. 00
Class V. Below \$250.....	12. 00

D.—Occasional taxes.

1. On trading vessels exceeding 100 tons burden, calling at Apia, at each call.	10. 00
2. Upon deeds of real estate, to be paid before registration thereof can be made, and, without payment of which, title shall not be held valid, upon the value of the consideration paid.....	½ p. c.
3. Upon other written transfers of property, upon the selling price.....	1 p. c.
Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the proper tax collector.	
4. Unlicensed butchers in Apia shall pay upon their sales.....	1 p. c.

E.—License taxes.

No person shall engage as proprietor or manager in any of the following professions or occupations except after having obtained a license therefor, and for such licence the following tax shall be paid in advance:

Doll.		Doll.
10	Tavern keeper..... per month..	3
60	Attorney, barrister, or solicitor, per annum.....	1
30	Doctor of medicine or dentistry, per annum.....	24
40	Auctioneer or commission agent, per annum.....	12
12	Baker..... per annum..	6
60	Banks or companies for banking, per annum.....	6
6	Barber..... per annum..	6
5	Blacksmith..... do.....	6
6	Boat-builder..... do.....	6
12	Butcher..... do.....	6
6	Cargo-boat or lighter..... do.....	6
6	Carpenter..... do.....	6
12	Photographer or artist..... do.....	6
12	Engineer..... do.....	6
6	Engineer assistants..... do.....	6
	Engineer apprentices ..per annum..	3
	Hawker..... do.....	1
	Pilot..... do.....	24
	Printing-press..... do.....	12
	Sail-maker..... do.....	6
	Ship-builder..... do.....	6
	Shoemaker..... do.....	6
	Land surveyor..... do.....	6
	Tailor..... do.....	6
	Waterman..... do.....	6
	Salesmen, book-keepers, clerks, paid less than \$75 a month, per annum..	3
	Same when paid over \$75 a month, per annum.....	6
	White laborers and domestics, per head.....	5
	Factory hands and independent workmen..... per annum..	5

SECTION 3. Of the revenues paid into the Treasury the proceeds of the Samoan capitation tax, of the license taxes paid by native Samoans, and of all other taxes which may be collected without the municipal district, shall be for the use and paid out upon the order of the Samoan Government. The proceeds of the other taxes, which are collected in the municipal district exclusively, shall be held for the use and paid out upon the order of the municipal council to meet the expenses of the municipal administration as provided by this act.

SECTION 4. It is understood that "dollars" and "cents," terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies.

ARTICLE VII.

A declaration respecting arms and ammunition, and intoxicating liquors, restraining their sale and use.

SECTION 1. *Arms and ammunition.*—The importation into the Islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited, except in the following cases:

(a) Guns and ammunition for sporting purposes, for which written license shall have been previously obtained from the president of the municipal council.

(b) Small arms and ammunition carried by travellers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject or other Pacific Islander resident in Samoa is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but all such arms and ammunition shall be entered at the customs (without payment of duty) and reported by the president of the municipal council to the consuls of the three treaty powers.

The three governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of fire-arms in Samoa.

SECTION 2. *Intoxicating liquors.*—No spirituous, vinous, or fermented liquors, or intoxicating drinks whatever, shall be sold, given, or offered to any native Samoan, or South Sea Islander resident in Samoa, to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this article shall be established by the municipal council for application within its jurisdiction, and by the Samoan Government for all the islands.

ARTICLE VIII.

General dispositions.

SECTION 1. The provisions of this act shall continue in force until changed by consent of the three powers. Upon the request of either power after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this general act. In the meantime any special amendment may be adopted by the consent of the three powers with the adherence of Samoa.

SECTION 2. The present general act shall be ratified without unnecessary delay, and within the term of ten months from the date of its signature.

In the meantime the signatory powers respectively engage themselves to adopt no measure which may be contrary to the dispositions of the said act.

Each power further engages itself to give effect in the meantime to all provisions of this act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this general act shall be attested by a certificate thereof signed by the King and executed in triplicate, of which one copy shall be delivered to the consul of each of the signatory powers at Apia for immediate transmission to his Government.

Done in triplicate at Berlin this fourteenth day of June, one thousand eight hundred and eighty-nine.

(Signed :)

JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.

Protocols of the Conferences in regard to Samoan affairs, held at Berlin by representatives of the United States, Germany, and Great Britain, April 29, to June 14, 1889.

PREMIÈRE SÉANCE.

LUNDI, 29 AVRIL, 1889.

Les Gouvernements de l'Allemagne, des États-Unis d'Amérique et de la Grande-Bretagne étant convenus de délibérer en commun, dans une même pensée d'intérêt général, sur les affaires des Iles de Samoa, les Plénipotentiaires de ces Gouvernements se sont réunis en conférence à Berlin le lundi, 29 Avril, à 2½ heures.

Étaient présents :

Pour l'Allemagne.—Son Excellence Mr. le Comte de Bismarck, Ministre d'État, Secrétaire d'État du Département des Affaires Étrangères; Mr. le Baron de Holstein, Conseiller Intime Actuel de Légation; Mr. le Docteur Krauel, Conseiller Intime de Légation.

Pour les États-Unis.—Mr. John A. Kasson, of Iowa; Mr. William Walter Phelps, of New Jersey; Mr. George H. Bates, of Delaware.

FIRST SESSION.

MONDAY, APRIL 29, 1889.

The Governments of Germany, the United States of America, and Great Britain having agreed to deliberate in common, with a view to the general interest, concerning the affairs of the Samoan Islands, the plenipotentiaries of those Governments met at Berlin on Monday, April 29, at half past 2 o'clock.

The following plenipotentiaries were present:

For Germany.—His excellency Count Bismarck, minister of state, secretary of state of the department of foreign affairs, Baron de Holstein, actual privy counselor of legation, Doctor Krauel, privy counselor of legation.

For the United States.—Mr. John A. Kasson, of Iowa, Mr. William Walter Phelps, of New Jersey, Mr. George H. Bates, of Delaware.

Pour la Grande-Bretagne.—Son Excellence Sir Edward Baldwin Malet, G. C. B., G. C. M. G., Ambassadeur de la Grande-Bretagne à Berlin; Mr. Charles Stewart Scott, C. B., Ministre de la Grande-Bretagne près la Confédération Suisse; Mr. Joseph Archer Crowe, C. B.

Son Excellence le Comte de BISMARCK en souhaitant la bienvenue à Mrs. les Plénipotentiaires dit qu'il considère l'accord qui s'est manifesté entre les trois Gouvernements amis, relativement à la réunion de cette Conférence, comme étant de bon augure pour la réussite de leurs travaux, et il propose de constituer la conférence.

Mr. KASSON se fait l'interprète des sentiments des membres de la réunion en exprimant leurs remerciements au sujet des paroles sympathiques que vient de leur adresser le Comte de Bismarck. Il propose en conséquence que la présidence de la Conférence soit confiée à Son Excellence. Cette proposition est accueillie et le Comte de Bismarck, après avoir remercié de l'honneur à lui fait, prend la présidence en présentant, avec l'assentiment de Mrs. les Plénipotentiaires, comme secrétaires Mr. le Docteur Arendt, Consul Général d'Allemagne en Belgique, et Mr. Beauclerk, Secrétaire à l'Ambassade de S. M. Britannique à Berlin.

Sur la demande du Président, Messieurs les Plénipotentiaires remettent les pleins-pouvoirs dont ils sont munis au bureau de la Conférence. Ensuite le Comte de Bismarck reprend :

Afin de faciliter nos travaux, je crois utile que nous tombions d'accord que les propositions et documents destinés à figurer au protocole soient rédigés d'avance par écrit et lus au commencement de chaque séance ; ce qui est adopté.

En outre Monsieur le Président exprime le désir que les Membres de la réunion veuillent bien prendre l'engagement entre eux, conformément aux usages observés en pareils cas, de garder le secret de leurs délibérations. Cette proposition est adoptée.

For Great Britain.—His excellency Sir Edward Baldwin Malet, G. C. B., G. C. M. G., ambassador of Great Britain at Berlin, Mr. Charles Stewart Scott, C. B., minister of Great Britain near the Swiss Confederation, Mr. Joseph Archer Crowe, C. B.

His excellency Count Bismarck, in welcoming the plenipotentiaries, said that he considered the harmony of feeling that had been manifested by the three friendly Governments as a good omen for the success of their labors, and proposed that the conference be organized.

Mr. Kasson expressed the sentiments of the members of the Conference by returning their thanks for the kind words just addressed to them by Count Bismarck, and proposed that his excellency be chosen to preside over the Conference. This proposition was accepted, and Count Bismarck, after expressing his gratitude for the honor done him, took the chair, introducing as secretaries, with the consent of the plenipotentiaries, Dr. Arendt, consul-general of Germany in Belgium, and Mr. Beauclerk, secretary to the embassy of H. B. M. at Berlin.

At the request of the president, the plenipotentiaries delivered their full powers to the secretaries of the conference. Count Bismarck then remarked as follows :

In order to facilitate our labors, I think it would be well for us to agree that such propositions and documents as are to appear in the protocol be put in writing beforehand, and read at the commencement of each session.

Which was adopted.

The president also expressed a desire that the members of the conference should pledge themselves according to the usages observed in

Son Excellence demande alors la permission, avant d'entrer en délibération, de donner lecture d'une déclaration ainsi conçue :

Les événements dont les îles de Samoa sont le théâtre, ont pris, pendant ces derniers mois, un aspect qui impose aux Puissances contractantes le devoir de prendre en considération des mesures aptes à protéger la vie et la propriété des blancs établis en ce pays.

Guidés par cette conviction, les Gouvernements d'Allemagne, d'Angleterre et des États-Unis sont convenus de réunir une Conférence à Berlin, afin de se concerter sur les moyens propres à aplanir les difficultés de la situation actuelle et à donner des garanties suffisantes pour l'avenir. Comme devant servir de base aux négociations, le Gouvernement Allemand considère le maintien des traités existants, la parité de droits des trois Puissances contractantes, l'indépendance et la neutralité de l'État de Samoa.

Dans l'opinion du Gouvernement Impérial il ne s'agira point, en cette Conférence, de trouver un gouvernement convenable pour les indigènes de Samoa, mais d'établir sur une base solide la protection de la vie, de la propriété et du commerce, dans ce pays, des nationaux des trois Puissances contractantes et de procéder vers ce but par une action commune de ces Puissances.

Les délibérations de la Conférence n'auraient pas besoin de s'étendre à l'arrangement des affaires intérieures de Samoa, qu'en autant que cela paraîtrait nécessaire pour sauvegarder la sécurité de la vie, de la propriété et du commerce des sujets des trois Puissances.

Le Gouvernement Impérial croit devoir se borner pour le moment aux indications générales qui précèdent, car avant d'entrer dans le détail des questions qui doivent trouver leur solution, il lui paraît important, de connaître d'abord les vues des autres Gouvernements quant à la tâche que la Conférence aurait à remplir et au but vers lequel tendraient ses travaux.

Sir EDWARD MALET lit alors la déclaration suivante :

Le Gouvernement de Sa Majesté Britannique voit avec une légitime satisfaction se rouvrir la Conférence sur les affaires de Samoa, qui, faute d'entente, avait dû se séparer sans aboutir à Washington.

Il ose espérer que le succès couronnera la reprise à Berlin des travaux de la Conférence.

Dans l'intervalle qui vient de s'écouler les Gouvernements intéressés ont pu étudier les points de divergence qui se sont présentés, et de cette manière il a été possi-

such cases, to keep their deliberations secret. This proposition was adopted.

His excellency then asked permission, before the deliberations were begun, to read the following statement :

The events which are now taking place in the Samoa Islands have assumed, during the past few months, an aspect which renders it the duty of the contracting powers to consider what measures are best adapted to protect the lives and property of white settlers on those islands.

Entertaining this conviction, the Governments of Germany, England, and the United States have agreed to convoke a conference at Berlin, with a view to making arrangements as to the means best suited to remove the difficulties of the present state of affairs, and to furnish sufficient guaranties for the future. The German Government thinks that the observance of existing treaties, the equality of the rights of the three contracting powers, and the independence and neutrality of the State of Samoa should form the basis of the negotiations.

In the opinion of the Imperial Government, the attempt should not be made by this conference to devise a suitable form of government for the natives of Samoa, but to establish on a solid basis, protection for the lives, property, and commerce in that country, of the subjects or citizens of the three contracting powers, and to seek to attain that end by the joint action of the said powers.

The deliberations of the conference need not extend to the settlement of the internal affairs of Samoa, except so far as that may seem necessary in order to secure protection for the lives, property, and commerce of the subjects of the three powers.

The Imperial Government thinks that it must confine itself for the present to the foregoing general indications, since, before entering into the details of the questions to be settled, it deems it important to become acquainted with the views of the other Governments on the subject of the task to be performed by the conference, and of the object to be attained by its labors.

Sir Edward Malet then read the following statement :

The Government of Her Britannic Majesty is gratified at the reopening of the conference concerning Samoan affairs, which, owing to a failure to reach an understand-

ble de s'arrêter à certains principes généraux, de sorte que les détails seuls resteraient à résoudre.

Nous acceptons cordialement les bases de négociation mises en avant par Son Excellence Monsieur le Comte de Bismarck et, comme lui, nous voulons :

- 1° Le maintien des traités existants ;
- 2° L'égalité des droits des trois Puissances contractantes,
- 3° L'indépendance et la neutralité des îles de Samoa.

Su ces bases les Plénipotentiaires de Sa Majesté Britannique feront tout en leur pouvoir pour arriver à une solution satisfaisante et créer, avec l'aide de leurs collègues, un système d'administration aux îles de Samoa qui pourra leur assurer la paix et les bienfaits d'une tranquillité prospère.

Mr. KASSON, en demandant l'autorisation de développer en langue anglaise les points de vue adoptés par son Gouvernement dans la question qui fait l'objet de la Conférence, donne lecture de la pièce suivante :

The Government of the United States received with pleasure the proposition of the German Government to meet the representatives of Germany and England at Berlin for the resumption of the negotiations begun in the conference at Washington, which adjourned in July, 1887.

Upon the occasion of this renewal of the conference, the President has instructed us to give the most earnest assurance of his desire for a speedy and amicable solution of the questions relating to Samoa upon the principles accepted at its earlier meeting.

The American Government accepts and reciprocates the assurances communicated by his highness Prince Bismarck, through the German minister at Washington, in February last, of satisfaction with the neutrality of the islands and of the absence of any intention to put in question the independence of Samoa or the equal rights of the treaty powers.

The President also shares the common desire of the powers to apply these principles to protect the islands against a repetition of bloody wars, and to secure all the just interests of foreigners engaged there in lawful business.

These views being entertained in common by the powers interested, we may confidently hope for an early and satisfactory result of the deliberations of the conference.

So far as the "status quo," existing before the violent disturbances which have occurred since the adjournment of the conference at Washington, can be restored, the Government of the United States earnestly desires it, as the initiation of permanent peace and order among the natives.

To the consideration of the preceding questions, and of all others presented, the American representatives are instructed, and sincerely desire, to contribute their best efforts in the spirit of amity and concord.

Count BISMARCK having understood that Mr. Kasson had suggested that the business of the conference should be conducted in the English language, agreed that the subsequent discussions be held in English—reserving the right to resume the French language if circumstances should render it necessary for the German plenipotentiaries to do so.

ing, was obliged to break up at Washington without having accomplished the object for which it met.

I trust that success will crown the resumption of the labors of the conference at Berlin.

In the interval which has just elapsed, the Governments interested have been able thoroughly to examine the points of divergency which have presented themselves, and thus it has been possible to fix upon certain general principles, so that the details alone remain to be settled.

We cordially accept the bases of negotiation stated by his excellency Count Bismarck, and, like him, we desire :

1. The observance of existing treaties ;
2. The equality of the rights of the three contracting powers ;
3. The independence and neutrality of the Samoan Islands.

On these bases, the plenipotentiaries of Her Britannic Majesty will do all in their power to reach a satisfactory settlement, and to establish, with the aid of their colleagues, a system of government on the Samoa Islands that will secure to them peace and the benefits of prosperous tranquillity.

Mr. Kasson thereupon asked permission to state, in the English language, the views adopted by his Government in relation to the question which formed the subject of the conference. He then read the following statement :

Mr. KASSON thanked Count Bismarck, and moved that the protocols should be drawn up in English as a language well understood by all the plenipotentiaries, although he was aware that it was customary to hold the discussions of conferences in French.

Count BISMARCK accepted Mr. Kasson's suggestion, and said that as the French language was customary in international negotiations, Consul-General Arendt had been selected as secretary to the conference on account of his thorough acquaintance with the French tongue.

He would, however, substitute Legationsrath W. Stemrich as secretary in place of Dr. Arendt as long as the English language should be used in the conference.

His excellency then read the following statement :

We have recently received an official report from the commander of the man-of-war *Olga* to the effect that Malietoa, the former Samoan king, has expressed his regret and the earnest wish to be reconciled with the German Government. His Majesty the Emperor, after having taken cognizance of this report, has ordered his release. Consequently Malietoa is at liberty to go wherever he pleases.

Mr. KASSON expressed the great satisfaction with which he and his colleagues had listened to the statement of the president, and expressed the pleasure with which their Government would receive this announcement of his excellency, as well as their conviction that the action of His Imperial Majesty the Emperor of Germany in this regard would tend towards the restoration of good feeling and the promotion and maintenance of peace.

Sir EDWARD MALET expressed equal pleasure and satisfaction on hearing of the gracious act of His Majesty the Emperor.

The PRESIDENT proposed that no general debate should take place at the present meeting of the conference ; but that a subcommittee of three representatives—one for each power—should be nominated to draw up a programme of deliberations and to study the details of matters to be considered by the plenary conference.

Mr. KASSON and Sir E. MALET considered the plan suggested by the president as very desirable, especially as the members of the conference appeared to be unanimous with regard to all the principles submitted to them.

Count BISMARCK proposed that the land question should be the first to be submitted to the subcommittee, as being perhaps the most important of all the questions to be dealt with by the conference.

The proposal of the president was accepted unanimously.

The sub committee was elected, consisting of Dr. Krauel, Mr. Bates, and Mr. Scott; and it was agreed that all other members of the conference should be at liberty to attend their discussions.

The meeting was adjourned at 4 p. m., and it was agreed that the president would issue invitations to the plenipotentiaries for the next meeting of the plenary conference.

Signed :

JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.

Certified to be a true copy of the original protocol :

W. N. BEAUCLERK.
STEMRICH.

SECOND SESSION.

SATURDAY, 4 MAY, 1889—3.45 p. m.

Present:

For Germany.—Count von Bismarck, Baron von Holstein, Dr. Krauel.*For the United States of America.*—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.*For Great Britain.*—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the first meeting, held on Monday, 29th April, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK presented the report on the land question, drawn up by the subcommittee, and invited discussion thereupon.

It was agreed that the recommendations submitted by the subcommittee to the plenipotentiaries should be taken by them ad referendum for the approval of their respective governments.

Count BISMARCK supposed that it would be requisite to propose a supplementary treaty or convention with the Samoan Government, invalidating all previous acts contrary to the provisions contained in such new treaty or convention.

Mr. KASSON agreed that the consent of the Samoan Government to a new convention would be necessary, and suggested that the discussion as to the form of the proposal in question should be reserved for a later meeting of the conference.

The proposal of Mr. Kasson was unanimously accepted.

Count BISMARCK requested Mr. Bates to read seriatim the conclusions arrived at by the subcommittee in their above-mentioned report, and that gentleman proceeded to do so, as follows:

I. A suggestion as to the necessity of a strict prohibition in the future of all sales of land by natives to foreigners, similar to that already in force in Tonga and Hawaii, and, with certain limitations, also in Fiji and other Polynesian Islands. The committee were all strongly inclined to recommend prohibition of the absolute alienation of land to foreigners either by sale or mortgage, but that the land might be leased by the natives with the approval of the executive department of the Samoan Government and the land court.

Mr. SCOTT explained, at the request of Mr. Bates, his hesitation upon this point in the subcommittee. He had with Mr. Bates doubted whether a resolution by the conference to enforce such a prohibition were in strict conformity with one of the bases laid down by the president, namely, the recognition of the independence of the Samoan Government, and also whether an unconditional prohibition to sell lands to foreigners might not interfere with legitimate enterprises to develop Samoan resources.

Mr. Scott added that on its being explained to him that the prohibition would be enforced by the Samoan Government as party to the contemplated treaty, and that the power of leasing left to the natives would give every necessary facility to foreign enterprise, he had finally concurred in recommending the foregoing suggestion to the consideration of the conference.

A discussion took place concerning the question of sales or leases, in which it was pointed out that leases for very long periods of time were almost identical in effect with actual sales.

Mr. KASSON suggested that the period of leases might be limited to a term of years not exceeding the life-time of one generation; and that the words "for years" should be inserted in the resolution after the words "land might be leased."

The resolution was adopted in principle and it was agreed, upon the suggestion of the president, that the details of the question should be considered later.

Dr. KRAUEL remarked that he considered the same principles to be necessary in Samoa as obtained in Tonga and Fiji, namely, to protect the natives from bartering away their land, and that the only means of doing so was by absolute prohibition.

Mr. BATES observed that if a great company were to lease a large tract of land they would require the protection of a long lease, which they might obtain with the approval of the land court. He was of opinion that no such company would risk the expenditure of considerable sums of money on a short lease without the guarantee of a renewal of their lease or of compensation for improvements in case of its termination.

Mr. PHELPS said that the renewal of leases constituted a very unsatisfactory title. It was desirable that improvements should be encouraged in Samoa, and he would suggest that "no sale to foreigners should be permitted except with the approval of the land court and the Samoan Government."

Baron HOLSTEIN considered that leases for a limited period were the best protection for the natives against themselves.

Sir E. MALET asked whether the land court itself would not afford sufficient guarantees for the purposes required.

Mr. BATES remarked that the reversion, even after a long term of years, had always a distinct value.

Count BISMARCK suggested that the period of 99 years would be a fair and equitable term for leases—neither too much nor too little.

Mr. KASSON said that, as speculators were to be found in all countries, there was a danger lest unprincipled persons should take, if authorized, large tracts of land in Samoa and dispose of them at a profit, leaving the property to take care of itself. In this manner much of the valuable fruit-growing land might be taken from the control of the natives, who would thus be deprived of their very means of subsistence. He was of the opinion that it would never do to grant leases of indefinite duration, and he considered that some rules must be framed for the guidance of the judge in this particular.

Sir E. MALET did not think that a company would be satisfied with a lease of so short a period as 45 years without further guarantees.

Dr. KRAUEL concurred in recommending absolute prohibition of sales of land to foreigners.

Mr. PHELPS remarked that, if such sales were to be absolutely prohibited, a company or a merchant might be debarred from the possibility of buying a site suitable as a dock, wharf, or warehouse, merely because it happened to be the property of a native.

Mr. KASSON suggested that some limitation of vicinity to the commercial port might be arranged to meet the difficulty set forth by the previous speaker.

Count BISMARCK pointed out that the question of the duration of leases was not very important at the present moment. The whole arrangements for the Samoan Islands which this conference should endeavor to draw up would, as he understood from the confidential exchange of views between the delegates, be limited to a period of three or five years in order to put them to the test. After the end of this period the treaty powers would have to reconsider the said arrangements. The land commission and the land court would have work before them for several years, and he did not think that large enter-

prises of companies would be started before the important land question was settled.

Mr. BATES agreed with the remarks of his excellency the president, since, when the islands had regained tranquillity, a stable constitution would be framed and such matters would naturally be arranged on a proper footing.

Mr. KASSON proposed that the conference should accept the principle that "it is necessary to restrain the disposal of land to foreigners in Samoa."

This proposal was unanimously accepted.

Mr. BATES then read the second suggestion of the subcommittee:

II. That a commission consisting of three (3) members be appointed, and paid a uniform compensation by the three treaty powers, respectively, to investigate and report for the decision of the land court all claims to land in Samoa between foreigners, and also between foreigners and natives, and that this commission should be empowered to receive and obtain evidence as to all the circumstances under which the alleged titles had in each case been acquired. Among the points to be investigated shall be—

- (a) Whether the sale was made by the rightful owner or native entitled to make it.
- (b) Whether it was upon a sufficient consideration.
- (c) The identification of the land sold.

It should be one of the duties of the commission to endeavor to effect just and equitable compromises between litigants and to make recommendations to the land court about granting or refusing the recognition and registration of titles.

This suggestion was adopted unanimously.

Mr. BATES then read:

III. While desiring a representation of the native interests the committee did not deem it practicable to have a native representative in the commission, but decided to recommend the appointment, by the Samoan Government, with the approval of the land commission, of an assistant native commissioner or natives' advocate.

Dr. KRAUEL gave precedents for the course proposed from the arrangements made in Fiji, and suggested that perhaps a suitable "natives' advocate" would be found in the person of a foreign resident missionary.

Mr. BATES seconded Dr. Krauel's suggestion, and gave it as his experience that the missionaries were very suitable persons for such an office.

IV. It is unanimously considered proper that the expenses of this land commission should be paid equally by the three governments.

The proposal was adopted.

V. That a land court be established, to consist of one judge learned in the law, to be appointed by the Samoan Government upon the nomination of the three treaty powers, his decision to be final in all land cases. That the judge should be empowered at his own discretion, and obliged on application of either party to a suit, to appoint for each party an assessor of the nationality of each party to aid the judge but to have no vote in the decision.

That all disputed claims should be reported by the commission to the court for final decision, and that undisputed claims or such as were determined by the unanimous vote of the commission should be confirmed by the court without re-examination.

At this point the president proposed that the conference should elect a committee to arrange all suggestions laid before them, with a view to drawing up in due order and form the final resolutions agreed upon in principle by the plenary conference; this committee to be called the "committee of revision."

This proposal was accepted and Baron von Holstein, Mr. Kasson, and Sir E. Malet were named to serve as the members of the said committee,

The above resolution (No. V) was accepted, to be referred with all others to the newly formed committee of revision.

Count BISMARCK initiated a discussion as to the payment of the above-mentioned judge, which his excellency suggested ought to fall upon the Samoan Government.

Mr. KASSON suggested that the judge might at the outset of his appointment, be paid by the three powers, or that his salary might at least be guaranteed by them.

Sir E. MALET remarked that the question of whether the judge should be removable ought to be considered, or whether he could be removed from office only with the consent of the three powers.

It was agreed that the questions of the salary and tenure of office of the judge should be reserved for further consideration.

The following suggestions were next read by Mr. Bates and referred to the committee of revision, as amended :

VI. All deeds and other muniments of title, mortgages, or claims of liens or interests in lands claimed by foreigners, must be produced before the land commission within a specified time, not exceeding six months, during which all foreigners being in possession of or claiming any estate or interest in lands must send in an application to the commission in form as prescribed by them with a view to the recognition and equitable adjustment of such claims and the registration of such titles. Due advertisement shall be made in the English, German, and Samoan languages as directed by the commission.

VII. All lands acquired before the 28th of August, 1879, the date of the Anglo-Samoan treaty, must be held as validly acquired, if purchased from Samoans in a customary and regular manner, without prejudice to claims or rights of third persons, and any dispute as to the fact or regularity of such purchase, shall be determined by the commission, subject to the power of confirmation hereinbefore vested in the land court. In such cases a deed valid on its face shall be held prima facie evidence of the title.

VIII. The undisputed possession and continuous cultivation of lands for ten years or upwards shall constitute a valid title by prescription thereto, and an order for the registration of the same may be made.

IX. Where lands have been improved or cultivated upon a title which proves to be faulty, the title may be confirmed upon the payment by the occupant, to such person or persons as the commission may find entitled to the same, of an additional sum, to be determined upon principles of equity and justice.

Mr. KASSON suggested that this resolution should terminate with the words "by the commission."

X. Recognition and registration shall be refused in the following cases:

(a) Claims based on mere promises to sell (or options).
(b) When the deed or mortgage contains no description of the land purporting to be sold or mortgaged sufficiently accurate to enable the commission to define the boundaries thereof.

(c) If no consideration is expressed in the deed or mortgage, or, if being named, the consideration has not been paid in full to the seller.

(d) Conveyances or mortgages of land made since Jan. 1, 1880, upon an actual consideration of the sale of firearms, or of munitions of war, or of intoxicating liquors, in violation of the Samoan law of Oct. 25, 1880, or of the municipal regulations of January 1, 1880.

XI. The commission may at any time at its discretion, through the local government of the district in which the disputed land lies, institute a native commission to determine the seller's right of ownership and to lay the result of such investigation, together with the surrounding circumstances, before the land commission.

Mr. KASSON was of opinion that it would be the duty of the land commission to lay this report also before the judge.

Mr. BATES understood that the commission would be expected to send the whole record to the land court, and that the registry of the land court would constitute a registry of land titles.

Count BISMARCK then laid before the conference the following propositions, which were referred to the first subcommittee:

PROPOSITION I.

We propose that the conference may devise means by which the interests of the foreign residents in the Samoan Islands can be protected.

PROPOSITION II.

The treaty powers agree to take steps to prevent the importation and sale of arms and munitions of war, as well as the sale and gift of intoxicating liquors, to natives of Samoa.

Sir E. MALET expressed the wish that when subcommittees should be appointed, dealing with commercial and financial matters, the services of Mr. Crowe should be made use of by the conference.

Mr. KASSON supposed that the existing consular jurisdiction over foreigners, as provided by treaty, would be continued, at least in what concerns alone the co-nationalists of the consul, and he called attention to the fact that any provisions which the three powers should now agree upon affecting the rights of proper Samoan jurisdiction would require the consent of the Samoan Government.

The Conference adjourned at 5.15 p. m.

(Signed :) JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.

Certified to be a true copy of the original protocol :

W. N. BEAUCLERK.
STEMRICH.

THIRD SESSION.

SATURDAY, 11 MAY, 1889—2.30 p. m.

Present:

For Germany.—Count von Bismarck, Baron von Holstein, Dr. Krauel.
For the United States of America.—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.
For Great Britain.—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the second meeting, held on Saturday, 4 May, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK presented three reports brought up from the subcommittee, and suggested that they should be read in order to ascertain whether they met with the approval of the plenary conference.

Mr. CROWE accordingly proceeded to read as follows :

REPORT ON THE IMPORTATION AND SALE OF ARMS, MUNITIONS OF WAR, AND INTOXICATING LIQUORS.

The subcommittee, comprising Dr. Krauel, Mr. Bates, and Mr. Scott, which, on this occasion, was also attended, as provided by the full conference, by Mr. Phelps and Mr. Crowe, took into its consideration the prohibition of the importation and sale of arms and ammunition in Samoa, and also the prohibition of the sale to Samoans and other Pacific Islanders of spirituous liquors.

As regards the first of these points, certain alternatives were discussed.

The Samoan Government might be invited to pass a law preventing the importation and sale of arms and ammunition, or the same purpose might be attained by treaty. Importation for the use of Europeans and sportsmen might be regulated by special arrangements, and infringements might be punished by the *lex loci* or under consular jurisdiction.

The subcommittee agreed that it was desirable under all circumstances to exclude all arms and ammunition from Samoa, and that the prohibition should be rigidly upheld, except in the case of arms and ammunition imported for sporting purposes or for national defence under special license or other proper restrictions.

Count BISMARCK considered that the expression "for national defence," as an exception to the absolute prohibition of the importation of arms into Samoa, was too elastic, as it might convey the impression that the Samoans would possibly require to defend themselves against an attack on the part of foreigners. Such an emergency his excellency considered to be out of the question, since the three treaty powers had virtually already pledged themselves by agreement to protect the future of Samoa, and it was most unlikely that any other power would menace the independence of the natives whilst they remained under the ægis of such protection.

Mr. CROWE explained that the subcommittee had rather had in view the contingency of civil disturbances in the framing of this passage.

Sir E. MALET was of opinion that it was equally undesirable that facilities should be reserved for the natives to obtain weapons for use on such occasions.

Mr. PHELPS stated that the object of the subcommittee had been to suggest that the conference should endeavour to leave to the Samoans all the attributes of independence, not inconsistent with the safety of foreigners. The right of defending the national existence was a very important attribute. The Samoan Government would need possibly to defend itself against disorderly persons or against an insurrection on a small scale. It must have the right of suppressing such outbreaks, and this could only be done by the use of fire-arms.

Any abuse of the privilege in question would be guarded against by the provision that the arms could only be procured by special permission of the general government, yet to be created, and in which it is assumed that the treaty powers will have a controlling representation.

It was agreed that the words "for purposes of the government" should be substituted for the words "for national defence;" and that the committee of revision should be charged with the ultimate wording of the text in this matter.

Mr. CROWE read the remainder of the report, viz :

The subcommittee acknowledged the absolute necessity of prohibiting the sale of intoxicating liquors to Samoans or other Pacific Islanders. Under municipal regulations, which had already been applied, the retailing of such liquors was already forbidden to unlicensed persons in Apia; and the breach of this regulation was punishable by fines. A new municipal organization would have to keep this prohibition in force. The subcommittee recommends that it should be left to the Samoan Government, when such a government has been provided, to establish regulations for controlling the sale of intoxicating liquors; and the treaty powers might agree or arrange by treaty to take the necessary steps to secure this object either under the consular jurisdictions or by such means as may be considered binding on the subjects of the several states concerned.

Count BISMARCK suggested that the above should be referred to the committee of revision.

This proposal of the president was adopted.

Mr. KASSON asked which of the two alternative proposals contained in the concluding paragraph was to be taken into consideration by the committee.

Mr. BATES said that the subcommittee had considered that the point could not well be more definitely stated whilst it was yet unknown what form of civilized government would be established in Samoa.

It was agreed that the committee of revision should make their choice as to the proposal to be submitted to the plenary conference, in harmony with the other provisions contained in the above report.

Mr. CROWE then read :

REPORT ON REVENUE AND TAXATION.

As regards revenue, the subcommittee, in conjunction with Mr. Crowe and Mr. Phelps, thought that it was desirable, before anything else was done, to settle the question of the income available for the purposes of government, and for this purpose they drafted an estimate of the dues and taxes which might be levied in Samoa as hereafter follows :

To a remark made at the outset that the III^d article of the treaty of January 17, 1878, between the United States and Samoa barred the levying of import or export dues in the ports of the islands, it was stated that the United States Government were so desirous to aid the Samoan Government to raise a sufficient revenue that it might be assumed that it would offer no opposition to waiving these rights.

This much being premised, the following is a schedule of duties and taxes as finally drafted by the subcommittee.

I. Import duties. One port of entry, which shall be Apia, to be allowed for the islands, except that additional ports of entry for general use shall be established, one for each of the three treaty powers, upon the request of, and at the point named by, each power.

Sir E. MALET inquired on what consideration the last suggestion was based.

Mr. PHELPS explained that the representatives of the United States desired to have their coal-ships entered at their own harbour of Pago Pago; and, as this right was asked for their Government, they wished Germany and England to have the same opportunity to choose each a port.

Count BISMARCK observed that, by the treaty of 1879 with Samoa, Germany had selected the port of Saluafata as a naval station for her own use, whilst England, though having the same right, had up to the present moment not yet made a choice as to a port of her own.

Mr. KASSON considered that coal and naval stores imported for use of naval vessels on the high seas ought to be exempt from taxation.

Mr. BATES stated that this point had been considered in committee, and as the duty was so small it was not deemed necessary to provide for a special exemption for the treaty powers.

Sir E. MALET remarked that it was only proposed to levy a duty of one per cent. on coal, and this should be regarded merely as a statistical and not as an import duty.

Mr. PHELPS remarked that as the income on the proposed budget would be very small, it was not worth while to make exceptions.

Mr. CROWE stated that the statistical duties in question had been placed at as low a figure as possible in order to afford no advantage to smugglers, and for this same reason the suggestion of a sole port of entry had originally been made.

Mr. KASSON said that Pago Pago was the only place in Samoa used by the United States, so far as he was aware, as a coaling station. If coal were to be taxed it would be necessary to have a customs officer there, and this expenditure would equal the revenue derived from the duty on coal. Pago Pago was distant from Apia, and it would be very annoying to take it from the former to the latter port and back again for the purpose of customs entry.

Dr. KRAUEL suggested that it would be sufficient for the agent of the United States at Pago Pago to furnish the authorities at Apia with the necessary details concerning the amount of importation.

Mr. KASSON doubted whether any general administration would accept such declarations as sufficient. Besides, it was a treaty right of the United States to have this particular harbour for a depot of coal and naval supplies, and it was unnecessary, and might be inexpedient, to report the quantity and value to the local government.

Sir E. MALET supposed that the Samoan Government would make the necessary regulations upon this subject at a later period.

Mr. KASSON proposed to insert that—

No duties shall be levied on coal and naval stores imported for the use of either of the treaty governments.

It was agreed that this suggestion should be noted for the consideration of the committee of revision, and that the paragraph under discussion should run as follows:

One port of entry, which shall be Apia, to be allowed for the islands.

Mr. CROWE then read the following tariffs:

I.—Duties.

	Doll. c.
1. On ale, and porter, and beer, per doz. quarts.....	.50
2. On spirits, per gallon.....	2.50
3. On wine, except sparkling, per gallon.....	.75
4. On sparkling wines, per gallon.....	1.00
5. On tobacco, per lb.....	.50
6. On cigars, per lb.....	1.00
7. On arms, a piece.....	2.00
8. On gun-powder, per lb.....	.25
9. Statistical duty on all merchandise and goods imported, excepting the foregoing, ad valorem.....	1 p. c.

Mr. KASSON inquired whether the proposed duties on intoxicating liquors and fire-arms were sufficiently high.

Mr. BATES said that with regard to the duty on ale, porter, and beer, the question of revenue had been duly considered; that these liquors were imported in very considerable quantities and formed an important item of revenue.

It was agreed, on the suggestion of Mr. Kasson, seconded by Mr. Crowe, that the duty on arms (No. 7) should be raised from 2 dollars to 4 dollars.

Mr. PHELPS stated with respect to No. 9 that he would ask, as he had done in the subcommittee, that the general statistical duty should be at the rate of 5 per cent. instead of 1 per cent. He regarded the latter as a mere method of keeping accounts, and rather as a system of book-keeping than as a means of obtaining revenue.

Since in the United States 45 per cent. was about the average rate of import duties, he was of opinion that 5 per cent. could not be deemed excessive in this instance.

Mr. CROWE observed that as imports into Samoa were only to be allowed at the single port of Apia, it would be difficult to prevent smuggling at other places if the statistical duty was raised to a high figure. The United States Government had themselves enunciated the desire that there should be neither import nor export duties in Samoa. Large taxation had been imposed under other heads than those of customs, and it would be a hardship to increase the amount of the proposed import duties.

Mr. KASSON agreed with Mr. Phelps that an import duty was the best method of obtaining revenue; it was far preferable to the taxing of useful artisans. Smuggling would not be encouraged so long as it was better to pay a moderate duty than to run the risks of confiscation of goods. He would prefer to raise the duty to 3 per cent. to any taxation of artisans.

Mr. PHELPS desired that it should be recorded that the majority of the subcommittee was not averse to a duty of $2\frac{1}{2}$ or 3 per cent., and he trusted that this point would be borne in mind in all subsequent consideration of the matter.

Mr. BATES advocated a duty of $2\frac{1}{2}$ per cent. as an appreciable item of revenue, yet not sufficient to encourage smuggling. He was opposed to import duties upon general economic principles, and favored freedom of trade. Here, however, any duties imposed would be for revenue and not protective. In view of the necessity for revenue and the meagre resources of the islands, he was willing to make the so called statistical duty at least $2\frac{1}{2}$ per cent.

The question was referred to the committee of revision.

Mr. CROWE read:

II.—Export duties.

On copra	} ad valorem	} $2\frac{1}{2}$ p. c.
On cotton		
On coffee			1 $\frac{1}{2}$ p. c.
		2 p. c.

III.—Taxes.

	Dolls.
1. Capitation tax on Samoans and other Pacific Islanders not included under No. 2, per head per annum	1.00
2. Capitation tax on coloured plantation labourers, other than Samoans, per labourer	2.00
3. On boats (trading and others), excluding native canoes, each	4.00
4. On fire-arms, each	2.00
5. On houses and on land used for commercial purposes, ad valorem	1 p. c.
6. For registry of deeds of sale in proportion to selling price	$\frac{1}{2}$ p. c.
7. For stamp tax on transfers of property in proportion to selling price	1 p. c.
8. Trader tax (per annum):	
	Dolls.
Class I. Stores of which the monthly sales are above 2,000 doll. each store.	100.00
Class II. Below 2,000 doll. and above 1,000 doll.	48.00
Class III. Below 1,000 and above 500 doll.	36.00
Class IV. Below 500 doll. and above 250 doll.	24.00
Class V. Below 250 doll.	12.00
9. Trading ships	10.00

Mr. PHELPS said that, lest it might be supposed that a capitation tax was collected only from Samoan and other Pacific Islanders, he called attention to the fact that, under license or other provision, each white resident paid a larger tax, viz, even white labourers and domestics, factory hands, and independent workmen.

Mr. SCOTT hoped the natives would be able to pay this tax without resorting to the objectionable practice of raising cash for its payment by mortgaging their communal lands and produce. He thought this expedient ought to be very strongly condemned and if possible provided against in the future.

Mr. BATES earnestly seconded Mr. Scott's desire that means should be devised to prevent the natives from mortgaging or pledging the produce of their lands.

Dr. KRAUEL stated that an attempt had been made to collect this tax under the government of Tamasese with very satisfactory results. It had then been found that some districts were so eager to pay this tax that they had been known to contribute more than was legally due from them on that account.

Count BISMARCK remarked that the capitation tax in Tonga amounted to 3 dollars per head, and was paid in cash.

Sir E. MALET considered that it would be most improper if the produce of the land should be mortgaged in order to pay the tax in question.

It was agreed that the conference desired to record its strong opinion of the justice of this observation, with a view to the guidance of the future Samoan Government.

In reply to Mr. KASSON it was stated that the capitation tax included all members of the native population, viz, men, women, and children.

With regard to No. 3 of this tariff of taxes (No. III) a discussion was initiated by Mr. KASSON, who expressed the opinion that native boats, other than canoes, should be exempted from taxation, provided that they were of small size and used for the purpose of retail and domestic trading.

Mr. BATES explained that the intention of the committee was to exclude from taxation all boats ordinarily used by the natives, their capitation tax being intended to be in lieu of all other taxation. He had found on inquiry that the word "canoes" did not include all such native boats, and thought an amendment required to make the intention more clear.

Various amendments were suggested as to the wording of the article, and the question was referred to the committee of revision, it being understood that some provision was desirable which should exclude from taxation "small boats employed by the natives for purely domestic purposes."

Mr. KASSON asked, with reference to § 5, whether all houses were intended to be included in this category, or only buildings devoted to purposes of commerce.

After discussion of this subject, it was unanimously stated as the desire of the conference that the huts belonging to Samoan natives should not be subject to taxation.

Mr. PHELPS said there was a tax (No. 5) on land and houses used for commercial purposes; ought there to be no tax on agricultural lands?

Mr. CROWE thought it would be unfair to lay additional charges on agricultural property or plantations, burdened as these would be with other dues and taxes on traders and export produce.

Mr. KASSON desired to know whether the stamp act (No. 7) included both real and personal property, and was to apply to ordinary sales of merchandise.

Mr. BATES explained that it was not intended that the stamp tax should have such an application, and suggested that as a stamp tax only properly applied to written documents it had not been considered necessary to express it, but there could be no objection to amending it to apply only to writings.

It was accordingly agreed that the article should run, "for stamp tax on written transfers of property," etc.

Mr. CROWE then read the remainder of this report:

IV.—*Licenses.*

	Doll.		Doll.
Tavern.....per month..	10 to 12	Engineers' apprentices, per year..	3
Attorney, barrister, solicitor, per year	60	Hawkers.....do.....	1
Doctor of medicine or dentistry, per year.....	30	Pilots.....do.....	24
Auctioneer or commission agent, per year.....	24	Printing-press.....do.....	12
Baker.....per year..	12	Sail-maker (not employed), per year.....	6
Banks or companies for banks, per year.....	60	Ship-builder.....per year..	6
Barber.....per year..	6	Shoemaker.....do.....	6
Blacksmiths.....do.....	5	Land surveyor.....do.....	6
Boat-builders.....do.....	6	Tailor.....do.....	6
Butcher.....do.....	12	Waterman (not employed), per year.....	6
Cargo boat or lighter.....do.....	6	Salesmen, book-keepers, clerks, paid not less than 75 doll. a month.....per year..	3
Carpenter.....do.....	6	Salesmen, book-keepers, clerks, paid over 75 doll. a month, per year.....	6
Photographers or artists unemployed.....per year..	12	Unlicensed butchers in Apia, on sales.....	1 p. c.
Engineers.....do.....	12	Factory hands and independent workmen.....a year..	5
Engineers' assistants.....do.....	6		
White labourers and domestics per head.....a year..	5		

V.—*Pilot-dues.*

Per foot-draft.....	a year..	1
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VI.—*Quarantine dues.*

	Doll. c.
On vessels of 50 tons.....	0.50
“ 50 to 100 tons.....	1.00
On over 100 tons.....	1.00
And for every further 100 tons or fraction thereof 1 doll. extra.	

VII.—*Judicial fees.*VIII.—*Fines.*IX.—*Postal receipts.*

It was pointed out in reference to these duties and taxes that they are much lower than any charged in Fiji; and, on all articles except ale and porter much lower than those levied under the tariff of Hawaii; the general duty on goods imported into the latter islands being at the rate of 15 per cent. ad valorem.

It was urged, indeed, that the general statistical charge of 1 per cent. could scarcely be called a duty at all, because it was to be used for purposes of account rather than for purposes of revenue. But stress was laid, on the other hand, upon the fact that Samoa had hitherto been entirely free from import duties of any kind; and it might be feared that if they were raised to a high figure smuggling would be dangerously encouraged.

As regards export dues it was pointed out that though undesirable they would be found necessary under the peculiar circumstances in which the islands were placed; and the rates at which they had been drafted might be considered not too burdensome.

The capitation tax of 1 dollar a head on Samoans requires to be contrasted with the far higher tax imposed in the Tonga group, in which 20,000 souls yield an income under that head of 60,000 dollars a year.

It will be seen that the duty on ships calling at Apia for trading purposes has been kept at the rate of 10 dollars habitually levied up to the present time. It was not thought desirable to raise additional income by an increase to this duty.

On the whole it would appear that the revenue from all sources, which has been estimated in the draft-budget submitted by the German Government to the conference at Washington may well reach the amount of 90,000 dollars.

There is, unfortunately, no means of ascertaining exactly the yield of all the taxes or duties included in the estimate now presented.

The entire report was referred to the committee of revision for their further consideration, and
Mr. Crowe read the

REPORT ON THE SPECIAL ADMINISTRATION OF THE TOWN AND DISTRICT OF APIA.

I.—The subcommittee after having considered the question what revenue could be raised for the Government of Samoa by taxation, proceeded naturally to the subject of the Government itself. The question of the creation of some distinct municipal government for the town and district of Apia, having been made a special order for Wednesday, May 8th, was on that and the following days taken up for consideration.

Dr. Krauel gave a brief history of the municipal government of Apia under the convention of September 2d, 1879, between Great Britain, Germany, the United States, and the King and Government of Samoa. This convention had never been ratified by the United States. Mr. Bates assented to this, and added that that power had accepted it, and the consuls had entered de facto into the municipal council under it, and united in executing it, as a convenient arrangement for conducting a local administration for the benefit of citizens of all the treaty powers. Attention was called to the provision of Art. II, permitting a consul who might be sent by any other power to reside at Apia to have a seat in the municipal board. This, it was agreed by all, was an undesirable stipulation. The committee also noted the limitation contained in the convention, requiring its revision at the end of four years, and directing that if the internal state of Samoa should admit of it, the powers conferred upon the municipality should pass to the Samoan Government. The convention was renewed indefinitely by agreement of the consuls Sept. 3rd, 1883, and under that extension it continued to be executed until the municipal government was terminated in October, 1887.

Dr. Krauel thought that this municipality did not work satisfactorily, and expressed his opinion that it was found undesirable to have the foreign consuls on the board.

In this opinion Mr. Scott concurred, as did also Mr. Bates, though the latter expressed the opinion that the municipal board had given Apia a reasonably good local administration. He thought its authority had been weakened by the interference of consuls with the municipal magistrate, in withdrawing persons held for trial to the consular court, and also by the power of representatives of any one power to prevent meetings. Mr. Bates also thought that the declarations by all the treaty powers in the conference would set at rest the expectation of residents of Apia that the islands would finally be annexed by some one of the powers. This had been a prime cause of local international dissensions and schemes for gaining advantages, each for his own nationality.

After a general discussion of the whole subject it was finally concluded—

1. That there should be a special local administration provided for the territory containing most of the foreign residents, being the town and district of Apia, without impairing the territorial rights of the Samoan Government.

2. That upon the municipality so to be created there should be conferred clearly defined powers over all residents and persons for the time being within its territory.

3. That the territorial limits of the district to be included in the municipality should be what was known as the municipality of Apia, as described in Art. I of the convention of Sept. 2nd, 1879, and such limits may hereafter be changed with the consent of the Samoan Government and with that of the three consuls.

4. That among the treaty stipulations to be made between the three powers and Samoa, as the result of the conference, should be included such provisions as would effectuate the creation and due execution of this local municipal administration.

This is required because the consular jurisdiction conferred by existing treaties includes the police jurisdiction over citizens and subjects of the respective treaty powers.

The question of the form of the municipal government, and the persons or body to administer it, having been fully discussed and various plans suggested, it was finally agreed to recommend:

5. That there shall be created a municipal council composed of rate-payers, paying not less than \$5 per annum. Their term of office shall be two years.

(a) It shall be composed of six members, three to be appointed by the consular representatives of the three treaty powers, one by each, and three to be elected by the rate-payers, residing within the municipality, paying not less than \$5 per annum.

(b) The chairman of the council shall be an officer of the Samoan Government, to be hereafter designated, who shall have a vote, or in the absence of such officer, the council may elect its own chairman.

(c) The powers of the council shall be limited to local municipal administration including the making and enforcement of regulations and by-laws not in conflict with the Samoan laws or the treaty stipulations.

The control of the harbour and its lights, of pilotage and of quarantine were under the control of the old municipality, but the committee was of the opinion that all these subjects, as well as the collection of customs to be now provided for, should be under the control of officers of the Samoan Government.

(d) So many of the regulations of the former municipality as are applicable to the limited powers now conferred shall be deemed to be in force until repealed or amended.

(e) The board shall also appoint policemen and such minor officers as are required, and fix their compensation, terms of office, etc.

6. There shall be a municipal magistrate appointed by the Samoan Government with the approval of the chief judicial officer thereof. His term of office and compensation, and his power shall be defined hereafter. There shall also be an appeal to the chief judicial officer of the Samoan Government, in cases to be specified, under such conditions as may be prescribed by that officer.

In submitting these conclusions the subcommittee expresses its conviction—

1. That no adequate measures can be devised for the protection of the lives, commerce, and property of the foreign residents in Samoa unless they include the security of a Samoan Government sufficiently stable to restore and preserve tranquility in those islands.

2. That under present circumstances no native government can be expected to fulfil this necessary condition without foreign assistance.

The subcommittee therefore thinks that the conference should proceed, first, to consider in what form that assistance shall be rendered.

Count BISMARCK thought that it should be the next task of the conference to consider the summary of this long and interesting report, and to begin by examining its two final paragraphs.

Mr. BATES said that the paragraphs alluded to by the president were not a summary of the report but suggestions relating to another subject. The report was a scheme of limited local administration in the municipality, but the concluding paragraphs concerned the general government of the islands. While it seemed manifest that the real scope of the general proposition I referred to at the last meeting of the conference included the establishment of stable government for the group, the committee did not feel sure that the reference was intended to cover that entire subject. They therefore reported these general suggestions in order to bring the subject of the government before the conference.

The subject of the proposed municipality was then taken up for consideration of the conference.

Mr. KASSON observed that the composition of the municipal council (No. 5 a) was a matter of no small importance.

Mr. SCOTT understood that the subcommittee had not submitted its suggestions for the composition of the municipal board as a complete and thoroughly satisfactory scheme. He thought that he might without indiscretion reveal the fact that it was practically the result of a compromise between two conflicting opinions which had been advocated in the subcommittee. One opinion was that the consuls should be in some form represented on the board. The other, which he had himself shared, was that they should be kept entirely aloof from it, so as to avoid the danger of imparting an international colour to possible disputes on purely municipal and local questions which ought to be decided solely in accordance with local requirements and interests.

He threw out a suggestion that the municipality might be divided into two or three wards or districts, and care taken that each of these should be properly represented on the board so that their wants might receive equal attention and no one part of the town be unfairly favoured to the prejudice of the others.

Sir E. MALET expressed a doubt as to the wisdom of placing the nomination of three members of the municipal council in the hands of the three consuls.

Mr. BATES was glad that this question of the composition of the

board had been raised; it had given rise to much discussion in the subcommittee. He desired to separate the consuls from the purely local administration as much as possible, but thought there were good reasons for giving them the right to appoint one member each. The police powers conferred upon the municipality include a portion of the jurisdiction heretofore exercised as part of the extraterritorial jurisdiction of the powers.

There was perhaps too much of a tendency now to criticise the consuls as a class, but whatever else they had done this one function of appointing members of the municipal board had been exercised wisely by them all. There was therefore no objection to having each of the powers whose subjects were to be governed by the council represented by one member selected by the consuls.

The election of three members was a concession to the desire of the residents to have a voice in the selection of the council, and it was sufficient for the present.

Mr. SCOTT'S suggestion for a distribution of the members elected could be easily effected by requiring one to be chosen from each of the three national divisions of the town, Matafele, Apia, and Matautu, or the town could be fairly divided into two districts by the Mulivai River.

Mr. BATES was strongly opposed to the suggestion of vesting the appointment in the judge if it could be avoided, as it was in his judgment not in accordance with a correct distribution of the powers of government and would he feared impair the moral influence of the judge. The designation of an officer of the Samoan Government as chairman provided an arbiter in case of a tie, and made a connecting link between the government and the municipality.

Count BISMARCK remarked that if it were proposed that the judge should nominate three of the municipal council he was of opinion that a preponderating amount of local influence would be thus thrown into the hands of that official—sufficient, indeed, as possibly to affect his impartiality.

Mr. PHELPS, alluding to Mr. Scott's remarks, was willing to admit that the arrangement proposed was by way of a "compromise," for which he was himself responsible.

The reason for which he had urged that the consuls should each name one member of the municipal council was because that board was intended to exercise consular rights over foreign subjects. If such rights were to be delegated to other authorities, the British, German, and American Governments ought to nominate these new officials, and the consuls were the best agents for the Governments to employ in selecting the members of the council, as they were in a position to nominate the fittest persons.

The clause under discussion was agreed to in principle, and was referred to the Committee on Revision.

Dr. KRAUEL considered that the ratepayers themselves would be well able to take care of their own interests in such elections; he had seen a similar system working without difficulty in Shanghai.

Sir E. MALET alluded to the fact that the meetings of the former municipality in Samoa had been liable to be rendered null and void on account of the absence of a single member of the board, and he suggested that decisions in the proposed new corporation should be taken by a quorum.

Count BISMARCK thought that decision by majority would be advisable, which would exclude the necessity of a quorum.

To this the conference agreed.

Mr. BATES remarked that it would be needful to consider by what means the machinery for the proposed new administration should be set in motion. The committee had not overlooked this point, but simply left it for future consideration.

Mr. PHELPS proposed the nomination of a "second subcommittee" to consider the form of the future Samoan Government and its connection with municipal affairs.

The second subcommittee was appointed, consisting of Dr. Krauel, Mr. Phelps, and Mr. Scott, and it was arranged that they should meet on Monday, 13 May, at 2.30 p. m., and that the Committee of Revision should assemble on Tuesday, 14 May, at 10 a. m.

Count BISMARCK undertook to convoke the next session of the plenary conference as soon as sufficient materials for further debate should be prepared.

The conference adjourned at 4.50 p. m.

FOURTH SESSION.

FRIDAY, 17 MAY, 1889—2.30 p. m.

Present:

For Germany—Count von Bismarck, Baron von Holstein, Dr. Krauel.

For the United States of America—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.

For Great Britain—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the third meeting, held on Saturday, 11 May, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK stated that since the last meeting of the conference the 2nd subcommittee, and also the committee of revision, had been at work, and his excellency requested Sir E. Malet to make a statement as to the conclusions arrived at by the latter.

Sir E. MALET said that the committee of revision had met three times and had finished as much of their work as was possible with the matter which had hitherto been referred to them by the conference, but that to formulate definitely all the conclusions already come to by the conference must still depend in some measure upon its future decisions.

The only point of importance which he now desired to mention was a suggestion which had been adopted by the committee for reference to the conference that the chief-justice of Samoa should be nominated by the lord chief-justice of England. Her Majesty's government were anxious to do all in their power to meet the wishes of the Governments of Germany and the United States, but they were disinclined to be in any way responsible for the actions of the chief-justice of Samoa. It was felt that if the nomination were made by the government some such responsibility might be held to attach. By placing the nomination in the hands of the lord chief-justice of England, who was not a member of the government, the odour of government selection and consequent responsibility would be entirely removed.

Count BISMARCK fully agreed to this proposal, and considered that an analogous system might well be adopted in the appointment of the executive representative.

The German Government would not willingly assume the responsibility of nominating this officer, and in his opinion it would be advisa-

ble to select a subject of some neutral power, as, for instance, a Dutchman or a Scandinavian, for the appointment in question.

His excellency observed that it might be useful to suggest to the subcommittee that they should proceed in accordance with the above considerations as regards the nomination of the executive officer.

Mr. KASSON concurred with the proposal made as to the nomination of the judicial officer, which was acceptable to him in view of the non-political character of the appointment, and because the qualities required in such an official appeared to be guaranteed by the proposed manner of his nomination, viz, that he would be thoroughly acquainted with the English language, a person of sound and complete legal education, and one who could be relied upon to discharge his duties with perfect impartiality.

The proposal set forth by Sir E. Malet was accepted.

Count BISMARCK repeated his suggestion that a similar method might with advantage be followed in the selection of the executive officer, with regard to whose appointment the same arguments prevailed, and that all political considerations ought to be eliminated from his nomination in order to establish a guarantee for his impartiality.

Sir E. MALET stated that Count Bismarck's proposal would be acceptable to the British plenipotentiaries.

Mr. KASSON said that he had not as yet studied this proposal minutely; but he was in favour of its being considered by the subcommittee with a view to obtaining further details as to the nationality and method of appointment of the said executive officer.

The proposal of Count Bismarck was referred to the subcommittee and, at the request of his excellency, Mr. Scott read their "Report on the Form of the Future Samoan Government:"

The committee to whom was referred the task of "considering the form of the future Samoan Government and its connection with municipal affairs," having considered the subject, in conjunction with Messrs. Crowe and Bates, beg leave to report:

The committee were at one in concluding—

1. That an independent and stable native government is a necessary condition to the security of foreign interests.
2. That the forms of authority now existing on these islands could not be considered as fulfilling these conditions or even be recognized as governments at all.

Count BISMARCK thought that it might be preferable to use the word "government" instead of "governments" in the last line of No. 2.

Mr. PHELPS said that the purpose of using the plural number with reference to the actual authorities in Samoa had been in order to avoid indicating either the control of Tamasese or Mataafa, in such a way as to exclude neither and to include both.

Count BISMARCK feared lest the word, standing as it did in the report, might give rise to misunderstanding, since the object of the conference was to provide a new government for Samoa, and expressed a wish that the committee of revision should give its attention to this question.

Mr. SCOTT read:

3. And that, to secure both the independence and the stability of the native government to be established, it is necessary that the Samoans should choose and construct their own form of government, after their own native fashion, and administer it themselves receiving from the treaty powers only such counsel and aid as they might ask and need.

Count BISMARCK suggested the insertion of the word "conjointly" after the words "from the treaty powers."

This wording would avoid a possible misinterpretation of the clause;

since, as the judge would act under the combined influence of the three treaty powers, it would be well to demonstrate that they were proceeding in concert in this particular.

Mr. PHELPS gladly accepted Count Bismarck's suggestion, as giving clearer expression to the views of the subcommittee, viz, to offer no counsel and no aid except such as should be furnished by all of the three powers acting together.

Mr. SCOTT read:

With these general views the committee were willing to suggest, by way of counsel and aid, the following:

FORM OF GOVERNMENT.

1. The natives might elect a king.

2. The natives might also elect a vice-king, if they wished to do so.

On this point the committee divided, some thinking the existence of a vice-king harmful because it perpetuated a jealousy between two native sections; others, that it recognized and appeased this jealousy.

Whether there should be any restriction as to candidates was left to the general conference.

Mr. KASSON proposed in view of the uncertainty of opinion existing as to the proposals in this respect, that the two above clauses should form the subject of further discussion at the next meeting of the conference.

This proposal was adopted.

Mr. SCOTT read:

3. That any disputes as to this or other elections might be decided and the results declared by the land judge, whom, for convenience, we may call the judicial representative of the three powers.

Sir E. MALET remarked that the title given by the committee of revision to the land judge was "chief-justice of Samoa."

Count BISMARCK suggested that the committee of revision might determine the appellation of the official in question.

Mr. KASSON observed that the term was merely descriptive of the office to be created, and that the exact title would be settled without difficulty.

Mr. SCOTT read:

All were agreed here, that the election must be decided by some one, and the plan proposed was deemed worthy of suggestion by all. The judge was certainly better, as an umpire, than the consuls or a man-of-war, as provided in the agreement of December 15th, 1879.

While considering this use of the judge it was deemed wise to suggest that his functions should be defined so as to include (a) duties in land court; (b) duties in elections; (c) duties in appeals from the municipal magistrate; (d) duties as appellate judge and final umpire, in any misunderstanding between the Samoan Government and the representatives of any of the treaty powers.

4. That the Samoans might reconstitute their old Taimua and Faipule, or adopt such other legislative machinery as they might prefer.

5. The committee suggest that the foreign powers have an executive representative who shall be the adviser of the Samoan Government in all matters that concern foreign interests.

The above was accepted in principle and referred to the committee of revision.

Mr. BATES desired that if proposals were sent back to the subcommittee it should be clearly understood whether or no the said committee were at liberty to consider any alternative propositions submitted in the course of their deliberations.

Sir E. MALET observed that the subcommittee should only be empowered to examine proposals which were sent back to it by the con-

ference for reconsideration, otherwise the proceedings of the conference would come to a dead-lock.

Count BISMARCK considered that the only questions to be reconsidered by the subcommittee were those of the nationality and mode of appointment of the executive representative; if the discussion of questions that had already been dealt with by subcommittees, and about which the commissioners had arrived at an agreement, should be reopened, the conference and the committees would be in danger of undoing their own work after the fashion of Penelope's web.

Mr. PHELPS remarked that this portion of the report would in due course be put into more perfect shape by the committee of revision.

Mr. BATES understood that all proposals of the subcommittee were subject to the result of the consultations of the plenipotentiaries with each other and with their respective governments, and were accepted by the plenary conference simply "ad referendum." This had been distinctly understood at the outset with reference to reports of subcommittees.

Baron HOLSTEIN thought it well to recur to the plan which the conference had adopted at the beginning. The admission underlying all the work of the committee was that all the conclusions of the conference, in principle and detail, were adopted, subject to the final approval of their governments—in short, "ad referendum." To facilitate work the conference had given the preparation of its business to three committees; there was the committee on revenue, land, etc. This committee had reported; its work was approved by the conference, and was already gone to the committee of revision. The duty of this committee was to revise the work of separate committees, so as to make it appear as a consistent whole. The third committee was to report the form of future government for Samoa. Mr. Phelps had reported for it; the conference had accepted most of the recommendations, but had referred some back to that same committee for further consideration.

Mr. BATES said that there appeared to be some misapprehension as to the functions of the committee of revision. He understood that their function was to revise or edit the conclusions of the conference, and not to substitute new proposals. For instance, he considered that if this report be accepted without qualification it would not be in their power to propose any other plan than that of a single executive representative. He wanted the opportunity of consulting his Government upon such points, if necessary.

Mr. PHELPS thought that was a correct statement. The committee of revision was mainly one of editing, but it would be necessary, as its task was to unite all separate reports, as Baron Holstein said, into one consistent whole, to make such changes in details, as well as in words, as would accomplish this object.

Sir EDWARD MALET agreed in this view.

Count BISMARCK also agreed therewith, and said that it was understood that the final conclusions of the conference were to be taken "ad referendum" to the respective governments. Meanwhile, it was hardly possible to refer to the governments for instructions on every point of detail. Each group of plenipotentiaries had instructions to which they might refer, and they could easily discover how far the decisions to which they adhered tallied with their instructions. His excellency proposed that the subcommittee should simply reconsider the two points referred back to them.

This proposal was adopted.

Mr. SCOTT then read the remainder of the report as follows:

The executive representative shall be appointed by the Samoan Government, upon the nomination of the three powers, and shall advise the Samoan Government in all matters, where he can be useful, but especially shall he perform the following duties:

A.—He shall be the president of the municipal board of Apia.

B.—He shall control the income and expenditure of all custom duties and of the revenue collected otherwise in the district of Apia, a certain sum being set aside annually by him for the requirements of the municipality of Apia, which can be altered by the judicial representative upon appeal.

C.—He shall superintend the harbour and quarantine regulations and other measures connected with foreign trade and shipping.

6. The question of salaries coming up, it was agreed that the salary of the judicial and executive representatives ought to be paid, or at least guaranteed by the powers; that the salary of the judicial should be larger than that of the executive representative. Opinion as to the amount of these salaries varied. Some preferred \$7,500.00 for the judge; others thought \$5,000.00 sufficient. For the salary of the executive representative \$4,000.00 was mentioned.

Mr. KASSON stated that the committee of revision had concluded in favour of a salary of \$6,000 for the judge or chief-justice, which amount appeared to be a just medium of the suggested remuneration for the services of that officer.

Count BISMARCK agreed, inasmuch as the judge ought not to receive a smaller salary than a foreign consul in Samoa. The German consul had a salary of \$6,000; as the conference was agreed that it was very important to procure the best possible person for the office of judge, the pay of the latter should at least be equal to that of the best paid consul on the spot.

The conference agreed to the foregoing conclusion and to the proposal that the executive representative should receive a somewhat smaller salary than the judge.

Sir E. MALET inquired whether the question of paying or guaranteeing the salary of the judge by the powers had been well considered. He asked whether it would be needful to do so beyond the period of one year, and he doubted whether his government would be disposed to go beyond a limited period for this purpose.

Mr. PHELPS suggested that the words "as long as it may be necessary" might be inserted in this clause.

Count BISMARCK thought that the Samoans would be able to pay at the outset at least one-half of the necessary amount, out of the taxes, and that if the treaty powers should agree to guarantee the salaries of both the judicial and the executive officer they would hardly risk having to pay more than a few thousand dollars between them during the first period of perhaps a couple of years.

Sir E. MALET asked whether the salaries of the judicial and executive officers might not be made a first charge upon the revenues of Samoa.

Mr. KASSON remarked that these officers were not to be appointed for the benefit of the Samoans themselves, but rather in the interest of the subjects of the three treaty powers and of other foreigners—as it was not contemplated to force any particular form of government upon the Samoans, it was but reasonable that the powers, in whose interests these officers were to be appointed, should at first bear the expense of their maintenance.

Mr. BATES suggested that the recommendation as to the actual payment of these officers might be omitted, whilst the guarantee for their salaries for a fixed or indefinite period might remain.

Mr. PHELPS agreed entirely with the views expressed by Mr. KASSON upon this point.

Mr. BATES gave it as his opinion that it was good and expedient to nominate officials to act in the interests of foreigners, but every person with a local and practical knowledge of the affairs of Samoa would understand that these officers would virtually constitute the Samoan government. Their success would depend on the services actually rendered by themselves; they would be the collectors and comptrollers of the revenue, which ought to furnish all the requisite outlay.

It would promote the efficiency of the said officers to make them dependent upon their own efforts.

Sir E. MALET observed that the native government would not have the power of removing these officials.

Count BISMARCK remarked that the two officers would have the important task of maintaining order in the municipal district of Apia. It would also be their duty to watch over the interests of foreigners. In principle, no doubt, they should be paid by the Samoan Government; but if this were found to be impracticable for the first few years, he opined that the three treaty powers might undertake conjointly this small expenditure in their own interests.

Mr. PHELPS was willing, if such were the desire of the conference, that the powers should agree to guarantee and not to pay these salaries; but he must remark that the opinion of the sub-committee had been in favor of payment because the said officers would be the actual judicial and executive representatives of the three powers. It was therefore right that they should be paid by the powers and not by the Samoans, who would, indeed, at first be unable to do so from lack of means.

Again, the required officials would need to be assured of their salaries on accepting such distant and important employments.

He felt sure that the United States Government would be willing to pay one-third of the expense and so to assist in the formation of a system of government for Samoa, at least for a time.

Moreover, as the two officers would have the disposal of all revenues collected, they would naturally provide their own emoluments out of the said funds so soon as the income of the country allowed of their doing so.

Count BISMARCK presumed that if the estimated revenue of \$90,000 were forthcoming there would be no difficulty in creating a first charge thereupon for the salaries in question.

Mr. KASSON desired to know who would be charged with the assessment, custody, and disbursement of the revenue collected. It would surely be necessary to appoint a treasurer.

Count BISMARCK thought that the executive official might undertake this duty.

Mr. KASSON considered that an officer acting as auditor would still be required; he suggested that the subcommittee should consider this matter.

Mr. PHELPS understood from the tenor of the report under consideration that it would be the function of the judge to decide this, like all other differences, on appeal.

Mr. KASSON trusted that the committee of revision would harmonize this detail in conformity with the other conclusions of the conference.

Mr. BATES urged that the sub-committee had, as yet, prepared no complete scheme of a form of Government for Samoa. He desired to know what committee or sub-division of the conference had the task of

framing such proposals and how it was intended that the future system of Government in Samoa should be set in motion.

Count BISMARCK had no doubt that when the Samoan Government was once fairly constituted, it would find no difficulty in setting its own machinery in motion.

Mr. BATES asked in what manner the first election of the proposed municipal council was to be managed.

Sir E. MALET understood that this would be under control of the judge, according to the provisions of the report now under the consideration of the conference.

Baron von HOLSTEIN proposed that the committee of revision should consider these particular points.

This proposal was adopted.

The PRESIDENT proposed that the remaining subjects of discussion should be dealt with by the subcommittees and that the committee of revision should work upon all matters submitted to it from day to day.

Count Bismarck's proposal was unanimously accepted.

The conference adjourned at 3.50 p. m.

FIFTH SESSION.

WEDNESDAY, 22 MAY, 1889—3 p. m.

Present:

For Germany.—Count von Bismarck, Baron von Holstein, Dr. Krauel.

For the United States of America.—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.

For Great Britain.—Sir Edwin Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the fourth meeting, held on Friday, 17 May, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK inquired of Sir E. Malet what progress had been made by the committee of revision with their important labors.

Sir E. MALET said that the committee of revision had worked assiduously and had virtually completed their report as far as regarded the materials already placed into their hands. The result of their deliberations would shortly be placed before the plenary conference in the form of a complete act.

Count BISMARCK proposed that the plenary conference should discuss the conclusions of the committee of revision as soon as the plenipotentiaries had received the same in print and had had time to consider them.

Mr. KASSON was convinced that the report of the committee of revision would lead to no protracted discussion, since they had not felt at liberty to alter any principle involved in proposals which were accepted by the conference. They had chiefly occupied themselves with adjusting necessary details, supplying omissions, and putting the different proposals into a harmonious scheme. He gave the outline of the arrangement which they proposed to report.

Count BISMARCK expressed his assurance that the careful work of the committee of revision would certainly achieve the objects which the conference had in view and would formulate the decisions taken in the best possible manner.

It was agreed that the report of the committee of revision should be laid before the next meeting of the plenary conference.

Count BISMARCK observed that during the last meeting, when the report on the form of the future Samoan Government had been discussed, the following points had been reserved for future consideration, viz, that—

1. The natives might elect a king.
2. The natives might also elect a vice-king, if they wished to do so.

His excellency understood that the plenipotentiaries of the United States had been made acquainted with the views of their Government in this respect.

The conference had already agreed that it was desirable to interfere as little as possible with the internal affairs of Samoa, and the German Government had no objection to recognizing any form of government which the natives might choose for themselves. The principle of the election of a king was therefore acceptable, but he was bound to make one exception, in the person of Mataafa, on account of the outrages committed by his people and under his authority upon dead and wounded German sailors lying on the field of action.

Sir E. MALET considered the exception made by Count Bismarck as fair and reasonable. His Government would have probably entertained a similar objection, had the like outrages been committed on British sailors. His excellency then read the following statement:

With reference to the question of the election of a king, which is now before us, we are anxious to make a proposal which, we trust, may recommend itself to you. We are advised by those who have a local knowledge of the country that if the powers disclaim all intention of intervention and devolve upon the Samoans themselves the duty of freely electing their king, the result will be that they will have given the signal for civil war; as the practice of the islands only confers kingship upon the chief who is able to vindicate his supremacy by arms. A peaceful election, such as is the design of the powers, is, we are assured on good authority, not possible. Now civil war would be a lamentable beginning to our efforts toward the peace and good government of the islands. We have therefore turned for guidance to the principles which were announced on behalf of the three governments at the opening of the conference, and we find in the words pronounced by the first American plenipotentiary a practical suggestion. He expressed the earnest desire of his Government for the restoration of the status quo. On the same occasion the president of the conference announced that Malietoa, the former Samoan king, had been released by His Majesty the Emperor of Germany.

We have reason to suppose that, if such a peaceful election as we believe to be impossible could take place, Malietoa would be returned by a large majority.

We therefore propose that, in the interests of the peace and prosperity of the islands, it should be intimated to the Samoan people that if they will take Malietoa as king, such act on the part of the Samoans shall receive the sanction of the treaty powers.

Count BISMARCK was of opinion that Sir E. Malet's proposal was much to the point; since all were agreed that the main, if not the sole, object of the conference was to secure peace and order in Samoa. He therefore considered the motives of the suggestion to be sensible and acceptable. He referred to what he had stated before with respect to Samoan autonomy, and repeated that in case Malietoa should carry the votes of his countrymen there would be no reason to raise an objection.

Mr. KASSON said that he and his colleagues had foreseen a great practical difficulty if such an election had taken place whilst Samoa was still held by two rival chiefs at war with one another. He recognized the amicable character of Sir E. Malet's proposal, to the principle involved in which he had no objection, and he suggested that it should be referred to the committee of revision.

Sir E. MALET expressed his satisfaction at the kind reception accorded to his proposal by the plenipotentiaries of the other two powers.

The proposal was accordingly referred to the committee of revision. Count BISMARCK proposed now to consider the question which had been referred back to the subcommittee at the last meeting, namely, the nationality and mode of appointment of the executive representative to act as adviser to the Samoan Government.

Dr. KRAUEL stated that the subcommittee had reconsidered this subject but had not been able to come to any decision, as they understood that some further proposal was likely to be made to the plenary conference upon the point in question.

Mr. PHELPS said that he had felt it his duty to call the attention of the subcommittee to the fact that he had learned that the United States Government, while recognizing some of the advantages of a single adviser, would much prefer two advisers. The subcommittee, as Dr. Krauel had said, thought the consideration of this proposal to be beyond their powers, and it was therefore now brought before the conference.

The two advisers would be selected by the three powers and would be of different nationalities from each other and from the judge. When the two agreed, their decision would be final; where they disagreed, the decision would be left to the judge. Neither adviser could be president of the municipal board of Apia, and the board would meet to elect its own president. As their agreement would give the advisers absolute control within their own sphere, the tendency of the plan was to induce them to harmonize their views and thus to avoid yielding control to the judge.

They would soon learn that it was preferable not to quarrel.

Baron HOLSTEIN inquired which of the two systems proposed would be the less expensive.

Mr. PHELPS admitted that the system of one executive officer would certainly be cheaper; but he thought that if there were two such officers they might receive smaller salaries, say, \$2,000 or \$3,000.

Count BISMARCK did not think that it would be feasible to find trustworthy officials for such posts in those distant parts of the globe at so low a salary as \$3,000.

Sir E. MALET said that he had heard with regret this new proposal of the United States plenipotentiaries, which appeared calculated to alter an entire scheme which the conference had been on the point of completing. He thought that the present view of the United States Government might be founded on an incomplete knowledge, as the whole scheme elaborated by the conference had not been before them. He trusted that the Government would reconsider the scheme as a whole, in which event he felt confident that they would recognize in it a happy expedient for the avoidance of disputes between the representatives of the three powers. It might be that the wish of the United States Government was consequent on the assignment of the nomination of the chief justice of Samoa to the lord chief justice of England; that they, therefore, were of opinion that a German and an American should also hold positions of influence in the Samoan Government. If that were so he must repeat that that arrangement was agreed to by Her Majesty's Government as a concession in order to solve difficulties, and that, in agreeing, they repudiated all responsibility for the acts of the chief justice and all representation on his part of the British Government.

He inquired whether in the event of a disagreement between the adviser nominated by the German Government and the one nominated by the United States, if it were proposed that they were to refer to the chief justice for his decision, the latter would not be compelled to side

with one or other of the advisers, viz, with an American or with a German adviser. Such a measure would re-introduce the system of decision by majorities.

This system, as he was instructed, could not be admitted by his Government; it was one which would revive all the former difficulties and jealousies in Samoa, and would perpetuate the troubles which it was the principal object to the conference to allay. He would, therefore, propose that the conference of revision should complete the drawing up of the general act on the lines previously agreed to as a preliminary to the consideration of the alternative scheme.

Mr. PHELPS admitted the justice of Sir E. Malet's observations, in as far as, if there were two advisers, whilst the judge would in all probability be an Englishman, he thought that the three powers in choosing two advisers would be apt to select an American and a German.

Count BISMARCK fully agreed with the remarks of Sir E. Malet, and he trusted that when the final act came before the United States Government they would find the whole scheme to be acceptable. Meanwhile, if it were so desired, the new proposal might be laid before the United States Government as an alternative suggestion and the final form to be adopted might be reserved until they had expressed their opinion thereupon. He considered it advisable to provide the Samoans with as few officials as possible, owing to the difficulty of providing salaries for them. The natives might be unable or unwilling to pay two executive officers, and if the three governments had to pay them, as well as their own consuls, a large item of expenditure would be created.

In his opinion the suggestion of Sir E. Malet was most reasonable; and if the United States Government were not willing to accept the proposal the matter might be arranged later between the three powers.

Mr. PHELPS admitted that in view of the disfavor with which his proposal had been received it would be unwise on his part to press it further upon the conference. He would therefore accept Sir E. Malet's proposal and leave the matter for final decision at a later period. He only desired to add that if the system of two advisers were accepted it was the opinion of his Government that they would be efficient in protecting the interests of foreigners, and that the United States Government would therefore be willing to pay one-third of all official expenditure thus incurred.

He suggested that the conference might proceed to consider the method of appointment of the executive officer, in case only one should be chosen; and he suggested, in the interests of all and as very satisfactory to his own Government, that the appointment might best be conferred upon a Dutch or Swiss subject, on the nomination of some neutral power; for example, the nomination might be made by the President of the Swiss Republic.

Mr. SCOTT was of opinion that the Swiss Government were not sufficiently acquainted with the interests of distant colonies to enable them to make such nominations.

Count BISMARCK agreed with Mr. Scott; he was glad that Mr. Phelps had been able to meet more than half-way the views expressed by other plenipotentiaries, and he proposed that the point at issue should be referred to the committee of revision for examination by them in its present form.

This proposal was adopted.

Mr. SCOTT said that he did not desire to ask the conference to undo any of the work which it had already completed, but there was one

recommendation of the subcommittee of which he had been a member which had been sent to the committee of revision in an admittedly incomplete form. He alluded to that concerning the composition of the municipal council. In the third sitting of the conference he had explained the origin of this recommendation, and the suggestion which he had made on that occasion for some provision to secure an equal representation of the natural divisions of the municipal district had, he thought, met with a certain measure of general approval on the part of the conference; but he understood that the committee of revision had not as yet been able to give effect to it.

He believed that the German plenipotentiaries found themselves unable to support the proposal for a division of the municipality into two or three wards unless all the members of the proposed council were elected and the proposal for three consular nominees were abandoned.

He therefore desired to suggest the following alternative scheme for the composition of the municipal council, which he hoped would meet the views both of the German and American plenipotentiaries :

(1) To amend the original proposal of the subcommittee by the suppression of the three consular nominee members of the municipal council and by providing instead that all six members shall be elected; three of them by ratepayers resident in the district lying to the west of the Mulivai River and three by ratepayers resident in that part which is situated to the east of the said river.

(2) To add to the original proposal in its amended form the following words: "All regulations passed by this council under Article . . . of this act, before becoming law, 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 be unanimous in approving the regulations referred to them, or should the amendments unanimously suggested by them not be accepted by a majority of the full municipal council, then the regulations in question shall be referred for final decision to the chief judicial officer of the Samoan Government."

He added that in his opinion such a scheme, in addition to securing an equal attention to all the local wants and interests of the municipal district, would also have the advantage of minimising the danger of rivalry and jealousies which would be likely to arise in the municipal council itself, if half the members held their seats by appointment and half by election.

The desire of the United States plenipotentiaries to give the consuls some influence in the municipal government would be better satisfied by allowing them to exert it whilst sitting apart in a clearer and more independent atmosphere than that of the council room.

Mr. KASSON believed it to be the opinion of the committee of revision that it was not advisable to create too elaborate a machinery for simple working purposes. It would be better to define and limit the powers of the municipal council; and then trust to its discretion, subject to the revision and sanction of the chief-justice. In this manner it might be expected that the ordinances and regulations drawn up by the council would be found to be just and reasonable, whilst the superintendence of the chief-justice would prevent any extravagant action on the part of the municipal board.

He was well aware that topographical distribution must be taken into account in the formation of a municipal council; this was everywhere the case, and he approved the suggestion. Therefore, if the lines of demarcation had been well ascertained by the experts, he agreed that the members of the proposed body should belong to different districts.

Count BISMARCK observed that it might be left for consideration in a committee, to examine what electoral system would suit best the local wants.

Mr. PHELPS proposed that the subject should be referred to the committee of revision.

Sir E. MALET suggested that it should rather be referred back to the subcommittee, giving them power to come to a decision and to submit the same to the committee of revision.

This proposal was accepted.

Mr. PHELPS asked permission to revert to certain views expressed by Count Bismarck at the beginning of the session, that he might state that the silence of the American plenipotentiaries was not to be construed as assenting to those views, except as they expressed an indignation at the atrocities mentioned, with which the United States heartily sympathized.

Happily the assent of the conference to Sir Edward Malet's proposition made the question of who among the natives was responsible for these atrocities a mere academic question and the subject need not therefore be further pursued.

The conference adjourned at 4.10 p. m.

SIXTH SESSION.

MONDAY, 27 MAY, 1889—3 p. m.

Present:

For Germany—Count von Bismarck, Baron von Holstein, Dr. Krauel;

For the United States of America—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates;

For Great Britain—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the fifth meeting, held on Wednesday, 22 May, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK said that the conference would see with satisfaction that the project of the general act had been completed and laid before the plenipotentiaries by the committee of revision.

His excellency proposed at once to consider the said project with a view to the discussion of its various sections, and proceeded to read as follows:

PROJECT OF THE GENERAL ACT OF THE SAMOAN CONFERENCE.

His Majesty the Emperor of Germany, King of Prussia, the President of the United States of America, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India,

Wishing to provide for the security of the life, property, and trade of the citizens and subjects of their respective Governments residing in or having commercial relations with the Islands of Samoa, and desirous at the same time to avoid all occasions of dissension between their respective Governments and the Government and people of Samoa, while promoting as far as possible the peaceful and orderly civilization of the people of these islands, have resolved, in accordance with the invitation of the Imperial Government of Germany, to resume in Berlin the conference of their plenipotentiaries which was begun in Washington on June 25, 1887, and have named for their present plenipotentiaries the following:

His Majesty the Emperor of Germany, King of Prussia:

Count Bismarck, minister of state, secretary of state for foreign affairs,

Baron Holstein, actual privy councillor of legation,

Dr. Krauel, privy councillor of legation;

The President of the United States of America:

Mr. John A. Kasson,

Mr. William Walter Phelps,

Mr. George H. Bates;

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India:

Sir Edward Baldwin Malet, Her Majesty's ambassador to the Emperor of Germany, King of Prussia;

Charles Stewart Scott, esquire, Her Majesty's envoy extraordinary and minister plenipotentiary to the Swiss Confederation;

Joseph Archer Crowe, esquire, Her Majesty's commercial attaché for Europe; who, furnished with full powers, which have been found in good and due form, have successively considered and adopted—

First. A declaration respecting the independence and neutrality of the islands of Samoa, and assuring to their respective citizens and subjects equality of rights in said islands, and providing for the immediate restoration of peace and order therein.

Second. A declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this act.

Third. A declaration respecting the establishment of a supreme court of justice for Samoa, and defining its jurisdiction.

Fourth. A declaration respecting titles to land in Samoa, restraining the disposition thereof by natives, and providing for the investigation of claims thereto, and for the registration of valid titles.

Fifth. A declaration respecting the municipal district of Apia, and providing a local administration therefor.

Sixth. A declaration respecting taxation and revenue in Samoa.

Seventh. A declaration respecting arms and ammunition, and intoxicating liquors, restraining their sale and use.

Eighth. General dispositions.

ARTICLE I.

A declaration of the independence and neutrality of the islands of Samoa, and assuring to their respective citizens and subjects equality of rights in said islands, and providing for the immediate restoration of peace and order therein.

It is declared that the islands of Samoa are neutral territory in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection. The three powers recognize the independence of the Samoan Government and the free right of the natives to elect their chief or king and choose their form of government according to their own laws and customs. Neither of the powers shall exercise any separate control over the islands or the government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said islands and in view of the difficulties which would surround an election in the present disordered condition of their Government, that Malietoa Laupapa, who was formerly made and appointed King on the 12th day of July, 1881, and was so recognized by the three powers, shall again be so recognized hereafter in the exercise of such authority, unless the three powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

With respect to the wording of the preamble of Article I, Dr. Krauel suggested a verbal alternation, which was supported by Mr. Bates, and upon explanations furnished by Mr. Kasson it was agreed that the said preamble should be worded:

ARTICLE I.

A declaration of the independence and neutrality of the Islands of Samoa, and assuring to the respective citizens and subjects of the signatory powers equality of rights in said islands; and providing for the immediate restoration of peace and order therein.

Count BISMARCK proceeded to read:

ARTICLE II.

A declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this act.

Considering that the following provisions of this general act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the three powers, respectively, and the Government of Samoa, it is mutually

declared that in every case where the provisions of this act shall be inconsistent with any provision of such treaty or treaties, the provisions of this act shall prevail.

Considering further, that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the three powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the three Governments through the medium of their respective consuls in Samoa.

ARTICLE III.

A declaration respecting the establishment of a supreme court of justice for Samoa and defining its jurisdiction.

SECTION 1. A supreme court shall be established in Samoa to consist of one judge, who shall be styled chief-justice of Samoa, and who shall appoint a clerk and a marshal of the court; and record shall be kept of all orders and decisions made by the court, or by the chief-justice in the discharge of any duties imposed on him under this act. The clerk and marshal shall be allowed reasonable fees, to be regulated by order of the court.

SECTION 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the chief-justice may be named by the Lord Chief-Justice of England, and shall be of English professional experience. He shall be learned in law and equity, of mature years, and of good repute for his sense of honor, impartiality, and justice.

His decision upon questions within his jurisdiction shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination as herein provided. He shall receive an annual salary of six thousand dollars (\$6,000) in gold or its equivalent, to be paid the first year in equal proportions by the three treaty powers, and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the three powers in equal shares.

SECTION 3. In case either of the four Governments shall at any time have cause of complaint against the chief-justice for any misconduct in office such complaint shall be presented to the authority which nominated him, and if in the judgment of such authority there is sufficient cause for his removal, he shall be removed. If the majority of the three treaty powers so request, he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as herein before provided.

SECTION 4. The supreme court shall have jurisdiction of all questions arising under the provisions of this general act, and the decision or order of the court thereon shall be conclusive upon all residents of Samoa. The court shall also have appellate jurisdiction over all municipal magistrates and officers.

SECTION 5. The chief-justice is authorized, at his own discretion, and required upon written request of either party litigant, to appoint assessors, one of the nationality of each litigant, to assist the court, but without voice in the decision.

SECTION 6. In case any question shall hereafter arise in Samoa respecting the rightful election of King or other native authority, or respecting the validity of the powers which they may claim in the exercise of their office, such question shall not lead to war, but shall be presented for decision to the chief-justice of Samoa, who shall decide it in writing conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith, and the signatory Governments will accept and abide by such decision.

SECTION 7. In case any difference shall arise between either of the treaty powers and Samoa which they shall fail to adjust by mutual accord such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the chief-justice of Samoa, who shall make his decision thereon in writing.

SECTION 8. The chief-justice may recommend to the Government of Samoa the passage of any law which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the municipal district, and for the collection of taxes without the district.

SECTION 9. After the organization of the supreme court civil litigation arising in Samoa outside the municipal district in which a Samoan native shall be of one party and a foreigner of the other party shall be transferred from the consuls and shall come with the jurisdiction of the supreme court. Crimes and offences occurring outside the municipal district committed by natives against foreigners, or by foreigners against natives, shall also come within the jurisdiction of the supreme court, and shall be punished in accordance with the practice of civilized nations.

SECTION 10. The jurisdiction over civil matters arising and crimes and offences committed within the municipal district of Apia which has heretofore been exercised by the consuls of the respective treaty powers shall, after the civil organization of the municipality as hereinafter provided shall be completed, be transferred to and assumed by the judicial tribunals within said district.

Article II was adopted.

With regard to Article III, Mr. Bates inquired, with reference to section 3, what would be considered sufficient cause for the removal of the chief-justice, and whether he could be removed at the request of a majority of the three treaty powers, with or without sufficient cause.

Sir E. MALET supposed that there would be no proposal for the removal of the chief-justice without sufficient cause.

Mr. BATES objected to the provision permitting the removal of the judge upon the simple request of a majority of the three treaty powers. He thought the provision unwise, since no such man as it is hoped by all may be selected for this dignified position, would be likely to accept any office from which he might be removed without cause at the will of two of the powers. He would not object to a removal by the joint action of the three powers, and that ought to be readily secured in any case which would warrant such summary action.

Mr. KASSON thought it better that the clause should remain as it stood. Special occasions might arise in which the delay for the trial of the question in England would be very injurious. It could hardly be supposed that any two of the powers would unite in so serious a step without the most unquestioned cause for such action. The government of the nationality of the judge might hesitate where the other two powers would be satisfied. It was thought best to have this authority, although not likely to be exercised, as a sort of security against possible partiality.

Sir E. MALET suggested that it would be advisable to make provision for supplying the place of the chief-justice in case of his death or inability to continue the exercise of his functions.

Mr. SCOTT understood that in all British possessions care was taken that the course of justice should never be suspended, and he considered a similar precaution most necessary when establishing a court of justice to which, according to sections 9 and 10 of the article under consideration, it was proposed to transfer an important part of the jurisdiction now vested in the consuls of the three powers.

Mr. CROWE agreed with the observation made by Mr. Scott.

Count BISMARCK thought that in case of necessity the minor functions of the chief-justice might be delegated to the consuls during the interval which must elapse before the arrival of his successor, subject to revision by the incoming chief-justice. It was, however, hardly requisite to provide beforehand for all such emergencies.

Mr. SCOTT indicated certain cases in which a serious defect of justice might occur if no provision were made for temporary substitute to carry on the business of the court in case of the judge's death.

Count BISMARCK suggested that the executive officer might be charged with these functions during a limited period of vacancy in the office of chief-justice, say for three months; or the three powers might agree to exchange views with the purpose of nominating a substitute until a successor should be appointed.

Mr. SCOTT was of opinion that the chief-justice might appoint his substitute during his own life-time.

This suggestion was adopted.

Count BISMARCK referred to section 6 of Article III, the provisions

of which he considered should be revised, especially as regarded the words "such question shall not lead to war."

Mr. KASSON explained that the committee of revision had desired to lay down the rule that the local chieftains should no longer resort to fighting for the purpose of settling local rivalries, as, for instance, between the heads of tribes, and about conflicting claims among themselves.

Sir E. MALET proposed that the words "civil war" should be used.

Baron HOLSTEIN agreed with the suggestion of Sir E. Malet.

Mr. BATES objected to the words "other native authority." The object of the section—the prevention of civil war—was secured by referring to an impartial tribunal the election of the king or chief executive officer, by whatever name called. The project as originally drawn placed the election of "king, vice-king, or chief" under the jurisdiction of the chief-justice. The change had not disposed of the objection to that language. To permit foreign interference with the selection of a chief other than the supreme ruler would violate the principle laid down at the outset, and would foment rather than compose civil disorder.

Civil war in Samoa had heretofore arisen only from differences about their chief rulers. There was no need of foreign interference about other chiefs. When any differences arose about the selection or authority of their minor chiefs they had a summary—and to them satisfactory—method of settling such disturbances.

It was agreed that section 6 should run as follows:

SECTION 6. In case any question shall hereafter arise in Samoa respecting the rightful election of king or other supreme chief, or respecting the validity of the authority which he or any chief may claim in the exercise of his office, such question shall be presented for decision to the chief-justice of Samoa, who shall decide it in writing, conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith; and the signatory Governments will accept and abide by such decision.

Mr. BATES called attention to the fact that although in section 7 there was a provision for arbitrating differences between any one of the treaty powers and Samoa, there was no agreement on the part of the signatory powers that they would respectively accept and abide by the result of such arbitration. Whatever is meant should be expressed and no room left for future misunderstandings.

Sir E. MALET, Mr. KASSON, Count BISMARCK, and Mr. PHELPS were of opinion that the clause admitted of no ambiguity, and they would prefer to let it remain as it stood in the text.

Mr. KASSON referred to sections 9 and 10 of Article III, which he understood to be a logical sequence to a complete system of justice in Samoa. The three governments would perhaps like to retain a fuller consular jurisdiction; but the system proposed was considered as a natural and proper complement of the system of civilized tribunals now established for Samoa. Consular judicial functions should pass over to the courts of civilization, as they do in civilized countries.

Causes would be tried as in other civilized courts.

The sections in question were intended merely to be taken as suggestions for the sanction of the respective Governments.

Count BISMARCK inquired if crimes were committed by foreigners against other foreigners under no consular jurisdiction, to what tribunal would they at the present time be amenable?

Mr. KASSON stated that there was no court to try such cases.

Count BISMARCK suggested that power might be given to the chief-justice to decide such cases.

Sir E. MALET considered it an important matter to put a stop to the present unsatisfactory state of things in this respect; since it appeared from what had been said that some foreigners under no consular jurisdiction were not amenable to any court of justice.

Count BISMARCK fully agreed with Sir E. Malet that it was an important matter to settle this question.

Mr. KASSON said that any civilized tribunal, if duly established and recognized by the treaty powers would, in his opinion, be sufficient to meet such emergencies.

Mr. SCOTT doubted whether his Government would be prepared at least for the present to transfer to the proposed chief-justice or to the municipal tribunal the full extent of jurisdiction over British subjects contemplated by sections 9 and 10.

Dr. KRAUEL made the suggestion that some similar system might be adopted as that in force for the mixed tribunals in Egypt. It was very valuable to further local jurisdiction and all possible extension should be given thereto. He was in favor of extending the jurisdiction of the supreme court to criminal cases in which natives or foreigners under no consular jurisdiction were the offenders. The supreme court should also be competent in all civil causes relating to real property—otherwise the provisions relating to the land question would be incomplete.

It would be, however, essential that the consuls should retain jurisdiction between people of their own nationality.

Count BISMARCK proposed to alter section 9 as follows:

SECTION 9. After the organization of the supreme court, civil litigation arising in Samoa outside the municipal district, in which a Samoan native shall be of one party and a foreigner of the other party, shall be transferred from the consuls and shall come within the jurisdiction of the supreme court. Crimes and offences occurring outside the municipal district, committed by natives against foreigners, or by foreigners not exempt from local jurisdiction shall also come within the jurisdiction of the supreme court, and shall be punished in accordance with the practice of civilized nations, or according to Samoan custom as far as natives are concerned.

His excellency further suggested that all cases should be referred to the consuls where their own countrymen were concerned, excepting in land disputes, which should be decided by the chief-justice.

This question was unanimously agreed to in principle and sections 9 and 10 were referred to a subcommittee consisting of Mr. Phelps, Mr. Scott, and Dr. Krauel for further consideration.

Count BISMARCK read:

ARTICLE IV.

A declaration respecting titles to land in Samoa and restraining the disposition thereof by natives, and providing for the investigation of claims thereto, and for the registration of valid titles.

SECTION 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise shall be prohibited, subject to the following exceptions:

(a) Town lots and lands within the limits of the municipal district as defined in this act may be sold or leased by the owner for a just consideration when approved in writing by the chief-justice of Samoa.

Mr. KASSON suggested a short addition to No. 1a in order to prevent the mortgaging by natives of the produce of their lands, viz: "and all mortgages of produce of land prior to its removal shall be prohibited."

Mr. SCOTT proposed that all mortgages should be registered.

Count BISMARCK believed that it was the unanimous desire of the Conference to recommend to the Samoan Government and to the chief-

justice that every possible precaution should be taken to prevent the natives from mortgaging the produce of their lands. He agreed with Mr. Scott's remark, and thought it would meet the views of the conference, and that it, as well as Mr. Kasson's suggestion, would appear in the protocol.

The resolution proposed by the president was adopted by all the plenipotentiaries; and his excellency continued to read:

(b) Agricultural lands in the islands may be leased for a just consideration, and with carefully defined boundaries, for a term not exceeding forty (40) years, when such lease is approved in writing by the chief executive authority of Samoa and by the chief-justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SECTION 2. In order to adjust and settle all claims by aliens of title to land or any interest therein in the islands of Samoa, it is declared that a commission shall be appointed, to consist of three (3) impartial and competent persons, one to be named by each of the three treaty powers, to be assisted by an officer to be styled natives' advocate, who shall be appointed by the chief executive of Samoa, with the approval of the chief-justice of Samoa.

Each commissioner shall receive during his necessary term of service a compensation at the rate of three hundred dollars per month and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the commission for taking evidence and making surveys (such expenses to be approved by the chief-justice) shall also be paid, one-third by each of the treaty powers.

The compensation of the natives' advocate shall be fixed and paid by the Samoan Government.

Each commissioner shall be governed by the provisions of this act, and shall make and subscribe an oath before the chief-justice that he will faithfully and impartially perform his duty as such commissioner.

Mr. BATES thought the compensation of the natives' advocate should be paid by the powers and not put upon Samoa. He was a part of the machinery for settling land titles, which had been made necessary by the disputes of foreigners concerning land purchases. For this reason it had been deemed proper that the expense of the commission should not be imposed upon the Samoan Government. The natives' advocate was considered a necessary adjunct of the commission, because a native representation upon the commission was deemed impracticable. He therefore should be paid in the same manner as the commissioners.

Baron HOLSTEIN considered that the natives' advocate should be paid by the natives themselves.

Count BISMARCK thought it would be better to leave the wording as it stood, for he felt sure that the German Government would not be inclined, on principle, to pay the salary of the natives' advocate.

His excellency then read:

SECTION 3. It shall be the duty of this commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice, for the purpose of examination and registration; and that all claims not so presented will be held invalid and forever barred; but the chief-justice may allow a reasonable extension of time for the production of such evidence when satisfied that the claimant has, after due diligence, been unable to produce the same within the period aforesaid. This notice shall be published in Samoa in the German, English, and Samoan languages, as directed by the commission.

The labors of the commission shall be closed in two years, and sooner, if practicable.

SECTION 4. It shall be the duty of the commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall especially report—

(a) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(b) Whether it was for a sufficient consideration.

(c) The identification of the property affected by such sale or disposition.

SECTION 5. The commission, whenever the case requires it, shall endeavour to effect a just and equitable compromise between litigants. They shall also report to the court whether the alleged title should be recognized and registered or rejected, in whole or in part, as the case may require.

SECTION 6. All disputed claims to land in Samoa shall be reported by the commission to the court, together with all the evidence affecting their validity; and the court shall make final decision thereon in writing, which shall be entered on its record.

Undisputed claims and such as shall be decided valid by the unanimous voice of the commission shall be confirmed by the court in proper form in writing, and be entered of record.

SECTION 7. The court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners.

SECTION 8. All lands acquired before the 28th day of August, 1879—being the date of the Anglo-Samoan treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the commission, subject to the revision and confirmation of the court.

Count BISMARCK asked whether the words "for a valuable consideration" were not too elastic in their meaning, and wished that, in order to facilitate the task of the judge, they should be modified, in order to make it clear that the word "customary," in the next line, meant that the land had been purchased at rates customary at the time of acquisition.

It was agreed that "rates customary at the time of acquisition" should be considered as the meaning of the words "for a valuable consideration," and that this should be inserted in the protocol.

Count BISMARCK read:

SECTION 9. The undisputed possession and continuous cultivation of lands by aliens for ten years or more shall constitute a valid title by prescription to the lands so cultivated, and an order for the registration of the title thereto may be made.

SECTION 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant to the person or persons entitled thereto of an additional sum, to be ascertained by the commission and approved by the court as equitable and just.

SECTION 11. All claims to land, or to any interest therein, shall be rejected and held invalid in the following cases:

(a) Claims based upon mere promises to sell or options to buy.

(b) Where the deed, mortgage, or other conveyance contained at the time it was signed no description of the land conveyed sufficiently accurate to enable the commission to define the boundaries thereof.

(c) Where no consideration is expressed in the conveyance, or if expressed has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(d) Where the conveyance, whether sale, mortgage, or lease, was made upon the consideration of a sale of fire-arms or munitions of war, or upon the consideration of intoxicating liquors, contrary to the Samoan law of October 25, 1880, or contrary to the municipal regulations of January 1, 1880.

SECTION 12. The land commission may at its discretion, through the local government of the district in which the disputed land is situated, appoint a native commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the commission to be by them reported to the court.

ARTICLE V.

A declaration respecting the municipal district of Apia and providing a local administration therefor.

SECTION 1. The municipal district of Apia is defined as follows: Beginning at Vaioa, the boundary passes thence westward along the coast to the mouth of the river Fuluasa; thence following the course of the river upwards to the point at which the Alafuala road crosses said river; thence following the line of said road to

the point where it reaches the river Vaisinago; and thence in a straight line to the point of beginning at Vaialoa, embracing also the waters of the harbour of Apia.

SECTION 2. Within the aforesaid district shall be established a Municipal council, consisting of six members and a president of the council, who shall also have a vote.

Each member of the council shall be a resident of the said district and owner of real estate or conductor of a profession or business in said district which is subject to a rate or tax not less in amount than \$5 per ann.

For the purpose of the election of members of the council the said district shall be divided into two or three electoral districts, from each of which an equal number of councillors shall be elected by the tax-payers thereof, qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the consular representatives of the three treaty powers to make the said division into electoral districts as soon as practicable after the signing of this act. In case they fail to agree thereon the chief justice, shall define the electoral districts. Subsequent changes in the number of councillors or the number and location of electoral districts may be provided for by municipal ordinance.

The councillors shall hold their appointment for a term of two years and until their successors shall be elected and qualified.

In the absence of the president the council may elect a chairman *pro tempore*.

Consular officers shall not be eligible as councillors, nor shall councillors exercise any consular functions during their term of office.

SECTION 3. The municipal council shall have jurisdiction over the municipal district of Apia so far as necessary to enforce therein the provisions of this act which are applicable to said district, including the appointment of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said district of person and property, for the assessment and collection of the revenues therein as herein authorized; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said district and not in conflict with this act, including sanitary and police regulations. They shall establish pilot charges, port dues, quarantine and other regulations of the port of Apia, and may establish a postal system. They shall also establish the fees and charges allowed to magistrates and other civil officers of the district excepting clerk and marshal of the supreme court.

All ordinances, resolutions, and regulations passed by this council before becoming law 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 be unanimous in approving the regulations referred to them, or should the amendments unanimously suggested by the consular board not be 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.

With regard to the establishment of a postal system various suggestions were made, and it was agreed to insert the word local before postal system.

Count BISMARCK read:

SECTION 4. The president of the municipal council shall be a man of mature years and of good reputation for honor, justice, and impartiality. He shall be agreed upon by the three powers; or, failing such agreement, he shall be selected from the nationality of Sweden, The Netherlands, Switzerland, Mexico, or Brazil, and nominated by * * * and appointed by the Samoan Government upon certificate of such nomination.

He may act under the joint instruction of the three powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this general act, and shall apply himself to the promotion of the peace, good order, and civilization of Samoa. He may advise the Samoan Government when occasion requires, and shall give such advice when requested by the King, but always in accordance with the provisions of this act and not to the prejudice of the rights of either of the treaty powers.

He shall receive an annual compensation of five thousand dollars (\$5,000.00), to be paid the first year in equal shares by the three treaty powers and afterward out of that portion of Samoan revenues assigned to the use of the municipality, upon which his salary shall be the first charge.

He shall be the receiver and custodian of the revenues accruing under the provisions of this act, and shall render quarterly reports of his receipts and disbursements to the King and to the municipal council.

He shall superintend the harbor and quarantine regulations, and shall, as the chief executive officer, be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia.

Mr. KASSON asked that this article might be passed for future consideration as the American plenipotentiaries were not prepared to act finally upon it without further instructions from their Government.

The conference, in deference to Mr. Kasson's wish, agreed to pass over section 4 at present and to reserve it to future consideration.

Count BISMARCK read :

SECTION 5. The chief justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the local government of the municipal district under the provisions of this act. Each member of the municipal council, including the president, shall, before entering upon his functions, make and subscribe before the chief justice an oath or affirmation that he will well and faithfully perform the duties of his office.

ARTICLE VI.

A declaration respecting taxation and revenue in Samoa.

SECTION 1. The port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares, and merchandise landed on the islands shall be there entered for examination; but coal and naval stores which either government has by treaty reserved the right to land at any harbour stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

Count BISMARCK, whilst agreeing with the purport of this section, feared lest its wording might lead to misunderstanding, and suggested that it should be precisely stated that it referred only to coals and naval stores for government purposes.

Mr. KASSON only desired to preserve intact the rights secured to his Government by its treaty.

Mr. BATES asked if he had correctly understood the president's suggestion for alteration to be to change the last clause of the section so as to read, "but coal and naval stores imported by any of the governments under treaty stipulations in the harbour reserved by treaty for its use may be landed free of duty without entry or examination."

Count BISMARCK said that the addition "for government purposes" would correctly state his view, and suggested that it be substituted.

Mr. KASSON observed that his instructions did not permit him to consent to any provision which should impair or modify the plain rights of the United States in the harbour of Pago Pago. The clause as found in the project was carefully drawn by him to preserve those rights intact as they existed by virtue of the treaty.

If any of these articles so imported should afterwards pass from government's control into private ownership, and then be removed for consumption or sale in Samoa, he had no objection to the application of the statistical import duty to such goods.

Count BISMARCK thought that a limitation to the clause should be added, and while considering that the last proposal was much to the point it appeared from Mr. Kasson's first remark that a misunderstanding had arisen as to the observation made with respect to private importation which was not intended in any way to affect the rights acquired by treaty by the three powers.

Mr. KASSON still thought it unwise to make any change in the present section for the reasons already mentioned. But the qualification about such importations when removed for consumption in the islands as private property might be inserted elsewhere.

Count BISMARCK pointed out that the clause read by Mr. Bates would appear in the protocol, and summed up the unanimous opinion in the following words :

If any articles so imported should afterwards pass from government control into private ownership and be introduced for sale or consumption into other parts of the islands, they shall be subject to the statistical import duty as in the case of private merchandise imported.

Count Bismarck read :

SECTION 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands the following duties, taxes, and charges may be levied and collected, without prejudice to the right of the native government to levy and collect other taxes in its discretion upon the natives of the islands and their property, and upon all property outside the municipal district, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners.

A.—*Import duties.*

	Doll. c.
1. On ale and porter and beer per dozen quarts.....	.50
2. On spirits, per gallon.....	2.50
3. On wine, except sparkling, per gallon.....	1.00
4. On sparkling wines, per gallon.....	1.50
5. On tobacco, per lb.....	.50
6. On cigars, per lb.....	1.00
7. On sporting arms, each.....	4.00
8. On gunpowder, per lb.....	.25
9. Statistical duty on all merchandise and goods imported, except as aforesaid, ad valorem.....	2 p. c.

B.—*Export duties.*

On copra, } ad valorem	2½ p. c.
On cotton, }	1½ p. c.
On coffee, }	2 p. c.

C.—*Taxes to be annually levied.*

	Doll. c.
1. Capitation tax on Samoans and other Pacific islanders not included under No. 2, per head.....	1.00
2. Capitation tax on coloured plantation labourers, other than Samoans, per head.....	2.00
3. On boats, trading, and others (excluding native canoes and native boats carrying only the owner's property) each.....	4.00
4. On fire-arms, each.....	2.00
5. On dwelling-houses (not including the dwelling-houses of Samoan natives) and on land and houses used for commercial purposes, ad valorem.....	1 p. c.
6. Special taxes on traders as follows:	
Class I. On stores of which the monthly sales are \$2,000 or more, each store.....	100.00
Class II. Below \$2,000 and not less than \$1,000.....	48.00
Class III. Below \$1,000 and not less than \$500.....	36.00
Class IV. Below \$500 and not less than \$250.....	24.00
Class V. Below \$250.....	12.00

D.—*Occasional taxes.*

	Doll. c.
1. On trading vessels exceeding 100 tons burden, calling at Apia, at each call.....	10.00
2. Upon deeds of real estate, to be paid before registration thereof can be made, and without payment of which, title shall not be held valid, upon the value of the consideration paid.....	½ p. c.
3. Upon other written transfers of property upon the selling price.....	1 per cent.

Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the proper tax collector.

4. Unlicensed butchers in Apia shall pay upon their sales..... 1 per cent.

E.—License taxes.

No person shall engage as proprietor or manager in any of the following professions or occupations except after having obtained a license therefor, and for such license the following tax shall be paid in advance:

	Doll.		Doll.
Tavern keeper.....per month..	10	Engineer apprentices..per annum..	3
Attorney, barrister, or solicitor, per annum.....	60	Hawker.....do.....	1
Doctor of medicine or dentistry, per annum.....	30	Pilot.....do.....	24
Auctioneer or commission agent, per annum.....	40	Printing-press.....do.....	12
Baker.....per annum..	12	Sail-maker.....do.....	6
Banks or companies for banking, per annum.....	60	Ship-builder.....do.....	6
Barber.....per annum..	6	Shoe-maker.....do.....	6
Blacksmith.....do.....	5	Land-surveyor.....do.....	6
Boat-builder.....do.....	6	Tailor.....do.....	6
Butcher.....do.....	12	Waterman.....do.....	6
Cargo-boat or lighter.....do.....	6	Salesmen, book-keepers, clerks, paid not less than \$75 per month, per annum.....	3
Carpenter.....do.....	6	Same, when paid over \$75 a month, per annum.....	6
Photographer or artist.....do.....	12	White labourers and domestics, per head.....per annum..	5
Engineer.....do.....	12	Factory hands and independent workmen.....per annum..	5
Engineer assistants.....do.....	6		

SECTION 3. Of the revenues paid into the Treasury the proceeds of the Samoan capitation tax, of the license taxes paid by native Samoans, and of all other taxes which may be collected without the municipal district, shall be for the use and paid out upon the order of the Samoan Government. The proceeds of the other taxes, which are collected in the municipal district exclusively, shall be held for the use and paid out upon the order of the municipal council to meet the expenses of the municipal administration, as provided by this act.

SECTION 4. It is understood that "dollars" and "cents," terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies.

ARTICLE VII.

A declaration respecting arms and ammunition and intoxicating liquors, restraining their sale and use.

SECTION 1. *Arms and ammunition.*—The importation into the islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited except in the following cases:

(a) Guns and ammunition for sporting purposes, for which written license shall have been previously obtained from the president of the municipal council.

(b) Small-arms and ammunition carried by travelers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject or other Pacific islander resident in Samoa, is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order.

SECTION 2. *Intoxicating liquors.*—No spirituous, vinous, or fermented liquors, or intoxicating drinks whatever, shall be sold, given, or offered to any native Samoan, or South Sea Islander resident in Samoa, to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this article, shall be established by the municipal council for application within its jurisdiction; and by the Samoan Government for all the islands.

It was suggested by Count Bismarck to add, at the end of section 1, the words, "under proper restrictions or control."

Mr. BATES said that there could be no right to deprive the Samoan Government of the use of arms for its defence unless they were guaranteed against war. It would not do to take away their means of self-protection unless at the same time they were effectually secured from foreign aggression. Count Bismarck having interposed the remark that he did not see the possibility of any foreign aggression after the three

treaty powers had agreed to act in concert with reference to the affairs of the Samoan Islands and to recognize their neutrality, Mr. Bates said that was just what he had called attention to in connection with Article III. The conference declared against war, but did not make its declaration effectual. The powers have no moral right to interfere with the natural right of the Samoan Government to have arms unless they are willing effectually to prevent any use of force against Samoa or Samoans.

Mr. KASSON pointed out that it would be difficult to define the restrictions which had been suggested, as no one could deny to the Samoans the right of self-government and self-defence. It would be difficult to allow foreigners to import arms and at the same time to deny this privilege to the Samoan Government.

Count BISMARCK suggested the words "under restrictions to be hereafter agreed upon by the three powers."

It was suggested by Mr. Phelps that all importation of arms for the use of the Samoan Government should be reported through the consular board.

Count BISMARCK considered it necessary to place a certain limit upon this importation of arms, as it seemed to him to constitute a dangerous element for the natives.

Mr. KASSON remarked that the question could hardly as yet be fully considered. It was perhaps as dangerous to allow arms to foreigners as to give them to natives.

He would add the following at the end of section 1.

But all such arms and ammunition shall be entered at the customs (without payment of duty) and reported by the president of the municipal council to the consuls of the three treaty powers.

The three Governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and the use of fire-arms in Samoa.

This proposal was accepted.

Count BISMARCK read :

ARTICLE VIII.

General dispositions.

SECTION 1. The provisions of this act shall continue in force until changed by consent of the three powers. Upon the request of either power after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this general act. In the mean time any special amendment may be adopted by the consent of the three powers with the adherence of Samoa.

SECTION 2. The present general act shall be ratified without unnecessary delay, and within the term of ——— months from the date of its signature.

In the mean time the signatory powers, respectively, engage themselves to adopt no measure which may be contrary to the dispositions of the said act.

Each power further engages itself to give effect in the mean time to all provisions of this act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this general act shall be attested by a certificate thereof signed by the King and executed in triplicate, of which one copy shall be delivered to the consul of each of the signatory powers at Apia for immediate transmission to his Government.

His excellency proposed to make the term for the ratification of the general act ten months, and expressed a hope that it would be ratified as soon as possible within that term.

This proposal was accepted, and the conference adjourned at 6 p. m.

SEVENTH SESSION.

WEDNESDAY, 29 MAY, 1889—3 p. m.

Present:

For Germany—Count von Bismarck, Baron von Holstein, Dr. Krauel.
For the United States of America—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.
For Great Britain—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the sixth meeting, held on Monday, 27 May, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK declared the session to be opened.

Baron von HOLSTEIN proposed that Mr. Kasson should make known to the conference what had been decided by the committee on revision with regard to the definitive form of the general act.

Mr. KASSON accordingly read the emendations and additions proposed by the committee of revision, which were agreed to by all the plenipotentiaries and the general act ordered to be printed with the amendments (vide appendix to this present protocol). The conference being advised that the American plenipotentiaries had not yet received final instructions touching section 5 of Article V, it was agreed that this section should be reserved for consideration at the next session.

With reference to section 3 of Article V, Mr. KASSON asked whether the conference at its last session decided that the appointment of the municipal magistrate should be confirmed by the chief-justice.

Mr. PHELPS considered that the authority of the chief-justice finally operated on the appointment. It was made by the municipal council, it was approved by the consular board; it was reviewed by the chief-justice on appeal and confirmed.

Mr. KASSON was of opinion that the provisions of the said section referred to resolutions, ordinances, and regulations made by the municipal council rather than to the appointment by them of the municipal magistrate.

Mr. SCOTT explained that it was the intention of the subcommittee that the magistrate should be appointed by the council in some form which would require the approval of the consular board.

Sir E. MALET observed that such appointment would come under the head of a resolution passed by the council, which would necessarily be referred for final approval to the chief-justice.

It was agreed to state in the protocol that section 3 of Article V intended that the appointment of the municipal magistrate should be made by resolution of the council, and thus be subject to approval, as in the case of other resolutions.

Sir E. MALET mentioned that the question of a substitute for the chief-justice, in case his office should become vacant, had not been settled.

Mr. KASSON proposed that either the suggestion made by Mr. Scott during the last meeting of the conference might be adopted, viz, that the chief-justice might appoint his substitute during his own lifetime; or that the powers of the chief-justice might be exercised by the president of the municipal council, in case of a vacancy from any cause, until a successor should be duly appointed and qualified.

This latter proposal was adopted, and it was agreed to insert the provision at the end of section 2 of Article III.

Dr. KRAUEL alluded to the original section 9 of Article III, found in the project of the general act as reported in the protocol of the 6th ses-

sion. He thought that some provision should be made for the guidance of the chief justice of Samoa as to what laws he should enforce in judging cases to be tried by him. He suggested that, until some fresh agreement were made upon this point by the treaty powers, the supreme judge might be instructed to follow the procedure and rules employed by the British high commissioner for the western Pacific—a code which was known to be very well adapted for the purposes for which it had been created.

Mr. KASSON said that he valued greatly the suggestion of Dr. Krauel; but there might be an objection on the part of the conference to the adoption of a system of laws with which they were not fully acquainted. The object in view was to find a system for the control of the local courts and particularly to devise rules for the punishment of offences. It would be unwise to adopt any laws which might subsequently be found to be in conflict with the provisions of this act.

Count BISMARCK remarked that if the chief justice were not to be bound to administer the laws of any civilized country it might lead to serious difficulties, because he would be at a loss to decide what special system of laws out of the many in existence he should adopt in giving his judgments.

Mr. KASSON considered that the chief justice would have the right to adopt such rules of procedure as he considered best, whilst the municipality would regulate procedure within its own jurisdiction. But further provision was needed for punishment of crime by the supreme court.

After further discussion the conference decided to provide the rule as found in section 10 of Article III (vide appendix), and in lieu of sections 9 and 10 of the project as originally reported the conference adopted sections 9 and 10, Article III, as found in the appendix to this protocol.

Dr. KRAUEL asked whether a clause should not be inserted exempting the consuls from the jurisdiction of the supreme court.

It was agreed that such a clause was not necessary, as it was the manifest intention of the conference that the consuls and their families should be exempt from such jurisdiction.

Count BISMARCK observed that the conference had now adopted all the articles except section 5 of Art. V in the amended project (vide appendix), which awaited the receipt of further instructions on the part of the American plenipotentiaries from their Government. His excellency suggested that the conference should adjourn until all the members were prepared to sign the complete general act with the approval of their governments.

It was agreed to adjourn accordingly.

Sir E. MALET wished to say that if any proposal for the establishment of telegraphic communication with Samoa should be submitted to the conference it would receive the careful consideration of Her Majesty's government, who were of opinion that the want of such communication had greatly contributed to the recent troubles and that its establishment would be greatly conducive to the prevention of future disturbances.

Mr. KASSON was convinced that the United States Government had an equally ardent desire to see telegraphic communication established with Samoa; but the American plenipotentiaries had no authority to designate the method of its accomplishment.

The conference expressed the unanimous opinion that the establishment of telegraphic communication was most desirable.

Count BISMARCK, in closing the session, desired to express his warm-

est thanks for the amicable manner in which each and all of the plenipotentiaries had facilitated the labours of the conference over which he had had the honour to preside; and, in the name of the plenary conference, he also wished to thank the gentlemen who had done so much towards the furtherance of the work performed by their attendance on the various subcommittees which had been appointed. His excellency trusted that the final results of the conference would be to the advantage of the Samoans themselves and for the benefit of all the inhabitants of that part of the world.

The conference adjourned at 4.30 p. m., subject to the summons of the president.

(Signed)

JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.

Certified to be a true copy of the original protocol.

W. N. BEAUCLERK.

APPENDIX TO PROTOCOL OF THE SEVENTH SESSION

Projet of the general act of the Samoan conference.

His Majesty the Emperor of Germany, King of Prussia, the President of the United States of America, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India,

Wishing to provide for the security of the life, property, and trade of the citizens and subjects of their respective governments residing in or having commercial relations with the islands of Samoa, and desirous at the same time to avoid all occasions of dissension between their respective governments and the government and people of Samoa, while promoting as far as possible the peaceful and orderly civilization of the people of these islands, have resolved, in accordance with the invitation of the Imperial Government of Germany, to resume in Berlin the conference of their plenipotentiaries which was begun in Washington on June 25, 1887, and have named for their present plenipotentiaries the following:

His Majesty the Emperor of Germany, King of Prussia:

Count Bismarck, minister of state, secretary of state for foreign affairs,
Baron von Holstein, actual privy councillor of legation,
Dr. Krauel, privy councillor of legation;

The President of the United States of America:

Mr. John A. Kasson,
Mr. William Walter Phelps,
Mr. George H. Bates;

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India:

Sir Edward Baldwin Malet, Her Majesty's ambassador to the Emperor of Germany, King of Prussia;
Charles Stewart Scott, esquire, Her Majesty's envoy extraordinary and minister plenipotentiary to the Swiss Confederation;

Joseph Archer Crowe, esquire, Her Majesty's commercial attaché for Europe; who, furnished with full powers which have been found in good and due form, have successively considered and adopted—

First. A declaration respecting the independence and neutrality of the islands of Samoa, and assuring to their respective citizens and subjects equality of rights in said islands and providing for the immediate restoration of peace and order therein.

Second. A declaration respecting the modification of existing treaties and the assent of the Samoan Government to this act.

Third. A declaration respecting the establishment of a supreme court of justice for Samoa and defining its jurisdiction.

Fourth. A declaration respecting titles to land in Samoa, restraining the disposition thereof by natives, and providing for the investigation of claims thereto and for the registration of valid titles.

Fifth. A declaration respecting the municipal district of Apia, providing a local administration therefor, and defining the jurisdiction of the municipal magistrate.

Sixth. A declaration respecting taxation and revenue in Samoa.

Seventh. A declaration respecting arms and ammunition, and intoxicating liquors, restraining their sale and use.

Eighth. General dispositions.

ARTICLE I.

A declaration respecting the independence and neutrality of the islands of Samoa, and assuring to the respective citizens and subjects of the signatory powers equality of rights in said islands, and providing for the immediate restoration of peace and order therein.

It is declared that the Islands of Samoa are neutral territory in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection. The three powers recognize the independence of the Samoan Government and the free right of the natives to elect their chief or king and choose their form of government according to their own laws and customs. Neither of the powers shall exercise any separate control over the islands or the government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said islands, and in view of the difficulties which would surround an election in the present disordered condition of their Government, that Malietoa Laupepa, who was formerly made and appointed King on the 12th day of July, 1881, and was so recognized by the three powers, shall again be so recognized hereafter in the exercise of such authority, unless the three powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

ARTICLE II.

A declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this act.

Considering that the following provisions of this general act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the three powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this act shall be inconsistent with any provision of such treaty or treaties, the provisions of this act shall prevail.

Considering further, that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the three powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the three governments through the medium of their respective consuls in Samoa.

ARTICLE III.

A declaration respecting the establishment of a supreme court of justice for Samoa and defining its jurisdiction.

SECTION 1. A supreme court shall be established in Samoa, to consist of one judge, who shall be styled chief-justice of Samoa, and who shall appoint a clerk and a marshal of the court; and record shall be kept of all orders and decisions made by the court or by the chief-justice in the discharge of any duties imposed on him under this act. The clerk and marshal shall be allowed reasonable fees, to be regulated by order of the court.

SECTION 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the chief-justice may be named by the lord chief-justice of England, and shall be of English professional experience. He shall be learned in law and equity, of mature years, and of good repute for his sense of honor, impartiality, and justice.

His decisions upon questions within his jurisdiction shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination as herein provided. He shall receive an annual salary of six thousand dollars (\$6,000) in gold, or its equivalent, to be paid the first year in equal proportions by the three treaty powers, and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the three powers in equal shares.

The powers of the chief-justice, in case of a vacancy in that office from any cause, shall be exercised by the president of the municipal council until a successor shall be duly appointed and qualified.

SECTION 3. In case either of the four governments shall at any time have cause of complaint against the chief-justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and, if in the judgment of such authority there is sufficient cause for his removal, he shall be removed. If the majority of the three treaty powers so request, he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

SECTION 4. The supreme court shall have jurisdiction of all questions arising under the provisions of this general act; and the decision or order of the court thereon shall be conclusive upon all residents of Samoa. The court shall also have appellate jurisdiction over all municipal magistrates and officers.

SECTION 5. The chief-justice is authorized at his own direction, and required upon written request of either party litigant, to appoint assessors, one of the nationality of each litigant, to assist the court, but without voice in the decision.

SECTION 6. In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of king, or of any other chief claiming authority over the islands, or respecting the validity of the powers which the king or any chief may claim in the exercise of his office, such question shall not lead to war, but shall be presented for decision to the chief-justice of Samoa, who shall decide it in writing conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith, and the signatory governments will accept and abide by such decision.

SECTION 7. In case any difference shall arise between either of the treaty powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the chief-justice of Samoa, who shall make his decision thereon in writing.

SECTION 8. The chief-justice may recommend to the Government of Samoa the passage of any law which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the municipal district, and for the collection of taxes without the district.

SECTION 9. Upon the organization of the supreme court there shall be transferred to its exclusive jurisdiction:

1. All civil suits concerning real property situated in Samoa and all rights affecting the same.
2. All civil suits of any kind between natives and foreigners or between foreigners of different nationalities.
3. All crimes and offences committed by natives against foreigners or committed by such foreigners as are not subject to any consular jurisdiction; subject, however, to the provisions of section 4, Article V, defining the jurisdiction of the municipal magistrate of the district of Apia.

SECTION 10. The practice and procedure of common law, equity, and admiralty, as administered in the courts of England, may be, so far as applicable, the practice and procedure of this court; but the court may modify such practice and procedure from time to time as shall be required by local circumstances. The court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of Germany, as the chief-justice shall decide most appropriate; or, in the case of native Samoans and other natives of the South Sea Islands, according to the laws and customs of Samoa.

ARTICLE IV.

A declaration respecting titles to land in Samoa and restraining the disposition thereof by natives, and providing for the investigation of claims thereto, and for the registration of valid titles.

SECTION 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise shall be prohibited, subject to the following exceptions:

- (a) Town lots and lands within the limits of the municipal district as defined in this act, may be sold or leased by the owner for a just consideration when approved in writing by the chief-justice of Samoa.
- (b) Agricultural lands in the islands may be leased for a just consideration and with carefully defined boundaries for a term not exceeding forty (40) years, when such lease is approved in writing by the chief executive authority of Samoa and by the chief-justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SECTION 2. In order to adjust and settle all claims by aliens of titles to land or any interest therein in the islands of Samoa, it is declared that a commission shall be appointed to consist of three (3) impartial and competent persons, one to be named by each of the three treaty powers; to be assisted by an officer to be styled, "natives' advocate," who shall be appointed by the chief executive of Samoa, with the approval of the chief-justice of Samoa.

Each commissioner shall receive during his necessary term of service, a compensation at the rate of three hundred dollars per month and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the commission for taking evidence and making surveys (such expenses to be approved by the chief-justice) shall also be paid, one-third by each of the treaty powers.

The compensation of the natives' advocate shall be fixed and paid by the Samoan Government.

Each commissioner shall be governed by the provisions of this act, and shall make and subscribe an oath before the chief-justice that he will faithfully and impartially perform his duty as such commissioner.

SECTION 3. It shall be the duty of this commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice, for the purpose of examination and registration, and that all claims not so presented will be held invalid and forever barred; but the chief-justice may allow a reasonable extension of time for the production of such evidence when satisfied that the claimant has, after due diligence, been unable to produce the same within the period aforesaid. This notice shall be published in Samoa in the German, English, and Samoan languages, as directed by the commission.

The labours of the commission shall be closed in two years, and sooner if practicable.

SECTION 4. It shall be the duty of the commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall especially report—

(a) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(b) Whether it was for a sufficient consideration.

(c) The identification of the property affected by such sale or disposition.

SECTION 5. The commission, whenever the case requires it, shall endeavour to effect a just and equitable compromise between litigants. They shall also report to the court whether the alleged title should be recognized and registered or rejected, in whole or in part, as the case may require.

SECTION 6. All disputed claims to land in Samoa shall be reported by the commission to the court, together with all the evidence affecting their validity, and the court shall make final decision thereon in writing, which shall be entered on its record.

Undisputed claims, and such as shall be decided valid by the unanimous voice of the commission, shall be confirmed by the court in proper form in writing, and be entered of record.

SECTION 7. The court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners.

SECTION 8. All lands acquired before the 28th day of August, 1879 (being the date of the Anglo-Samoan treaty), shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the commission, subject to the revision and confirmation of the court.

SECTION 9. The undisputed possession and continuous cultivation of lands by aliens, for ten years or more, shall constitute a valid title by prescription to the lands so cultivated, and an order for the registration of the title thereto may be made.

SECTION 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant to the person or persons entitled thereto of an additional sum, to be ascertained by the commission and approved by the court as equitable and just.

SECTION 11. All claims to land, or to any interest therein, shall be rejected and held invalid in the following cases:

(a) Claims based upon mere promises to sell or options to buy.

(b) Where the deed, mortgage, or other conveyance contained at the time it was signed no description of the land conveyed sufficiently accurate to enable the commission to define the boundaries thereof.

(c) Where no consideration is expressed in the conveyance, or, if expressed, has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(d) Where the conveyance, whether sale, mortgage, or lease, was made upon the consideration of a sale of fire-arms or munitions of war, or upon the consideration of intoxicating liquors, contrary to the Samoan law of October 25, 1880, or contrary to the municipal regulations of January 1, 1880.

SECTION 12. The land commission may at its discretion, through the local government of the district in which the disputed land is situated, appoint a native commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the commission, to be by them reported to the court.

ARTICLE V.

A declaration respecting the municipal district of Apia, providing a local administration therefor, and defining the jurisdiction of the municipal magistrate.

SECTION 1. The municipal district of Apia is defined as follows: Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of the river Fuluasa; thence following the course of the river upwards to the point at which the Alafuala road crosses said river; thence following the line of said road to the point where it reaches the river Vaisinago; and thence in a straight line to the point of beginning at Vailoa, embracing also the waters of the harbour of Apia.

SECTION 2. Within the aforesaid district shall be established a municipal council, consisting of six members, and a president of the council, who shall also have a vote.

Each member of the council shall be a resident of the said district and owner of real estate or conductor of a profession or business in said district which is subject to a rate or tax not less in amount than \$5 per ann.

For the purpose of the election of members of the council, the said district shall be divided into two or three electoral districts, from each of which an equal number of councillors shall be elected by the tax-payers thereof qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the consular representatives of the three treaty powers to make the said division into electoral districts as soon as practicable after the signing of this act. In case they fail to agree thereon the chief-justice shall define the electoral districts. Subsequent changes in the number of councillors or the number and location of electoral districts may be provided for by municipal ordinance.

The councillors shall hold their appointment for a term of two years and until their successors shall be elected and qualified.

In the absence of the president the council may elect a chairman "pro tempore." Consular officers shall not be eligible as councillors, nor shall councillors exercise any consular functions during their term of office.

SECTION 3. The municipal council shall have jurisdiction over the municipal district of Apia so far as necessary to enforce therein the provisions of this act which are applicable to said district, including the appointment of a municipal magistrate and of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said district of person and property, for the assessment and collection of the revenues therein as herein authorized; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said district and not in conflict with this act, including sanitary and police regulations. They shall establish pilot charges, port dues, quarantine and other regulations of the port of Apia, and may establish a local postal system. They shall also fix the salary of the municipal magistrate, and establish the fees and charges allowed to other civil officers of the district, excepting clerk and marshal of the supreme court.

All ordinances, resolutions, and regulations passed by this council before becoming law 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 be unanimous in approving the regulations referred to them or should the amendments unanimously suggested by the consular board not be 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.

SECTION 4. The municipal magistrate shall have exclusive jurisdiction in the first instance over all persons irrespective of nationality in cases of infraction of any law,

ordinance, or regulation passed by the municipal council in accordance with the provisions of this act, provided that the penalty does not exceed a fine of two hundred dollars or imprisonment for a longer term than 180 days.

In cases where the penalty imposed by the municipal magistrate shall exceed a fine of twenty dollars or a term of ten days' imprisonment an appeal may be taken to the supreme court.

SECTION 5. The president of the municipal council shall be a man of mature years, and of good reputation for honour, justice, and impartiality. He shall be agreed upon by the three powers; or, failing such agreement, he shall be selected from the nationality of Sweden, The Netherlands, Switzerland, Mexico, or Brazil, and nominated by * * * and appointed by the Samoan Government upon certificate of such nomination.

He may act under the joint instruction of the three powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this general act, and shall apply himself to the promotion of the peace, good order, and civilization of Samoa. He may advise the Samoan Government when occasion requires, and shall give such advice when requested by the King, but always in accordance with the provisions of this act, and not to the prejudice of the rights of either of the treaty powers.

He shall receive an annual compensation of five thousand dollars (\$5,000), to be paid the first year in equal shares by the three treaty powers, and afterward out of that portion of Samoan revenues assigned to the use of the municipality, upon which his salary shall be the first charge.

He shall be the receiver and custodian of the revenues accruing under the provisions of this act, and shall render quarterly reports of his receipts and disbursements to the King, and to the municipal council.

He shall superintend the harbour and quarantine regulations, and shall, as the chief executive officer of the municipality, be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia.

SECTION 6. The chief-justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the local government of the municipal district under the provisions of this act. Each member of the municipal council, including the president, shall, before entering upon his functions, make and subscribe before the chief-justice an oath or affirmation that he will well and faithfully perform the duties of his office.

ARTICLE VI.

A declaration respecting taxation and revenue in Samoa.

SECTION 1. The port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands, and all foreign goods, wares, and merchandise landed on the islands shall be there entered for examination; but coal and naval stores which either Government has by treaty reserved the right to land at any harbour stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SECTION 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands, the following duties, taxes, and charges may be levied and collected, without prejudice to the right of the native government to levy and collect other taxes in its discretion upon the natives of the islands and their property, and with the consent of the consuls of the signatory powers upon all property outside the municipal district, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners.

A.—Import duties.

	Doll. c.
1. On ale and porter and beer, per dozen quarts.....	.50
2. On spirits, per gallon.....	2.50
3. On wine, except sparkling, per gallon.....	1.00
4. On sparkling wines, per gallon.....	1.50
5. On tobacco per pound.....	.50
6. On cigars, per pound.....	1.00
7. On sporting arms, each.....	4.00
8. On gunpowder, per lb.....	.25
9. Statistical duty on all merchandize and goods imported, except as aforesaid, ad valorem.....	

B.—*Export duties.*

On copra,	} ad valorem	} 2½ p. c.	
On cotton,			1½ p. c.
On coffee,			2 p. c.

C.—*Taxes to be annually levied.*

	Doll. c.
1. Capitation tax on Samoans and other Pacific Islanders not included under No. 2, per head.....	1 00
2. Capitation tax on coloured plantation laborers, other than Samoans, per head.....	2 00
3. On boats, trading, and others (excluding native canoes and native boats carrying only the owner's property), each	4 00
4. On firearms, each.....	2 00
5. On dwelling-houses (not including the dwelling-houses of Samoan natives) and on land and houses used for commercial purposes, ad valorem.....	1 p. c.
6. Special taxes on traders as follows:	
Class I. On stores of which the monthly sales are \$2,000 or more, each store.....	100 00
Class II. Below \$2,000 and not less than \$1,000	48 00
Class III. Below \$1,000 and not less than \$500.....	36 00
Class IV. Below \$500 and not less than \$250	24 00
Class V. Below \$250	12 00

D.—*Occasional taxes.*

	Doll. c.
1. On trading vessels exceeding 100 tons burden, calling at Apia, at each call	10 00
2. Upon deeds of real estate, to be paid before registration thereof can be made, and without payment of which title shall not be held valid, upon the value of the consideration paid	½ p. c.
3. Upon other written transfers of property, upon the selling price.....	1 p. c.
Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the proper tax-collector.	
4. Unlicensed butchers in Apia shall pay upon their sales.....	1 p. c.

E.—*License taxes.*

No person shall engage as proprietor or manager in any of the following professions or occupations except after having obtained a license therefor, and for such license the following tax shall be paid in advance :

	Doll.		Doll.
Tavern keeper..... per month..	10	Engineer apprentices .. per annum..	3
Attorney, barrister, or solicitor, per annum	60	Hawker	1
Doctor of medicine, or dentistry, per annum	30	Pilot	24
Auctioneer or commission agent, per annum	40	Printing press.....	12
Baker	12	Sail-maker	6
Banks or companies for banking, per annum	60	Ship-builder	6
Barber	6	Shoemaker	6
Blacksmith	6	Land surveyor	6
Boat-builder	6	Tailor	6
Butcher	12	Waterman	6
Cargo boat or lighter	6	Salesmen, book-keepers, clerks, paid not less than \$75 a month, per annum	3
Carpenter	6	Same, when paid over \$75 a month, per annum	6
Photographer or artist	12	White labourers and domestics per head	5
Engineer	12	Factory hands and independent workmen	5
Engineer assistants	6		

SECTION 3. Of the revenues paid into the treasury, the proceeds of the Samoan capitation tax, of the license taxes paid by native Samoans, and of all other taxes which may be collected without the municipal district, shall be for the use and paid out upon the order of the Samoan Government. The proceeds of the other taxes which are collected in the municipal district exclusively shall be held for the use and paid out upon the order of the municipal council to meet the expenses of the municipal administration, as provided by this act.

SECTION 4. It is understood that "dollars" and "cents," terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies,

ARTICLE VII.

A declaration respecting arms and ammunition and intoxicating liquors, restraining their sale and use.

SECTION 1. Arms and ammunition.—The importation into the islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited, except in the following cases:

(a) Guns and ammunition for sporting purposes, for which written license shall have been previously obtained from the president of the municipal council.

(b) Small arms and ammunition carried by travelers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject, or other Pacific islander resident in Samoa, is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but all such arms and ammunition shall be entered at the customs (without payment of duty), and reported by the president of the municipal council to the consuls of the three treaty powers.

The three governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of fire-arms in Samoa.

SECTION 2. Intoxicating liquors.—No spirituous, vinous, or fermented liquors, or intoxicating liquors whatever, shall be sold, given, or offered to any native Samoan or South Sea islander resident in Samoa, to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this article shall be established by the municipal council for application within its jurisdiction and by the Samoan Government for all the islands.

ARTICLE VIII.

General dispositions.

SECTION 1. The provisions of this act shall continue in force until changed by consent of the three powers. Upon the request of either power, after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this general act. In the mean time any special amendment may be adopted by the consent of the three powers with the adherence of Samoa.

SECTION 2. The present general act shall be ratified without unnecessary delay and within the term of ten months from the date of its signature.

In the mean time the signatory powers, respectively, engage themselves to adopt no measure which may be contrary to the dispositions of the said act.

Each power further engages itself to give effect in the mean time to all provisions of this act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this general act shall be attested by a certificate thereof, signed by the King and executed in triplicate, of which one copy shall be delivered to the consul of each of the signatory powers at Apia for immediate transmission to his government.

EIGHTH SESSION.

THURSDAY, 13 JUNE, 1889—4 p. m.

Present:

For Germany—Count von Bismarck, Baron von Holstein, Dr. Krauel.

For the United States of America—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.

For Great Britain—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the seventh session, held on Wednesday, 29 May, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK stated that the plenipotentiaries of the three powers having meanwhile received instructions with respect to the agreement

drawn up at this table, he should venture to ask what modifications had been proposed in the general act in order that they might be discussed and referred to the proper quarter. His excellency added that His Imperial Majesty the Emperor had approved of the general act in its present form and that the German plenipotentiaries were prepared to sign it as it stood.

Sir E. MALET stated that the general act in its present form might be acceptable to Her Majesty's government; but that the British plenipotentiaries had no authority to accept any alterations therein without the previous consent of their government.

Mr. KASSON said that the distance of communication had necessarily caused delay in the decision of the United States Government with regard to the general act as a whole; but that the American plenipotentiaries were now authorized to sign the same with only two modifications. The first of these was the proposal of an additional section, to be numbered section 11 to Article III, in the following terms:

Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels; nor shall the court take any *ex post facto* or retroactive jurisdiction over crimes or offenses committed prior to the organization of the court.

Count BISMARCK considered that inasmuch as the proposed amendment did not affect any matter of principle, and as the conference were already fully agreed concerning consular jurisdiction, he did not think that the German Government would raise any objection to the addition of the proposed new section.

Sir E. MALET did not anticipate any difficulty on the part of Her Majesty's government with regard to the insertion of the addition suggested.

The proposal was adopted.

Mr. KASSON stated that the United States Government had had some hesitation in accepting all the terms of Article III respecting the jurisdiction of the chief-justice of Samoa, whose powers they had found to be much larger than they had expected. They were also disinclined to give to one of the three signatory nationalities an appointment entailing so much political importance. It was proposed to strike out the words "may be named by the lord chief-justice of England, and shall be of English professional experience" in this section, and to substitute the words "shall be named by the three signatory powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway from the subjects of that kingdom or of other neutral power." Mr. KASSON further suggested that it might be desirable to add the words "and shall be fully acquainted with the English language."

Count BISMARCK thought that it would be sufficient that the latter suggestion should be recorded in the protocol; which proposal was adopted.

The opinion was unanimously expressed by the conference that the person selected for that office should be fully acquainted with the English language.

Sir E. MALET suggested that the new wording of the section should terminate at the word "Norway," in order to avoid restricting in any way the choice of the King of Sweden and Norway.

Count BISMARCK would concur with the suggestion of Sir E. Malet in case the German Government should agree to the proposed alterations.

Mr. KASSON said that he would immediately refer this point to his Government, as his actual instructions were insufficient to enable him

and his colleagues to go further than had been already stated. He had no doubt that the suggestion just made would be fully appreciated by the United States Government.

He added that he assumed that should the nomination ultimately fall to the King of Sweden and Norway, he would, according to the usages of international courtesy, give previous informal notice to the three powers of the person he proposed in order to learn whether there was any reasonable objection to his appointment.

Count BISMARCK proposed that the amendments suggested should be at once referred by telegraph to the respective governments.

This proposal was adopted. His excellency then remarked that the sole point remaining for settlement was the filling up of the lacuna left in section 5, Article V, of the general act, concerning the nomination of the president of the municipal council of Apia.

It was agreed to do so with the words "the chief executive of the nation from which he is selected."

Mr. BATES observed, with reference to section 4 of Article VI, that the levying of the capitation tax especially would press heavily upon the Samoans if it were exacted in the equivalent of the American currency, the rate of which was nearly 40 per cent. higher than the value of the dollar current in the Samoan Islands. He would like to see the Samoans exempted from the operation of this clause.

Mr. CROWE remarked that the Bolivian dollar had already been excluded from circulation in Samoa and it was equally desirable to exclude the Chilian dollar and the like.

It was agreed to leave this section in its present form.

The conference adjourned at 5.20 p. m.

(Signed.)

JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.

Certified to be a true copy of the original protocol.

W. N. BEAUCLERK.

NINTH SESSION,

FRIDAY, 14 JUNE, 1889—2 p. m.

Present:

For Germany—Count von Bismarck, Baron von Holstein, Dr. Krauel.
For the United States of America—Mr. John A. Kasson, Mr. William Walter Phelps, Mr. George H. Bates.

For Great Britain—Sir Edward Baldwin Malet, Mr. Charles Stewart Scott, Mr. Joseph Archer Crowe.

The protocol of the eighth meeting held on Thursday, 13 June, 1889, was approved and signed by all the plenipotentiaries.

Count BISMARCK stated that all the plenipotentiaries had received instructions to sign the general act as agreed to at the previous meeting.

Mr. KASSON expressed the desire of his Government that secrecy should be observed as to the contents of the general act until it should be ratified by the respective governments.

Count BISMARCK observed that such course would be entirely in accordance with established precedents. His excellency suggested that it would be very desirable if the three powers would agree to, send identic instructions to their consuls in Samoa in order to communicate to the Samoans such provisions of the general act as could be properly made known to them previous to ratification.

It had been understood to be the general desire of the conference that such provisions as those concerning the Government of Samoa should be carried into effect with the least possible delay; and it was advisable that the Samoans should profit as soon as possible by the results of the conference.

Mr. KASSON believed that this desirable object so far as could be done before ratification would be attained without difficulty by means of an exchange of correspondence between the three governments.

Sir E. MALET considered that the proposal would be acceptable to Her Majesty's Government.

It was expressed as the unanimous opinion of the conference that it was desirable that the three governments should decide what provisions of the general act could be made known at once to the Samoans through their consuls, and what should be reserved until after ratification.

Mr. KASSON, referring to the impending departure, on leave, of the president of the conference in search of the rest and recreation demanded by his health after a long period of labor, continued as follows:

I should neglect a duty, which is both an obligation and a pleasure, if I failed to express on the part of the American plenipotentiaries our appreciation of the important service which his excellency Count Bismarck has rendered by his fairness and impartiality as our presiding officer. The conciliatory attitude which he has maintained, and the friendly spirit in which he has conducted the business of the conference have exercised the most beneficial influence on the deliberations which now touch their end, and demand our frank recognition.

I believe that I interpret the sentiments of all the plenipotentiaries when I beg his excellency to convey with him the assurance not only of our high appreciation of the official qualities which he has so usefully displayed throughout our proceedings, but also of the personal traits associated with them which have added a charm to official functions.

Sir E. MALET said:

On behalf of the British plenipotentiaries I am anxious to say that we most cordially associate ourselves to the expressions which have fallen from Mr. Kasson, and that we desire that his words should be considered as coming equally from us.

Count BISMARCK was anxious to express his warmest gratitude for the very flattering words addressed to him by Mr. Kasson and Sir E. Malet. He appreciated and valued very highly the complimentary expressions uttered by them; but he considered that, if the conference had been able to perform work which would prove satisfactory to the governments represented and useful to the several nations concerned, it was mainly due to the loyal and conciliatory attitude of each and all of the plenipotentiaries and to the large amount of good work which they had done. Thanks were also due to the secretaries for the diligence with which they had facilitated the progress of the labors of the conference.

He repeated what he had said at the close of the seventh session and reiterated the hope that the results arrived at would be of immediate and permanent benefit to the natives of Samoa, as well as to all foreigners residing in that quarter of the globe.

The general act was then signed by all the plenipotentiaries as here-to appended, and the conference finally closed its deliberations.

(Signed)

JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.
H. BISMARCK
HOLSTEIN.
R. KRAUEL.

Certified to be a true copy of the original protocol.

W. N. BEAUCLERK.

[NOTE.—The appendix to this protocol of the ninth session being the general act, as signed, will be found in its proper place, *supra*, p. 353, and is not here reprinted.]

Proclamation by the consular representatives of the United States, Germany, and Great Britain at Apia.

[Translation.]

NOTICE.

We, the undersigned representatives of the Governments of Germany, Great Britain, and the United States, hereby make known to the people of Samoa that our governments, with a view to the prompt restoration of peace and good order in the Samoan Islands and in view of the difficulties which would surround an election in the present disordered condition of their Government, have by common accord declared that Malietoa Laupepa, who was formerly made and appointed King on the 12th day of July, 1831, and was so recognized by the three powers shall again be so recognized hereafter in the exercise of such authority.

We at the same time invite the people of Samoa to take without delay such measures as according to Samoan custom are necessary to reinstate the High Chief Laupepa as King of Samoa.

(Signed)

Dr. STUEBEL,
H. I. G. M. Consul-General.
H. DE COETLOGON,
H. B. M. Consul.
W. BLACKLOCK,
U. S. Vice-Consul.

APIA, November 8, 1889.

Report of the commander of the U. S. S. Adams, with annexes, including the proclamation of the consular representatives of the United States, Germany, and Great Britain, dated December 5, 1889, recognizing Malietoa Laupepa as elected King of Samoa.

U. S. S. ADAMS (3rd rate),
Apia, Samoa, December 5, 1889.

Hon. B. F. TRACY,
Secretary of the Navy:

SIR: I have the honor to inform you that accredited representatives from all the different districts of the Samoan group met yesterday, December 4th, and formally elected Malietoa Laupepa King of Samoa.

He hoisted his flag over his residence and assumed control this morning at 8 o'clock.

I considered the event of sufficient importance to justify me in dressing the ship with mast-head flags, Malietoa's flag at the main, and firing a royal salute.

I notified Captain Herbing, commanding H. I. C. M. S. *Sophie*, of my intention to salute the King, and he informed me that he could not salute the King without authority from his government.

The consuls representing the United States, England, and Germany held a meeting at the American consulate this afternoon and issued a joint proclamation to the effect that the Governments of the United States, Great Britain, and Germany recognize Malietoa Laupepa King of Samoa, with an appeal to the two opposing parties to reconcile their differences and to contribute to a peaceable management of the Samoan Government under King Malietoa.

I enclose copy (translated) of Malietoa's letter, notifying the consuls of the three great powers of his intention to hoist his flag, a copy and translation of the result of the election signed by the electors, a copy (translation) of Tamasese's letter announcing his allegiance to Malietoa, and a copy of the proclamation of the three consuls.

I understand that the election of Malietoa is soon to be ratified by public meetings of the people in all the districts of the group.

Very respectfully, etc.,

J. J. HUNKER,

Lieut. Commander U. S. N., Commanding U. S. S. Adams.

A.

PROCLAMATION.

Having been acquainted that, in compliance with the invitation contained in our proclamation of the 8th last, Malietoa Laupepa has been reinstated as King of Samoa by his own party, and being also aware by letters received from the chiefs at present assembled in Lufilufi, bearing the date of the 1st last, and by a letter of the 12th last, signed by the High Chief Tamasese, that they too are willing to accept Malietoa Laupepa as King of Samoa, we, the undersigned representatives of Germany, Great Britain, and the United States of America, availing ourselves of the instructions sent us for the purpose by our respective governments, hereby proclaim:

That the Governments of Germany, Great Britain, and the United States of America from this time recognize Malietoa Laupepa to be King of Samoa.

We also earnestly desire the two parties that have been hitherto opposed to each other to effect, as soon as possible, an ultimate reconciliation, and to contribute both

of them, to the best of their endeavors, to the peaceable management of the Samoan Government under King Malietoa.

Apia, the 5th of Decr., 1889.

(Signed)

DR. STUEBEL,
Imp. Ger. Consul-General.
H. DE COETLOGON,
H. B. M. Consul.
W. BLACKLOCK,
U. S. Vice-Consul.

B.

[Translation.]

PALACE OF THE KING,
Malautu, December 4, 1889.

Your highness W. BLACKLOCK,
U. S. Vice-Consul:

YOUR HIGHNESS: I have the honour to inform you that to-morrow morning at eight o'clock the flag of my government will be hoisted in Apia.

Sir, I am,

MALIE TOA,
King of Samoa.

C.

[Translation.]

LUFILUFI, 12 November, 1889.

To your excellencies, the consuls of Germany, Great Britain, and the United States of America:

YOUR EXCELLENCIES: I wish humbly to inform you that I received your letter of the 8th inst., together with a copy which all of you have received, informing all people that it was the mind of the three governments that Laupepa should again be placed upon the throne.

I should like you, gentlemen, to know that this is also the mind of this war party.

It is our mind that this is the best way to smooth the minds of all people if the three governments will settle all such questions and bring peace to the new government.

I am, your excellencies, your humble servant,

TAMASESE.

D.

[Copy of translation.]

Take notice all people:

There has been a meeting held by the rulers of Samoa, at Lelepa, 4 December, 1889. It has been decided that Malietoa Laupepa shall be King; the Samoans are unanimous in this.

The following people are the rulers of Samoa:

(Here follow the names of the chiefs and the districts which they represent.)

Tuamasaga.—Agapu, Tui'an, Telea, Mati, Tofaeono, Samoa, Asi, Tele, Afoa, Te'o, Tuia, Manu'a, Ama, Saseve, Tagutugutu, Uluigia, Nu'u, Multalo, Tuatagaloa, Taliava, Toelupe, Tautiauli, Num'a, Seumanutafa, Fuatimau.

Aana.—Aiono, Saga, Taefu, Lemalu, Vaafusu, Muai, Mamea.

Savaii.—Faasaleleaga, Lauaki, Pa'u, Pauli, Tofilau, Leauanae, Tofa, Tia, Malaeculu, Vui.

Itu O Tane.—Seman, Laufou, Leota, Lealaialuloto, Suisala, Tuala, Sala, Tevaga, Utumapu, Lavea, Malaiti, Tu'u, Moafanua, Taulealea, Leasi.

Itu O Fafine.—Iagaia, Su, Tapusoa, Asiata, Seve, Tagaloa, Laulu, Toleafoa, Tuato, Talovaa, Loli, Matautia, Toomata, Fualau, Folassa, Ili, Pe'a.

Manono.—Leiatana, Tuimalealilfano, Anpaau, Fut'i, Taupau, Mulipola.

Atua.—Leota, Lemusu, Salanoa, Taofiloa, Pu'opu'emai, Tafua, Tuisila, Tuiauii, Tauliili, Meleisea, Tuataga, Fiame, Lemauga, Tupuola.

Tutuila.—Taitivae, Letuli, Satele, Toomata, Tana, Tauliili, Noa, Alapa, Olo, Sala-vea, Mauga, Leiato, Alo, Taumuina, Pele, Savea.

T. VITALE,
Faifautusi.

Count von Arco-Valley to Mr. Blaine.

IMPERIAL GERMAN LEGATION,
Washington, June 29, 1889.

The Imperial German envoy has the honor, in pursuance of instructions received from his Government, most respectfully to inform the honorable Secretary of State of the United States that, in the three original copies of the Samoan protocol which were signed on the 11th instant by the plenipotentiaries to the conference, the fourth sentence (paragraph 7) of section 2, Article V, beginning with the words: "It shall be the duty of the consular representatives of the three treaty powers," was, by a mistake of the printer, repeated, and that the Imperial Government, after confidentially consulting the delegates of the United States and England, proposes that, when the Samoa protocol is published and ratified, the repetition of the said fourth sentence be omitted.

The imperial envoy, begging the honorable Secretary of State to be pleased to reply to this communication, avails, etc.,

ARCO.

GREAT BRITAIN.

Mr. Bayard to Mr. Phelps.

No. 1049.]

DEPARTMENT OF STATE,
Washington, January 23, 1889.

SIR: On the 22d of June last I addressed a note* to Mr. Edwardes, chargé d'affaires *ad interim* of Her Britannic Majesty at this capital, in relation to the case of the American ship *Bridgewater*, which had been wrongfully seized and held by Canadian customs officials at Shelburne, Nova Scotia, for payment of customs duties to which it has been decided by the Canadian Government that the vessel in question was not justly subject. Copy of that note is herewith inclosed for your information.

On the 23d of November last, no reply having been received other than a simple acknowledgment by Mr. Edwardes and his statement that he had transmitted the note to his Government, I addressed Mr. Herbert, then and now chargé d'affaires *ad interim* of Her Majesty's legation, again inviting attention to the case. Copy of this latter note is also inclosed.†

On the 24th of November Mr. Herbert replied that immediately upon the reception of my note of the 23d instant he had telegraphed to Her Majesty's principal secretary of state for foreign affairs in the sense of my note, and had received a reply stating that the owner of the *Bridgewater*, before presenting his claim to this Government, had commenced an action at law, which was still pending, and that the Canadian Government was unable to express an opinion on the claim until the settlement of the case in the law courts. Copy of this note is inclosed.†

It is true that the owner of the *Bridgewater* instituted a suit in the Canadian courts to recover damages for the wrongful seizure and detention of the vessel. But on the 24th of May, 1888, her agent was informed by the Canadian minister of customs that he had received from the minister of justice an opinion that the claimant could "not recover against any officer of the Crown for damages sustained in consequence of the seizure." Copy of the letter of the minister of customs is herewith inclosed.

I am informed by the claimant that her agent also endeavored to obtain permission to bring a suit in the exchequer court, but his application was not entertained. That such a suit, if brought, would have been futile seems more than probable. And in this relation I inclose herewith a copy of a letter of the 30th of April, 1888 (see inclosure No. 1), from the claimant's legal counsel, which appears to contain a lucid statement of the law on the subject.

It was not until after failure to obtain a remedy against the Government of Canada in the exchequer court, and the official opinion of the min-

* Printed For. Rel., 1888, p. 811.

† Printed *infra*, p. 467.

ister of justice above referred to that no recovery could be had in any court against any officer of the Crown, that the claimant invoked the intervention of her government. Acting upon this declaration of the minister of justice, the owner's agent, Mr. John H. Allen, directed his attorneys to discontinue the suit so begun in the Canadian courts and presented a petition to this Department. This petition bears date the 1st day of June, 1888, more than ten months posterior to date of the seizure of the vessel and nearly eight months after her unconditional discharge. The intervening time had been spent in fruitless endeavors to obtain redress from the Canadian Government, and it was finally ascertained that redress through the Canadian law courts or from that government was not to be had.

As the case is now presented a serious injury has been inflicted upon a citizen of the United States by the authorities of the Dominion of Canada, for which the head of their department of justice has declared no remedy is afforded by their laws. To obviate such an evident failure of justice appeal is now made by the Government of the injured citizen to the plenary power of the Government under whose jurisdiction and official agency the injury was wrongfully inflicted.

You are therefore instructed to bring the case as herein above stated to the attention of Her Majesty's Government, in order that just compensation may be rendered to the claimant.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 1049.]

Mrs. Allen to Mr. Bayard.

BROOKLYN, June 1, 1888.

SIR: The petition of Mary Warren Allen, of Brooklyn, in the State of New York, in the county of Kings, sheweth that previous to the 1st day of April, in the year 1887, and up to the day of the date hereof, she was and has been the owner of the ship *Bridgewater*, a vessel registered at the port of New York, of the burden of 2,500 tons, or of 1,557 gross register tons.

The said ship *Bridgewater* sailed from the port of St. John, in the province of New Brunswick, laden with deals, bound for Penarth Roads, on or about the said 1st day of April, A. D. 1887, and having experienced a heavy storm and being damaged and injured, put into the port of Shelburne, in the province of Nova Scotia, on the 5th day of said April, for shelter and repairs.

Surveys were held upon said ship, the cargo was discharged and transferred to another ship while lying at anchor in the harbor, in order that the deals might be speedily sent to the port of destination, and your petitioner proceeded to repair and refit the said ship under the management and direction of Capt. John H. Allen, her agent, who purchased the necessary materials and was employed with a number of men in making the ship fit for sea.

On the 27th day of July last past, and while said repairs were in progress, W. W. Atwood, esq., the collector of customs for the said port of Shelburne, acting under instructions from the department of customs at Ottawa, seized and took possession of the said ship for non-payment of duty, claiming and demanding that the said ship should pay duty and was liable for the same at the rate of 25 per cent.

Your petitioner refused to pay the duty claimed, and caused a written notice to be served on the said W. W. Atwood, collector of customs, on the 30th day of said month of July, complaining of the seizure and claiming damages, but the said collector did not relinquish the seizure, but kept and retained possession of the said ship, her tackle, stores, and appurtenances, and placed an officer in charge of and on board of her, and kept possession of said vessel and her appurtenances up to and until the 22d day of September last, notwithstanding the frequent written protests made by said John H. Allen on behalf of the owner, and served on said collector, when the said W. W. Atwood, collector as aforesaid, gave a written notice to said John H. Allen that he was authorized by the acting commissioner of customs to release the ship *Bridgewater* on condition that she should take a clearance to a foreign port and leave the country on

completion of repairs, after first paying all expenses incurred in connection with the seizure, and after formally withdrawing the protests made, and given a written abandonment of all claims upon the Government or seizing officer on account of said seizure, but your petitioner refused to comply with said conditions, and the said vessel was kept and detained by said collector until the 15th day of October last, when the seizure was released and the claim for duty abandoned.

In consequence of said seizure and detention, your petitioner was prevented and delayed in making and completing the necessary repairs and refitting, and was obliged to discharge the men employed and suspend work, the ship in the mean time being greatly injured by the stoppage of work and inability of those having her in charge to properly take care of her.

That your petitioner not only lost the use and employment of the said ship during her seizure and detention, but the delay in releasing the said vessel from seizure compelled the abandonment of a charter-party and the employment of said ship on a voyage from Bersimis, Province of Quebec, to Liverpool, Great Britain, as the said ship, in consequence of the lateness of the season, was unable to reach the said port of Bersimis and carry out said charter-party or obtain said employment, although every effort was made to do so. Your petitioner has suffered very serious loss in consequence, and your petitioner has also been obliged to pay her agent, John H. Allen, a large sum to remain at the port of Shelburne and look after and superintend the vessel and the business and matters connected with the said seizure and other costs, charges, and expenses incidental to the said seizure and detention and procuring the release of the said vessel.

Your petitioner was advised, and it was conceived to be her duty, that if the courts of Canada were open to her for redress of such a grievance it was incumbent on her to seek it there rather than invoke the aid of her Government. For nine months she has been endeavoring to obtain a court of competent jurisdiction in which the case could be argued and disposed of on its merits, but it would appear from the documents hereto annexed that the law courts of the Dominion of Canada can afford her no relief.

Your suppliant and petitioner appends hereto a statement of her claim for compensation and damages, and prays that the Government of the United States will take such proceedings as may be necessary to the end that right may be done, the relief claimed be granted, and the amount thereof paid to her.

Dated at Brooklyn, N. Y., in the county of Kings, this 1st day of June, A. D. 1888.

MARY WARREN ALLEN,
134 Macon street.

[Inclosure 2 in No. 1049.—From the Free Press, Ottawa, Ontario, Friday, May 25, 1888.]*

Compensation refused to the owner of the ship Bridgewater for the seizure and detention of an American vessel which sought shelter in distress.

The minister of customs yesterday sent a letter to the managing owner of the American ship *Bridgewater*, which was seized at Shelburne, Nova Scotia, in August last, detained for eighty-one days, and then unconditionally released, notifying him that the minister of justice has reported that as he has no legal recourse against the Crown or any of its officers on account of the seizure, the Government do not intend to entertain his claim for compensation. The following is a copy of Mr. Bowell's letter:

OTTAWA, May 24, 1888.

SIR: I am this day in receipt of the opinion of the minister of justice *in re* your claim for damages for alleged detention of the ship *Bridgewater* at the port of Shelburne, Nova Scotia, in which he says: "The claimant Allen can not recover against any officer of the Crown for damages sustained in consequence of the seizure."

Under these circumstances I do not deem it advisable to further consider the question of recognizing your claim until the decision of the courts in the case has been rendered.

I have the honor to be, sir, your obedient servant,

M. BOWELL.

J. H. ALLEN, Esq., *etc.*

HISTORY OF THE CASE.

Mr. J. H. Allen, of New York, managing owner of the *Bridgewater*, has been in Ottawa for over two weeks endeavoring to induce the Government to recognize the justice of his claim for damages on account of the illegal seizure of his vessel. He

* Transmitted with Mrs. Allen's letter of June 1, 1888.

had prepared a memorial to the United States Secretary of State, and intended submitting his grievance to the Washington Government, but before doing so was induced by Senator James G. Ross, of Quebec, one of his personal friends, to come to Ottawa and ask the Dominion Government to settle the matter amicably. On being asked to give a brief review of the case Mr. Allen said: "The *Bridgewater*, a registered American ship of 1,557 tons, sailed from St. John, New Brunswick, for Liverpool, on the 1st of April, 1887, with a cargo of deals. On April 5 she put into Shelburne, damaged, having encountered a heavy gale. She was duly entered at the customs, complying with all the laws.

"The owners of the cargo, foreseeing great delay to the delivery of their goods if kept at Shelburne pending repairs to the vessel, had the deals transferred to another ship, and the *Bridgewater* was put up for sale, just to see what would be bid for her. There were no bids, and consequently no sale, and the work of repairing was proceeded with. Then the collector of customs, Mr. Atwood, seized the vessel as an importation, and demanded 25 per cent. duty on the value. His course was approved by the customs department here. I protested against the seizure through Mr. White, the consular agent of the United States at Shelburne, and as soon as Mr. McLelan, the then acting minister of customs, returned from British Columbia, he sent the following telegram to Mr. White in reply to one from that gentleman:

" 'OTTAWA, September 16, 1887.

" 'N. W. WHITE,

" 'Shelburne, N. S.:

" 'Allen can repair and take vessel away. If he requires Canadian register he will have to pay duty.

" 'A. W. McLELAN,

" 'Acting Minister of Customs.

"Of course I did not want a Canadian register, and according to Mr. McLelan's decision my vessel was not liable for duty. But the collector refused to act on Mr. McLelan's telegram, but retained custody of the vessel. I was told that I might go on with my repairs, but could not see the sense of spending money on a vessel that was then, and for all I knew might continue to be, the property of the Government. On the 22d of September I got the following letter from the collector:

" 'SHELburne, September 22, 1887.

" 'SIR: I have to inform you that the acting commissioner of customs authorizes the release of the ship *Bridgewater* on condition that she takes a clearance to a foreign port and leaves the country on completion of the repairs, after first paying all expenses incurred in connection with the seizure and after you have formally withdrawn the protests made and given a written abandonment of all claims upon the government or seizing officer on account of seizure. You will please let me know whether these conditions will be complied with, and I will give you an account of expenses.

" 'I am, sir, your obedient servant,

" 'W. W. ATWOOD,

" 'Collector.

" 'J. H. ALLEN, Esq.'

THE PROPOSITION REFUSED.

"Of course," continued Mr. Allen, "I could not accept the release upon any such conditions. I wanted to send the vessel to Quebec for a cargo, and did not propose to give up my claim for damages or to pay the costs connected with an unjust or illegal seizure; so the *Bridgewater* was detained until Mr. Bowell returned, when she was released unconditionally. I now claim about \$20,000, this sum being the actual loss sustained by me in consequence of the illegal seizure and detention of the *Bridgewater*, and I intend to press my claim through the United States Government. In consequence of the seizure, the vessel not only lost a voyage, but it compelled the abandonment of a charter-party, because the season was so far advanced that she was not able to reach Bersimis to load deals for Liverpool. The *Bridgewater* was offered for sale, but it was as a registered ship of the United States, and even if she had changed ownership, which she did not, the Government of Canada could not legally assess her for duty. No American customs official would dream of levying customs duty upon a ship sold by one British subject to another in a United States port so long as the register remained British.

HIS RECEPTION IN OTTAWA.

"When I came to Ottawa at the request of Mr. Ross I was exceedingly hopeful that the matter would be amicably arranged. The ministers never denied that the seizure was an unjust one and that I was entitled to compensation, but as it seems

that the minister of justice believes that I have lost my recourse in the law courts, the Government refuse to consider the equities of the case and propose to ignore my claims. I doubt if the United States Government will treat the matter so lightly, or that the British authorities will attempt to justify the Canadian Government's course. Notwithstanding Mr. McLelan's telegram of 22d September, ordering the release of the vessel, I was notified by Collector Atwood on the 5th of October that the *Bridgewater* was still under seizure, and that any attempt to remove her would be a felony. Why the customs officials refused to pay any attention to Mr. McLelan's orders I can not explain. I am told that the commissioner of customs declares that the seizure was perfectly legal and just; but if that were so, surely the minister would never have ordered the vessel's release."

THE BRIDGEWATER CASE. (EDITORIAL.)

The Dominion Government have refused to grant the owner of the American ship *Bridgewater* any compensation for the unjust seizure and detention of his vessel for eighty-one days at the port of Shelburne last autumn. This decision on the part of the ministers of justice and customs is exceedingly unfortunate, especially in view of the existing diplomatic relations between this country and the United States. If the Dominion Government are really anxious to have the fisheries treaty ratified by the United States Senate, and all outstanding disputes between the two countries amicably adjusted, they should avoid provoking fresh antagonisms and opening up new difficulties. The seizure and detention of the *Bridgewater* was an utterly unjustifiable proceeding, and the Free Press said so when the facts were first made known. Of course the action of the customs department was defended by the organs of the Government, but the views of the Free Press were approved by the acting minister of customs, Mr. McLelan, on his return from British Columbia last September, and also by the minister of customs, who ordered the unconditional release of the vessel as soon as he arrived home from England and was made aware of all the facts.

Having thus acknowledged that the seizure and detention of the vessel were illegal and unwarranted, the Government are in duty bound to compensate the owner for the losses he has sustained, but this they refuse to do. Is this fair treatment to accord an American vessel which put into a Canadian port in distress? A few weeks ago Sir Charles Tupper talked about the Government anxiety to "hold out the olive branch" to our American neighbors. His colleagues seem to have abandoned his policy of conciliation as soon as he left the country. By refusing to compensate the owner of the *Bridgewater* for the unjust seizure of his vessel the Government have placed Canada in a false position with regard to a matter which is now to become a subject of diplomatic correspondence between the British and United States authorities. Canada is not in a position to reproach the United States with unjustly seizing Canadian vessels in Behring Sea so long as the Americans are able to cite the *Bridgewater* case as an instance of gross wrong perpetrated by the Dominion toward a distressed American ship. The answer of the minister of customs to Mr. Allen's claim simply gives the Government's case away.

The minister of justice, upon whose report the customs department have acted, does not say that the seizure was just or legal, or that the claim for damages is not well founded. Mr. Thompson simply shelters himself behind the technical plea that Mr. Allen has no recourse at law, and that therefore he should get no compensation. Is that the way that the Government of a country like Canada should treat a foreigner who has suffered a grievous wrong at the hands of the customs officers? In this matter, as in others, the ministers will have to back down, and it would have been far more dignified and creditable had they treated the owner of the *Bridgewater* in a liberal and just spirit in the first instance. The seizure of that vessel, under such circumstances, is an act which no British minister can attempt to justify, and, such being the case, the party who has suffered by that unjust seizure is entitled to compensation.

[Inclosure 3 in No. 1049—Editorial from the Free Press, Ottawa, Saturday, May 26, 1888.*]

NOT AN ORDINARY CASE.

The seizure and detention of the American ship *Bridgewater* was not an ordinary seizure of a chattel or chattels. It was a direct violation of the international shipping regulations which have been in force for half a century between Great Britain and the United States, and to which Canada, as a dependency of the British Crown, is subject. The vessel put into Shelburne for repairs. She was not sold, though offered for sale, and was seized for customs duties while in the act of repairing and

* Transmitted with Mrs. Allen's letter of June 1, 1888.

preparing to go to sea again. There was not the slightest ground for the seizure of the vessel, and as such seizure amounts to a violation of an international treaty, the subject is a very proper one for diplomatic adjustment, more especially as the minister of justice reports that the owner of the *Bridgewater* "can not recover against any officer of the Crown for damages sustained in consequence of the seizure," and as the Dominion Government refuse to entertain his claim for compensation. It is not creditable to Canada that the Government should refuse to compensate the owner of a foreign vessel for injuries sustained through the blundering of the customs authorities.

If the country has in its employment men who do not understand their duties, and who, by officiousness, or misdirected zeal, cause damage or loss to foreigners or Canadians, the country should be prepared to repair the injury, even if the complainants have no recourse at law. That the seizure and detention of the *Bridgewater* were illegal and wrong have been admitted by the Government in ordering her release, and that being so, it is just that the owner of the vessel should receive compensation for the losses he sustained. In a letter addressed to the consular agent of the United States at Shelburne, after the seizure, Mr. Johnson, the commissioner of customs, defended the seizure of the *Bridgewater*, and intimated that duty had been collected frequently upon foreign vessels entering Canadian ports under similar circumstances. If so, then a great many acts of injustice have been perpetrated. American vessels have a perfect right to come into Canadian ports for repairs just as British vessels have to go into American ports for repairs, without being liable for customs duty or to be otherwise interfered with.

When a ship obtains a register from the Government of the country to which she belongs, that register is a passport entitling her to enter the ports of any nation, subject always to international shipping law, and to refuse to an American vessel the right of repairing damages in a Canadian port is illegal and indefensible; hence the Government of Canada have nothing to gain, but everything to lose, by going into a diplomatic conflict over the seizure of the *Bridgewater*. A discussion of the matter through diplomatic channels would only lead to further irritation and a prolongation of the unfortunate disputes which have arisen between this country and the United States by a too strict enforcement of the Canadian-coasting regulations against American fishing vessels. Though the seizure of the *Bridgewater* had no connection with the fisheries question, it will afford those who are anxious to prevent any fair settlement of that dispute fresh ground for alleging that Canada is not disposed to accord fair treatment to American vessels frequenting her ports. The Dominion Government should avoid everything tending to provoke or afford an excuse for that "commercial war" which is threatened, and which Sir Charles Tupper has said would be such a calamity for this country.

[Inclosure 4 in No. 1049.]

Mr. Merse to Mr. Allen.

Re ALLEN vs. THE QUEEN.

OTTAWA, April 30, 1888.

MY DEAR SIR: Since the original petition of right in the above case has been in my possession and the whole case been thoroughly reviewed by me in the light of the best authorities and decisions at my disposal in the supreme court library here, I have come with much regret to the conclusion that your chance of success is very limited in the exchequer court. I have no hesitancy in saying that nothing can be hoped for from the petition of right, inasmuch as the case being founded in tort and you are not asking for restitution of property but merely damages for trespass, such process is demurrable and must only lead to defeat and consequent costs. It is hardly necessary for me here to present in detail the premises from which I have drawn my conclusion, because I believe you will do me the justice to feel that I am not advising you at this juncture crudely and without deliberation. I feel it my duty to speak out before you have been involved in vexatious litigation and much fruitless expense. Of course you must take further advice from your counsel in Shelburne. I have written him fully and sent him the brief upon which I base my opinion, and you may write him and inquire if he thinks it well founded.

I did not hand the papers in the matter to legal agents here because I thought it better to save that expense to you, even at the risk of being thought officious. You will see upon reference to my former letters that I was of the opinion that it would have been well to have brought a personal action against Atwood in Shelburne, but counsel thought otherwise, and as I had not fully gone into the matter then, and moreover as I was only junior counsel and only accidentally brought into the case, it

was becoming in me not to insist too strenuously upon my views. It was true the statute gave a sort of protection to the seizing officer, but that protection depended solely upon the legal meaning of "reasonable and probable cause" for his acts, and I felt that he would have some difficulty in substantiating such a defence under the circumstances. I am afraid we are too late to take that step now. Before going thoroughly into the question of petition of right, I quite agreed that you had also a good case in the exchequer court. I now think otherwise, and sincerely regret that we did not think it best to go into the supreme court in Shelburne. You must still make your claim against the Crown, but I fear its recognition depends more upon the moral worth of the minister than any legal sanction you have for enforcing it. We can not go into the exchequer court.

I write this letter to you in all candor and you must please understand I am not trying to shift the blame on my senior counsel's shoulder solely. I am as much at fault as he. Were it to serve so small an end, I am quite sure its object would be frustrated. I must ask you to consider this letter as a confidential one in terms, although you will of course have to mention the opinion I give in your letter to counsel in Shelburne. He may differ with me, and I sincerely trust that he may discover a safe way of proceeding in the exchequer court. I could not, however, allow you to go on without apprising you of the result of my examination of the case.

Believe me, yours, very sincerely,

CHAS. MERSE.

P. S.—You may expect additional papers from me in a day or two:

[NOTE by Mr. ALLEN.—The writer of this letter, the junior counsel in the action we instituted in November last, was called from Shelburne to Ottawa early in January and given a lucrative and permanent position under the Government in the very court we were to have our cause tried in; and the senior counsel, so it is rumored, as we are advised, is soon to have a judgeship. In the circumstances it is not at all surprising that the Canadian minister of justice advises that the courts of Canada can not be availed of to expose and remedy the persistent wrong-doing of the officials of that country.]

[Inclosure 5 in No. 1049.]

Mr. Allen to Mr. Bowell.

Re BRIDGEWATER.

OTTAWA, May 15, 1888:

SIR: The facts relating to the seizure of this ship are respectfully submitted for your consideration.

The *Bridgewater*, registered at the port of New York and owned by Mary Warren Allen (certified copy of certificate of registry appended hereto), sailed from St. John, New Brunswick, for Liverpool, Great Britain, April 1, 1887, laden with deal. April 5 she put into Shelburne, Nova Scotia, with damage, having encountered a heavy gale. She was duly entered at the customs, complying with all the laws. The owners of cargo, foreseeing great delay with their goods if kept in Shelburne till repairs were completed, entered into an arrangement with the owner of the *Bridgewater* whereby the cargo was sent to its destination in another ship. Before the cargo had been all discharged the ship was offered for sale, but the price offered being so much below her value, she was withdrawn, and carpenters commenced at once to repair her.

On July 27, when the repairs were about completed, the collector of customs seized the ship for non-payment of duty (see the Department's letters dated July 29 and August 12, appended hereto), and she was taken possession of by the Government officials the master withdrawing his people from her. On the 16th day of September the Hon. A. W. McLelan, acting minister of customs, ordered the ship's release (see telegram dated September 16, appended hereto), but the collector did not comply with the mandate and it was only on the 15th day of October, eighty-one days after the seizure, that the ship was actually released—it now being too late to make the chartered voyage, though the most strenuous effort was made to do so (see marine protest hereto attached) by those having the property in charge. The correspondence relating to her release and the letter of release itself will also be found in the papers hereto attached.

It is respectfully urged that inasmuch as the *Bridgewater* was always a registered ship of the United States she was not assessable for duty, this fact being brought to the attention of the collector by the production of the certificate of registry before he had actually made the seizure. It is further urged that in a matter of such grave

moment to the owner—having lost the benefit of the voyage through the perils of the seas and come under heavy liability for making good the damages to the ship—she should not have been deprived of the use of her property for eighty-one days when four and twenty hours would have sufficed to have determined whether law had been violated or not. For this error, which we have suffered to the extent of our statement herewith, we respectfully ask you to indemnify us.

Very respectfully,

JNO. H. ALLEN,
For MARY W. ALLEN.

[Inclosure 6 in No. 1049.]

Mr. *Bowell* to Mr. *Allen*.

Seizure, 4151-8.

OTTAWA, May 24, 1888.

SIR: I am this day in receipt of the opinion of the minister of justice *in re* your claim for damages for alleged detention of the ship *Bridgewater* at the port of Shelburne, Nova Scotia, in which he says "the claimant, Allen, can not recover against any officer of the Crown for damages sustained in consequence of the seizure."

Under the circumstances I do not deem it advisable to further consider the question of recognizing your claim until the decision of the courts in the case have been rendered.

I have the honor to be, etc.,

M. BOWELL.

[Inclosure 7 in No. 1049.]

Statement of claim of the petitioner, Mary Warren Allen, of 134 Macon street, Brooklyn, N. Y., against the Government of the Dominion of Canada.

For seizure and detention of the ship <i>Bridgewater</i> , of New York, 1,557 tons gross register, from July 27, 1887, till October 15, 1887, both inclusive, at 8 cents per ton per diem	\$10,089.48
Injury to stagings, ropes, running rigging, boats, deterioration of the uncompleted work, loss of ship's material and stores while under seizure and in possession of Government's officials	1,000.00
Loss of thirty-one days' time, endeavoring to reach Bersimis (see marine protest herewith), at 8 cents per register ton per diem	3,861.36
Loss, by forced abandonment of voyage to Liverpool, Great Britain, via Bersimis, on account of the lateness of the season, made up as follows:	
Gross estimated freight	£1,900 0 0
Total estimated disbursements at Bersimis	175 0 0
Net freight in ship when sailing from Bersimis	1,725 0 0

CREDIT.

Substituted voyage to Liverpool via St. John:	
Gross freight under charter	£1,454 17 6
Less expenses in St. John getting cargo	577 10 0
Net freight from St. John under substitute charter	877 7 6
Difference between what ship would have earned <i>via</i> Bersimis and what she did earn <i>via</i> St. John to Liverpool	847 12 6
(Exchange, 4.84)	4,102.54
Mr. J. H. Allen, agent: His expenses and time covering a period of ninety days, protecting their interest	1,000.00
The legal expenses incurred in connection with this matter	250.00

Amount claimed to be due the owner of *Bridgewater* November 30, 1887.. 20,303.26
And interest thereafter to date of settlement.

BROOKLYN, N. Y., April 13, 1888.

MARY WARREN ALLEN.

COUNTY OF KINGS,

State of New York, City of Brooklyn :

On this the ninth day of May, in the year 1888, before me personally came Mary Warren Allen, to me known to be the individual, described in and who executed the annexed instrument, and acknowledged that she executed the same for the purposes therein mentioned.

[SEAL.]

CLARENCE B. ENSLEY,
Notary Public, Kings Co., N. Y.

STATE OF NEW YORK,

County of Kings :

I, John M. Rankin, clerk of the county of Kings and clerk of the supreme court of the state of New York in and for said county (said court being a court of record), do hereby certify that Clarence B. Ensley, whose name is subscribed to the certificate of proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a notary public of the State of New York in and for the said county of Kings, dwelling in said county, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such notary and verily believe the signature to the said certificate is genuine, and that said instrument is executed and acknowledged according to the laws of the State of New York.

In testimony whereof I have hereunto set my hand and affixed the seal of said county and court, this 9th day of May, 1888.

[SEAL.]

JOHN M. RANKIN,
Clerk.

[Inclosure 8 in No. 1049.]

Mr. White to Mr. Phelan.

PROVINCE OF NOVA SCOTIA, PORT OF SHELBURNE,
United States Consular Agency.

SIR: I have already forwarded to you the register of the United States ship *Bridgewater*, together with the original reports of surveys and other papers, and although you are in possession of all the facts and circumstances connected with the seizure, yet in view of the important questions involved and the very considerable loss which is daily accruing to the owner, I beg leave to forward a detailed statement of the vessel's history since her arrival here.

On the 5th day of April last the *Bridgewater*, having just come into port and entered and reported at the custom-house, noted his protest before me, and on the following day a survey was held upon her. The ship was laden with deals bound from St. John, New Brunswick, to Penarth Roads, and had encountered a severe storm on the 2d and two following days of April, after leaving St. John, and was obliged to put into this port in a distressed and leaky condition. By the first survey the master was advised to remove the deck-load to enable a better examination of the ship to be made, and subsequently the surveyors recommended the cargo to be discharged and landed and a condemnation and sale of the ship, as in their opinion it would cost more to repair her than she would be worth when repaired.

The master, considering the vessel would not proceed to sea in the condition she was in, that it would be necessary to take her to some other port where there was a marine slip, for a full repair, and that there was no ship in this or adjoining ports to be had capable of taking the cargo, abandoned the voyage and gave notice to the agent of the parties interested. Soon after this Capt. John H. Allen, the managing owner, arrived here, strongly expressing his disapproval of the master's act, but effected an arrangement to the mutual satisfaction of all the parties interested, and who were represented here, by which another vessel was brought here, the cargo was transferred directly from one ship to the other, and a large amount of expense saved.

Captain Allen about this time called on me, giving his reasons for not abandoning the ship, informed me of his intention to offer her for sale, and asked me not to cancel the register in case he bid her in, and inasmuch as he had not adopted the recommendation of the surveyors for condemnation, and I did not think under the circumstances she could be considered a wreck, and in the event of his bidding her in there was no actual sale or transfer of the ship, I assured him I would not under the circumstances cancel the register in the usual way.

The *Bridgewater* was advertised and put up for sale on the 8th June, and knocked down to the owner for the very small sum of \$—. No money passed, nor was any transfer of the vessel made, and soon after Captain Allen commenced repairing her

and workmen continued their operations until the 27th of July, when she was seized by the collector for non-payment of duty. At my suggestion Captain Allen called on Mr. Atwood, the collector, to ascertain why and for what sum the *Bridgewater* had been seized, and obtained the following memo.: "Ship *Bridgewater* seized for non-payment of duty under Sec. 41, Chap. 12-46 Vic.," and immediately after the collector handed to Captain Allen, at my office, another memo., as follows: "The duty demanded on the ship *Bridgewater* sold at this port is 25 per cent. on account of sale."

Captain Allen then discharged the workmen, and the ship has ever since been in charge of the customs.

I annex hereto copies of the letters received from the customs department from Ottawa, and also a copy of a notice served on the collector immediately after the seizure.

The customs authorities contend that the *Bridgewater* has lost her character as a ship, and now comes under the class of articles designated as a nondescript wooden manufacture, and claim that such an article imported into Canada is subject to 25 per cent.

I respectfully submit that under the circumstances the *Bridgewater* is still a ship entitled to all the privileges of a vessel sailing under a United States register. No official condemnation has taken place; even the recommendation of the surveyors that she be condemned has been disregarded and repudiated; her register is intact; no actual sale or transfer has been made; there is no change of ownership, and in a short time she could leave the port, and I am at a loss to see how she is chargeable for duty.

Had the recommendation of the surveyors been followed out, and the condemnation ratified by the master and owner, and the vessel sold at auction and purchased by a citizen of the United States, I submit that no duty could be collected. The form or mode of sale can not affect the right to duty, and if under these circumstances the vessel is liable, duty may also be claimed whenever the owner of an American ship sells her at private sale to another citizen of the United States during the time she is in a Canadian port.

I am, etc.,

N. W. WHITE.

CANADA, PROVINCE OF NOVA SCOTIA, PORT OF SHELBURNE,
United States Consular Agency :

I, Nathaniel W. White, United States consular agent residing at the said port of Shelburne, do hereby certify that the foregoing letter is a just and true copy of the original on file in this consular agency, the same having been carefully examined by me and compared with the said original and found to agree therewith word for word and figure for figure.

Given under my hand and the seal of this consular agency at Shelburne this 4th day of October, 1887.

[SEAL.]

N. W. WHITE,
United States Consular Agent.

[Inclosure 9 in No. 1049.]

Mr. Johnson to Mr. White.

CUSTOMS DEPARTMENT, CANADA,
Ottawa, July 29, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of 16th instant addressed to the minister of customs, respecting the payment of duty on the ship *Bridgewater*, and regret to say that the minister is at present absent from Canada. I may, however, remind you that the owner has been advised over and over again as to the liability of this vessel to the payment of duty. I fail to see how any article of marketable value brought from any foreign country, offered for sale and actually sold, could by any possible construction of the law be exempt from the payment of duty, unless, indeed, it was an article which had been placed on the free list. The contention of the parties in this case has been so far from anything which is reasonable or legal as to place it outside of the ordinary transactions which are brought before this department.

If the parties were disposed to comply with the law, and make entry of the vessel and pay duty thereon, she would then be entirely at their disposal, to make what use of her they pleased in the way of refitting for sea or otherwise. It would then be a proper course of procedure to make an application to the department for refund of the duty paid, stating the circumstances and the reasons why they are entitled thereto; but to refuse absolutely, after having sold the ship in a Canadian port, to pay the

duty provided by the tariff thereon, is an act which exposes them to all the difficulties and troubles of a seizure of the vessel. I can not regard the implied threat of the parties to present their case at Washington as of the slightest importance. Whatever amount of respect officials of this department of the Government may have for the Government of the United States and their officials, it is nothing more than reasonable to say that on one side or the other is there any jurisdiction for the enforcement of customs law beyond the respective limits of the two countries.

I have the honor, etc.,

J. JOHNSON,
Commissioner.

[Inclosure 10 in No. 1049.]

Mr. Wallus to Mr. White.

CUSTOMS DEPARTMENT, CANADA,
Ottawa, August 12, 1887.

SIR: Referring to the action of the collector of customs at Shelburne, by direction of this department, in seizing the ship *Bridgewater* because of the refusal of the owner to pay duty thereon as required by law, I beg to call your attention to the option which was given to the owner in this case by this department to pay the duty, and so comply with the strict requirements of the law, with the understanding that when the vessel was fully repaired and taken out of the Dominion an application would be received and considered for a return to such owner of the whole of such duty, or such part thereof as might be considered equitable under the circumstances.

I can not conceive that this option has been fully understood, in view of the correspondence subsequent to the commissioner's letter giving the option, and would remind you that it is virtually only tantamount to the making of a temporary deposit to cover the duty which, had a Canadian purchased the vessel, would certainly have been exacted from him. It would seem to be a very simple way out of the difficulty to formally pay the duty, and while I can not give you a direct assurance that the same will be refunded, I feel justified in stating that the case is one which would be likely to receive the most favorable consideration of the honorable the treasury board, to whom the matter will be submitted if the commissioner's suggestions are adopted by the owner.

I have, etc.,

W. T. WALLUS,
Acting Commissioner.

[Inclosure 11 in No. 1049.]

The statute under which it is alleged the Bridgewater was subject to duty.

(Section 41, chapter 12, 46 Vic.)

The person entering any goods inwards shall deliver to the collector or other proper officer an invoice of such goods, showing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer, and, if imported by water, the name of the vessel and of the master, and of the place to which bound, and of the place, within the port, where the goods are to be unladen, and the description of the goods, and the marks and number and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

SEC. 60. Goods derelict, flotsam or wreck or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into Canada, shall be subject to the same duties and regulations as goods of the like kind imported are subject to.

[Inclosure 12 in No. 1049.]

Protests of Captain Allen.

A.

CANADA, PROVINCE OF NOVA SCOTIA,
U. S. Consular Agency, Port of Shelburne:

Whereas the ship *Bridgewater* of New York, bound from St. John, New Brunswick, to Penarth Roads, arrived at this port in a leaky condition, on the fifth day of April last past, and after the discharge and transshipment of her cargo of deals, the owner of said vessel employed mechanics to repair said ship and was engaged in the said work when the vessel was seized and taken possession of by W. Atwood, esq., custom-house officer at Shelburne, to wit, on the twenty-seventh day of July last past, necessitating an entire suspension of the work and repairs on said vessel and causing serious loss, detention, and inconvenience to the owner, and the incompleting work is being greatly deteriorated, and the ship itself lying in the stream is under the care of a person wholly incompetent and incapable to perform the duties assigned to him, and large quantities of water have been allowed to remain in the said ship, arising not only from the leakage in her bottom, but in consequence of the heavy rains pouring through the open hatches, cabins, and store-rooms;

And whereas the said ship, with a large quantity of water in her hold and but lightly ballasted, is liable at the present season of the year, and during any gale of wind, to be tripped on her broadside and be filled with water pouring through the open ports and sink and become a complete wreck;

Now know all men by these presents, that on the day of the date hereof, before me, Nathaniel W. White, consular agent of the United States of America at the said port of Shelburne, personally came and appeared John H. Allen, of New York, managing owner of said ship, and after stating the facts contained in the foregoing premises, hath protested, like as by these presents I, the said consular agent, at his special instance and request, do publicly and solemnly protest, against all and every person or persons whom it doth or may concern, and against the Government of the Dominion of Canada, and their officer, Warren W. Atwood, collector of customs at Shelburne aforesaid, for the seizure and detention of the said ship and for the injury, loss, and damage which has or may happen to the said ship, her tackle, apparel, and appurtenances and the stores and material on board, by reason thereof or of the careless and insufficient manner in which the said ship is held and provided for, claiming and demanding payment for all costs, damages, injuries, and expenses which may arise or have arisen and which may occur by reason thereof to the said vessel or her owner from those to whom the same of right may appertain.

In testimony whereof the said John H. Allen, managing owner of the said ship, hath hereto subscribed his name, and I, the said consular agent, have hereto set my hand and affixed the seal of this consular agency, at Shelburne, this third day of September, A. D. 1887.

[SEAL.]

JOHN H. ALLEN,
 N. W. WHITE,
U. S. Consular Agent.

B.

CANADA, PROVINCE OF NOVA SCOTIA,
Port of Shelburne, United States Consular Agency:

Take notice that Capt. John H. Allen, managing owner of the U. S. *Bridgewater*, now lying in the port of Shelburne, under seizure at the instance of the minister of customs of the Dominion Government, in addition to the facts stated in the protest handed you on the third day of this present month, hereby also protests against the said seizure and continued detention of the said ship on the further grounds that the contracts and engagements made by him for the repairs of the said ship have all been abrogated and determined by the said seizure, and the dry, favorable season and weather for the successful prosecution and completion of the said ship has now all but passed, and that the said work can not now be continued and finished under the same advantageous circumstances as it could have been at the time of the said seizure. That a summer voyage to Europe has been lost in consequence of said detention, and if any further delay is incurred in the release of said ship from the said seizure it will be impracticable to get her into such seaworthy condition as to enable her to reach a port having facilities for repairing the underwater part of a ship before the winter sets in. That the said owner having already been put to a very heavy loss by the perils of the sea and the unavoidable accident which compelled her to seek a refuge in the port of Shelburne, the loss of her voyage, and the larger expenses incurred for the repairs and the provision for all the disbursements hereafter necessary for the completion of said repairs, and other just dues and obligations, feels he should not now be called on

"to formally pay over the duty claimed," as suggested by the commissioner of customs, in the hope that it will be refunded, but a decision should at once be arrived at and the ship released from any such claim.

Dated at Shelburne this 5th day of September, A. D. 1887.

[SEAL.]

JOHN H. ALLEN.
N. W. WHITE,
U. S. Consular Agent.

C.

CANADA, PROVINCE OF NOVA SCOTIA,
U. S. Consular Agency.

To W. W. ATWOOD, Esq.,

Collector of Customs of and for Shelburne :

Take notice that Captain John H. Allen, managing owner of the U. S. ship *Bridgewater*, having under the late instructions of the Hon. A. W. McLelan, acting minister of customs, taken charge of the ship, brought her to the wharf, completed the repairs, and ballasted her, and equipped her for sea, and being desirous to obtain a clearance and leave the port, you have prevented him from attaching the wheel to the rudder and refused him a clearance, and so hindered and prevented him from going to sea, and have also on several occasions prevented him from hoisting his flag on board of said ship, he, the said John H. Allen, hereby gives you notice that he hereby protests against these acts and holds you responsible for all costs, damages, and losses now incurred or which he may hereafter incur in consequence of this detention, and also for all losses and damages which he has sustained and been put to by the original seizure of the said American ship *Bridgewater*.

Dated at Shelburne this 30th day of September, A. D. 1887.

Before me.

[SEAL.]

JOHN H. ALLEN.

N. W. WHITE,
Notary Public.

CANADA, PROVINCE OF NOVA SCOTIA,

Port of Shelburne, United States Consular Agency :

I, Nathaniel W. White, United States consular agent, residing at the said port of Shelburne, do hereby certify that the foregoing protests marked, respectively, A, B, and C, hereto annexed, are true and correct copies of the originals on file at this consular agency, the same having been carefully examined by me and compared with the said originals and found to agree therewith word for word and figure for figure.

Given under my hand and seal of this consular agency this 4th day of October, 1887.

[SEAL.]

N. W. WHITE,
United States Consular Agent.

[Inclosure 13 in No. 1049.]

Mr. Allen to Mr. Atwood.

SHELburne, September 13, 1887.

SIR: When you seized and took possession of ship *Bridgewater* the doors of the forward house and windows were unhung and under repair. There were also openings in the decks and sides of the ship, as you are aware.

Having regard to the lateness of the season and the probability that the ship will be forced to winter here, and the damage already sustained and likely to be further sustained by weather and other causes, beg to notify you that I am prepared to put mechanics on board at once and stay the damages in these particulars, paying the cost of same myself, but without prejudice to my rights in the premises.

An early reply will oblige,

Yours, very respectfully,

JNO. H. ALLEN.

[Inclosure 14 in No. 1049.]

Mr. White to Mr. McLelan.

[Telegram.]

SHELburne, September 14, 1887.

Allen will not proceed with general repairs unless *Bridgewater* released; been here four weeks, and about leaving for New York; protests show necessity for prompt decision; when may we expect it?

N. W. WHITE,
United States Consular Agent.

[Inclosure 15 in No. 1049.]

Mr. Thompson to Mr. White.

[Telegram.]

Received at Shelburne, September 16, 1887.
Dated, Ottawa.

The matter not in my department. Have seen McLelan, who is acting for minister of customs. He has telegraphed decision.

J. S. D. THOMPSON,
Minister of Justice.

[Inclosure 16 in No. 1049.]

Mr. McLelan to Mr. White.

[Telegram.]

Received at Shelburne, September 16, 1887.

Allen can repair and take vessel away. If he requires Canadian register will have to pay duty.

A. W. MCLELAN,
Acting Minister of Customs, Ottawa.

[Inclosure 17, in No. 1049.]

*Mr. Atwood to Mr. Allen.*CUSTOM-HOUSE, *Shelburne, September 22, 1887.*SIR: I have to inform you that the acting commissioner of customs authorizes the release of the ship *Bridgewater* on condition that she takes a clearance to a foreign port and leaves the country on completion of the repairs, after first paying all expenses incurred in connection with the seizure, and after you have formally withdrawn the protest made and given a written abandonment of all claims upon the Government or seizing officer on account of seizure.

You will please let me know whether these conditions will be complied with, and I will give you an account of expenses.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 18, in No. 1049.]

*Mr. Atwood to Mr. Allen.*CUSTOM-HOUSE,
*Shelburne, Nova Scotia, October 5, 1887.*SIR: I have to notify you that the ship *Bridgewater* is still under seizure and a clearance will not be granted until the terms of decision are complied with, and that any attempt to move her without clearance is under the law a felony.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 19, in No. 1049.]

*Mr. Atwood to Mr. Allen.*CUSTOM-HOUSE,
*Shelburne, Nova Scotia, October 14, 1887.*SIR: I have received instructions this day to release the ship *Bridgewater*, now under seizure.

I am, etc.,

W. W. ATWOOD,
Collector.

[Inclosure 20, in No. 1049.]

Mr. Allen to Mr. Atwood.

SHELburnE, October 15, 1887.

SIR: I received late last evening your note informing me you were in receipt of instructions to release the ship *Bridgewater*.

Having regard to all the circumstances familiar to you as myself, permit me to suggest that you release her at an early a date as possible, taking from her the emblem of seizure, signifying at the same time your intentions respecting my application for clearance for a port in the Dominion of Canada, without which, as the ship is chartered, the release will be of no use.

Very respectfully,

JOHN H. ALLEN.

[Inclosure 21 in No. 1049.]

Marine protest of Captain Allen.

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Saint John, New Brunswick, Dominion of Canada :

By this public instrument of declaration and protest be it known and made manifest unto all whom these presents shall come or may concern that on the twenty-fourth day of November, one thousand eight hundred and eighty-seven, before me, James Murray, consul of the United States of America for Saint John, New Brunswick, Dominion of Canada, and the dependencies thereof, personally came and appeared John H. Allen, master of the ship or vessel called the *Bridgewater*, of New York, of the burden of 1,482 tons or thereabouts, then lying in this port of Saint John, New Brunswick, laden with ballast cargo, who duly noted and entered with me, the said consul, his protest, for the uses and purposes hereafter mentioned; and now on this day, to wit, the day of the date hereof, before me, the said consul, again comes the said John H. Allen and requires me to extend this protest, and, together with the said John H. Allen, also comes Andrew Perier, seaman, and Daniel Langwell, carpenter, of and belonging to the said ship, all of whom by me being duly sworn on the Holy Evangelist of Almighty God, and severally, voluntarily, freely, and solemnly declare, depose, and state as follows: That is to say,

That these appearers, on the twenty-first day of October, one thousand eight hundred and eighty-seven, in their capacities aforesaid, sailed in and with the said ship from the port of Shelburne, Nova Scotia, in ballast and bound to the port of Bersimis, River Saint Lawrence, Quebec, and that the said ship was then tight, staunch, and strong, had her ballast well and carefully trimmed and secured, had her hatches well corked and covered; was well and sufficiently manned, victualled, and furnished with all things needful and necessary for a vessel in the merchant service, and particularly for the voyage she was about to undertake; that the next day, the 22d of October, crew refused to turn to, assigning as a reason, among others, the advanced season for entering the Gulf of St. Lawrence; sent on shore for the United States consul, who, after much persuasion, induced 6 men to go to work; put the rest in irons. With assistance from shore, got the ship under way and proceeded toward Sound Point. About 1 p. m., when about half way down the harbor, a sudden squall of great force struck the ship, heading her off; there being neither room to tack or wear, let go the anchor, which, however, would not hold, and ship drifted on the beach; took in all sail and kept the extra men on board. 8 p. m., gale moderating; midnight nearly calm; the 7 men which were put in irons turned to at midnight.

October 23.—At the highest point of the tide took warp attached to spare anchor to the main capstan, which was fully manned, and with 20 men at windlass put the heaviest strain on both; ship started four or five feet, the tide being not as high by one foot as the day tide; ship perfectly still and in same position as at a wharf. Noon, strong breeze from northwest. 3 p. m., made another attempt to heave ship ahead, but the tide being a poor one met with no success. Midnight, moderate.

October 24.—Commences moderate with wind going to NE., glass rising. 3.30 a. m., high water but poor tide; hove cable taut. 8 a. m., wind south and increasing noon, light rains, wind southwest. 1 p. m., 8 men from shore came on board to assist. 1 p. m., tide making fast and every appearance of plenty of water, hoisted spanker main-topmast and fore-topmast staysails. 2 p. m., ship swung rapidly, bow paying off shore, but the stern hanging on the ground prevented her forging ahead, in consequence of which the bow payed off and wind veering at same time to southwest and blowing with great force ship took the ground with starboard side to the

beach; 8 men assisting from shore. 6 p. m., wind W.SW. and blowing almost the force of a hurricane. Ship quiet and doing no harm. Midnight, more moderate.

October 25.—Commences moderate, inclining to calm. 3.30 a. m., high water, but the tide did not rise to its usual level; ship did not float, in consequence of which made no attempt to leave her off. 3.45 p. m., bow floated, hove ship's head well off shore but stern hung; wind quite strong and directly on shore. James Deady deserted the ship last night. Midnight, calm; ship lying easy.

October 26.—Commences calm. 4 p. m., tide ceased rising; water did not reach its ordinary level; made no attempt to move ship. 8 a. m., moderate breeze from the north; made preparations to get ship off, hoping for good tide and northerly wind as glass indicates. 4 p. m., manned capstan and windlass; ship started and soon swung to her anchor; kedged her to middle of harbor, where she now lies on 7 fathoms of water. Wind light from NW. The day ends with moderate winds from N.NE.

October 27.—Commences clear and moderate from N.NE. Heavy frost. 6 a. m., hove up the anchor and took in the kedge, dropping the bower under foot. 8 a. m., light breeze from the north; weighed anchor and proceeded to sea. 9 a. m., passed Sand Point; noon, ship out of the sound. 4 p. m., calm. 8 p. m., calm; 11 p. m. Cape Roseway light bearing north, distant 15 miles.

October 28.—Commences with light breeze from E.SE. Ship heading south, making $2\frac{1}{2}$ knots. 8 a. m., same weather. Crew employed overhauling the gear and reeving some new. Noon, same. 4 p. m., the same, ship heading S. b. W. 8 p. m. tacked in-shore. Ship heading NE., making 3 knots. Midnight, moderate, making 2 knots. Cape Roseway distant about 15 miles.

Course till 8 p. m., south.

Course from 8 p. m. to 8 a. m., N. b. W.

October 29.—Moderate inclining to calm. 8 a. m., dead calm; noon, light wind from NE., slight showers. 4 p. m., calm; crew employed overhauling the running rigging. 8 p. m., dead calm. Midnight, faint breeze, ship close hauled.

Course, N. b. W.

October 30.—Commences with light rain, wind almost calm. 4 a. m., wore ship to S.SE; considerable fog and drizzling rain. 8 a. m., same weather. Judge ship to be south of Little Hope Light-House, 12 miles distant, say bearing N.NE. Noon, thick; no observation, wind very moderate. 4 p. m., the same. Brigantine in company. Midnight, light breeze from the north. Sky overcast.

Course from 4 a. m., S.S.E.

October 31.—Throughout the day moderate wind from N.NW. 8 p. m., judge ship off Sambro. Midnight, light air from NW.; all sails set.

Course, E. b. N., N W.

November 1.—Commences with light breeze from N.NW. All light sails set. 8 a. m., more moderate. Noon, the same. Ends with strong breeze from NE.

November 2.—Throughout this day strong to moderate breezes from NE. Judge Cape Canso to bear N. b. E., distant 60 miles.

November 3.—Commences with moderate winds, inclining to calm. 8 a. m., light wind from the south. All sail set. P. m., several ships in sight passing out of the Gulf. Midnight, Scutari Light in sight, bearing N.NE., distant 15 miles.

November 4.—Midnight till 4 a. m., calm; thence till 8 a. m., light airs from the south. *Sidney*, pilot schooner, spoke us. 10 a. m., passed Scutana. Strong breeze from south. All sails set; the only fair wind we have had since leaving Shelburne, Nova Scotia; 4 p. m., passed Cape North. 10.15, passed Bird Rock, $12\frac{1}{2}$ hours from Scutani, giving her $11\frac{1}{2}$ knots. From 10 p. m. till midnight, wind gradually hauling to NW. Sail being reduced.

November 5.—Commences with strong gale from N.NW. Ship under lower topsails courses, and spanker. Judge Bird Rock to bear N.NE., distant 25 miles. Noon, strong gale; ship under lower topsails, foretopmast staysail, and storm spanker, making an E.NE. drift. 5 p. m., wore ship to westward, weather intensely cold; ice making fast and crew not very nimble.

November 6.—Midnight gale moderating. Wind inclining to NE. direction, 8 a. m., more moderate; wind backing to NW. Wore ship to NE. and set the courses. P. m. south point of Anticosti in sight; 5 p. m. wore ship to NW. Wind hauling to N.NE; 10 p. m. the light on last point of Anticosti in sight, bearing N.NE. distant 12 miles.

November 7.—The gale moderating. Set the upper topsails. Wind drawing easterly and thick with snow squalls; 8 p. m. off south point of Anticosti; wind fresh from east; all sails set; 2.30 p. m. Southwest Point Light-House in sight till midnight; moderate winds, thick and hazy.

November 8.—Moderate, inclining to calm; very hazy on the horizon; 8 a. m. the weather clearing, found ship close up to Fame Point; 10 a. m. wind came from NW., soon increasing to strong breeze. Took in all light sails and stood off shore. Noon, strong gales, with hard squalls of great force. P. m., the north point of Anticosti in sight ahead, being in the narrow waters with land in all directions, were forced to

carry sail in order to keep ship in position. 4 p. m. the north end of Anticosti being under the lee where ship would not weather, prepared to wear to westward but in taking in the courses split them badly, including upper fore topsail and foretopmast staysail and later blew away the inner set; 5 p. m. the ship drifting towards SW. Point Light-House, and gale blowing with great force; ship under two lower topsails only, and apprehensive that these would not stand the force of the gale, in the event of which ship would be beyond control and doubtless driven ashore, kept her away before the gale, continuing so till midnight, the gale blowing with force of a hurricane, bitterly cold, with constant flurries of snow.

November 9.—Commences with furious gale from NW., ship scudding under main and fore-top sails, deck covered with snow. 8.15, passed Bird Rock; noon, same weather, gale of same force thick with haze and snow and hail squalls. 2 p. m. passed Cape North, ship having made in 20 hours under two lower topsails 225 knots, an indication of the force of the gale. 10 p. m., passed Scataria, hauling ship to wind under the land. Midnight less wind. Ship heading W.SW. under two topsails and spanker. Setting at midnight maintopmast staysail, the watch employed clearing snow from the deck.

November 10.—Strong gale from NW., but lessening, ship heading W.SW., making 3 points leeway. Employed during the day bending sails in lieu of those blown away. Weather cold, men aloft using mittens on their hands, which as might be expected prevented progress in repairing damages. Midnight, less wind and sea going down. Judge Scartari distant 55 miles.

November 11.—Commences moderate, inclining to calm. Sea heavy but going down; by noon had sails in place of those lost ready for setting, reeving off several coils new manilla for sail gear. Having regard to lateness of season and difficulty of getting up the gulf, with the certainty that ship could not get her cargo and return before close of navigation, determined to abandon voyage. P. m., took light wind from NE., which soon increased to a gale. Midnight, judge west end Sable Island to bear SE. by S., distant 40 miles.

November 12.—Midnight, less wind, veering to S.SW. Ship under lower topsails and course; 8 a. m., light rains and squally. Noon, judge Sambro to bear N.NW., distant 35 miles; 4 p. m., wind W.SW., ship close hauled, heading NW., making 4 knots; 5 p. m., nearly calm, wind NW.; wore ship to SW.; midnight, calm, heavy sea.

November 13.—Moderate to calm throughout this day. Heavy sea running from NW.; judge Sambro to bear north, distant 30 miles.

November 14.—Moderate wind from NW. Ship making but little headway; p. m. tacked inshore; midnight, judge ship about 20 miles south of Lunenburg; no observation.

November 15.—Commences with more wind and unsettled weather; 8 p. m., moderate south wind; noon, thick and squally; 4 p. m., strong gale, ship under topsails; midnight, made Gull Rock light, and finding ship nearer shore than the light indicated, and being apprehensive she would not "claw" off, run into Rugged Island Sound and came to anchor with both bows and 45 fathoms cable. Hauled sails, Gull Light Rock bearing south, distant 1 mile; kept sea-watch; gale moderate.

November 16.—Wind veering to west and quite moderate; scant, however to make a start; sea quite heavy; p. m., lifted anchors, dropping ship further to NW. in order to get more distance between ship and the south breaker; employed some fishermen to assist; made signal for a tug, but word was sent that the Lockport tug had gone to Halifax; p. m., wind blowing almost directly inward; ends with moderating weather.

November 17.—The sea has been comparatively smooth during this day. Still no chance to get away. P. m., the crew came aft, requesting to know what was to be done, evidently meaning the ship should be abandoned. They wanted life-boat No. 1 put over the side; however, not to quarrel with them, a compromise was made by putting her on her keel on the round-house. Some time later in the day all hands refused duty, insisting that the master land them. A. m., the cook and stewardess, wife of the former, who had permission to go on shore last evening, on plausible statements to the master, have not returned, and state they will not; their effects are on board. The master and officers are caring for the ship. Wind SW. to W. and moderate.

November 18.—At 8 a. m. it blew quite fresh from E. SE.; considerable sea on. The crew have during the day been aft, frequently threatening that if something was not given them to eat there would be trouble. They were answered that if they would go to work one of them could go to the galley and cook for them. The proposition was refused. P. m., the crew threatened to hoist out the life-boat; prepared the cutlasses and firearms, as it looks serious. 3 p. m., the crew forcibly took possession of a boat alongside from shore, all drawing sheath knives, declaring the heart would be cut out of the first man who stood in their way; only four, however, could get in her, carrying Kelly, McDonald, Sheehan.

November 18.—Continued blowing fresh, and considerable sea; ship keeping well off the reef. By 8 p. m. the balance of the crew had signified a wish to go to work on condition they would not be prosecuted for their insubordination. Considering that the prime object of the ship just now is her safety, the promise was given. Received fresh water, wood, and beef, also small quantity naval stores. The day ends with fine weather. Men from shore are on board, hoping for a chance to get away in the morning.

November 19.—Midnight, calm. 4 a. m., light air from NE., called all hands, and by 7 o'clock a. m. had the port anchor and starboard one short; set sail and proceeded to sea. On sighting the starboard bower, the largest with iron stock, found stock and one fluke gone. The port one is wooden stocked and has done more service. 10 a. m., off Cape Roseway, and passed Seal Island at 2.30. Wind fresh from southeast. 5 p. m., hard gale; put ship under lower topsails. 9 p. m. made Bryers Islands light, passing it at 10 p. m. Ship making time; passed Cape Roseway 11 knots.

November 20.—One o'clock a. m. it set in thick fog, dense as tun. Hove ship to on port tack, half distance between Bryers Island and Musquash; fog continuing throughout the day. Average depth of water, 70 fathoms. Twice filled away on our course, but abandoned it after a short time.

November 21.—The day commences with thick fog. 1 a. m. heard fog-signal, but were unable to locate it. 4 a. m. found the ship close to land; dropped anchor. Daylight found we were near New River, Mace's Bay, a drift so extraordinary as to deserve mention; ship being near the shore on the kedge, and warped off shore. 3 p. m. got under way, passing Lepreaux at 7 p. m., and off Musquash at midnight.

November 22.—4 a. m. got under way, with a light breeze from NW., and proceeded down Mace's Bay and toward Saint John, New Brunswick; noon took a pilot. 2 p. m. took a tug-boat, and at 4 p. m. moored ship at Carleton, New Brunswick, port of Saint John.

And these said appearers upon their oaths aforesaid do further declare and say that during the said voyage they, together with the others of the ship's company, used their utmost endeavors to preserve the said ship from all manner of loss, damage, or injury.

Wherefore the said John H. Allen, master, has protested, as by these presents I, the said consul, at his special instance and request, do solemnly and publicly protest, against all and every person and persons whom it doth or may concern, and against the winds and waves and billows of the seas, and against all and every accident, matter, and thing had and met with as aforesaid, whereby and by reason whereof the said ship already has or hereafter shall appear to have suffered or sustained damage or injury; and do declare that all losses, damages, costs, charges, and expenses that have happened to the said ship are and ought to be borne by those to whom the same may by right appertain by way of average or otherwise, the same having occurred as before mentioned, and not by or through the insufficiency of said ship, her tackle or apparel, or default or neglect of this appearer, his officers, or any of his mariners.

Thus done and protested in the port of Saint John, New Brunswick, Dominion of Canada, this 19th day of December, in the year of our Lord one thousand eight hundred and eighty-seven.

JOHN H. ALLEN, *Master.*
ANDREW PERIER, *Seaman.*
DANIEL LANGWELL, *Carpenter.*

In testimony whereof these appearers have hereunto subscribed their name, and I, the said consul, have granted to the said master this public instrument, under my hand and the seal of this consulate, to serve and avail him and all others whom it doth or may concern as need and occasion may require.

[SEAL]

JAMES MURRAY,
United States Consul, St. John, N. B.

UNITED STATES CONSULATE,
Saint John, N. B., December 22, 1887.

I hereby declare and certify that the within extended protest is a true copy of the original on file in this office.

[SEAL]

J. MURRAY,
United States Consul, St. John, N. B.

[Inclosure 22 in No. 1049.]

Marine note of protest.

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of St. John, New Brunswick :

On this twenty-fourth day of November, in the year of our Lord eighteen hundred and eighty-seven, before me, James Murray, consul of the United States of America for Saint John, N. B., and the dependencies thereof, personally appeared John H. Allen, master of the ship or vessel called the *Bridgewater*, of New York, of the burden of 1,482.44 tons, or thereabouts, and declared that on the 22nd day of October last past he sailed in and with the said ship from the port of Shelburne, N. S., laden with ballast, and arrived in the said ship at Saint John, N. B., on the 22d day of November, and having experienced boisterous and tempestuous weather on the voyage, hereby enters this note of protest accordingly, to serve and avail him hereafter if found necessary.

JNO. H. ALLEN,
Master.

Attested:

JAS. MURRAY,
Consul.

[Inclosure 23 in No. 1049.]

Register of the Bridgewater.

[Register No. 107. Permanent. Official number; numerals 2593; letters J. F. H. P.]

Copy of certificate of registry. In pursuance of chapter one, XLVIII, "regulation of commerce and navigation," Revised Statutes of the United States.

Mary Warren Allen, of Brooklyn, State of New York, having taken and subscribed the oath required by law, and having sworn that he is a citizen of the United States and the only owner of the vessel called the *Bridgewater*, of New York, whereof Mathew Adams is at present master, and is a citizen of the United States; and that said vessel was built in the year 1855, at Philadelphia, Penn., as appears by T. R. No. 256, issued at New York Aug. 13, 1873, surrd. to Am. consul at Hull, Eng., July 15, 1878, authorized to be registered anew per telegram of this date from Sec. of Treas., change of ownership and district, and said register having certified that the said vessel has 3 decks and 3 masts, and that her length is 189 and 8 tenths feet, her breadth 41 feet and 5 tenths, her depth 28 feet and 3 tenths, her height ——— feet and ——— tenths; that she measures fifteen hundred fifty-six tons and 83 hundredths, viz:

	Tons.	100ths.
Capacity under tonnage deck.....	1,035	78
Capacity between decks above tonnage decks.....		
Capacity of inclosures on the upper deck, viz.....	521	5
Gross tonnage.....	1,556	83

Deductions under section 4153, Revised Statutes, as amended by act of August 5, 1882, 74.39; total deduction, 74.39; net tonnage, 1,482.44.

The following described spaces and no others have been omitted, viz:

and that she is a ship, has a figure-head and a square stern; and the said Mary Warren Allen having agreed to the description and admeasurement above specified, and sufficient security having been given, according to law, said vessel has been duly registered at the port of New York.

Given under my hand and seal at the port of New York this third day of November, in the year one thousand eight hundred and eighty-three.

[SEAL OF THE UNITED STATES TREASURY.]

R. WYNKOOP,
Deputy Collector of Customs.
 L. R. MAY,
For Naval Officer.
 W. P. TITCOMB,
Assistant Register.

[Inclosure 24 in No. 1049.]

Mr. Allen to Mr. Bayard.

IN RE BRIDGEWATER.

WASHINGTON, D. C., *January 19, 1889.*

SIR: Referring to the communications from the British Government in respect to this matter, received by the State Department November 26, but made known to me yesterday only, I beg to recall the Department's attention to its salient features as they appear in the documents filed in the State Department.

First. It is not an accurate statement, that which the Canadian authorities have persistently advanced, viz, that the owner of the *Bridgewater* commenced an action at law against the Government of Canada. The owner, it is true, went to Ottawa, made an application to the minister of customs for his permission to take the necessary steps (without which, so he was advised, no progress could be made), to the end that the cause could be tried in the exchequer court, in which event the Government itself would be the actual defendant; but the application met with prompt and unqualified refusal.

Second. It is true an action was commenced in the local court in Nova Scotia against the seizing officer, but it was abandoned, as the Canadian authorities are well aware, on May 26, 1888, on receipt of the official letter of that date stating that "the claimant can not recover against the seizing officer of the Crown for the damages sustained in consequence of the seizure."

Third. The owner had at that date spent ten months in pleading for restoration of the ship, and suing for the losses the seizure entailed, and it is respectfully urged that it is quite out of character to contend, as the Canadian Government does contend, that in face of such foreordained decree the claimant should be made to take his cause to the courts, together with the costs attending it.

Fourth. When the Government armed the *Bridgewater* with a navigating register it undertook the obvious duty of protecting it, just as it would, and does, an American citizen carrying in his pocket a duly-vised passport, who, without cause, is thrown into a foreign dungeon.

Fifth. The consul-general at Halifax instructed the consul at Shelburne that the State Department required the ship's navigating papers for scrutiny. They were sent, and eventually returned to the ship. This took place long before the ship's release. The fact of returning them was an admission of their legality and complete sufficiency the purposes which took the ship to a Canadian port; yet the Government did nothing whatever toward effecting a release.

Sixth. The Canadian pretense is that the *Bridgewater* was an importation into the Dominion of Canada of a piece of merchandise nondescript in quality, and therefore subject to a duty at the rate of 25 per cent., an assumption which, if contended for by the Government of the United States against a British registered ship, would, in the language of a leading New York daily paper, "set the British foreign office afire." This is all that there is to refer to the courts, a question which, with all respect, I should say is not for the Canadian courts to determine, for that would be an admission on the part of the Government of the United States that a foreign power can not only nullify our navigation register laws (an assumption of surveillance over the affairs of another people that, if made to a power even like Hayti, would be instantly rejected), but that Canada, a dependency, can do the self-same thing and at the same time set at defiance those commercial treaty laws subsisting between the United States and Great Britain, and which she has, with her large mercantile marine, availed herself of in all our ports for more than fifty years past.

I would, in conclusion, respectfully remind the Department that the owner of the *Bridgewater* comes not to the Government as a suppliant. If a duty rests upon a citizen to his Government, and that duty has been fulfilled, equally does a duty rest upon the Government to the citizen in time of need. This is precisely our case. We ask from the Government that measure of protection which we through life have been paying for. In other words, it is one of those cases, occurring so seldom under modern civilization, where the value of citizenship and nationality of property may be accurately determined.

I am, etc.,

JNO. H. ALLEN.

FOREIGN RELATIONS.

[Inclosure 25 in No. 1049.]

*Mr. Allen to Mr. Bayard.*WASHINGTON, *January 19, 1889.*

SIR: The paper herewith I beg to attach to my letter of even date, to be filed with the State Department.

Respectfully, etc.,

JOHN H. ALLEN.

[Inclosure 26 in No. 1049.]

Addenda to Mr. Allen's letter, dated Washington, January 19, 1889.

The Canadian authorities contend that the *Bridgewater* was sold in a Canadian port, and by that act was subject to a duty of 25 per cent. on the selling price, or, alternatively, confiscation. But admitting she was sold, which, however, was not the case, that would not change the position a particle. There is no law in Canada subjecting an American ship, if sold there, to the payment of 25 per cent. duty or any other per cent. of duty. This was pointed out to the Canadian authorities before they made the seizure and the owner was flippantly told they were "acting under an order in council;" yet the collector at the time quoted the statute he professed to be acting under.

If an American ship is sold in Canada or out of it to a Canadian, he must before he can complete his Canadian registry pay to his Government 10 per cent. on the purchase price of his ship, but obviously the moment the ship was billed to the Canadian owner it would cease to be American. This is the extent of the Canadian law touching the duty on American ships when sold in Canada.

It is not in the power of Canada, it is respectfully urged, to enact such a law as she professes to have been applying to American shipowners for twenty-one years; at least not till she abrogates the commercial treaties now subsisting between the United States and Great Britain, which especially provide for this very case, and to which Canada, as a dependency of the Crown, is subject.

J. H. A.

Mr. White to Mr. Bayard.

No. 926.]

LEGATION OF THE UNITED STATES,
London, February 20, 1889. (Received March 2.)

SIR: I have the honor to acquaint you that Mr. Herman Keller has applied for a passport, and that I have felt it my duty to refuse to issue the same to him without previously referring his application to the Department of State, as the circumstances are somewhat unusual.

I inclose herewith the sworn statement on which Mr. Keller bases his application for a passport, from which you will see that he was born in 1855, in the city of Mexico, where his father, whose naturalization papers as a United States citizen, dated April, 1847, I also inclose, was then residing.

His permanent residence is now in London, and not only is he uncertain *how long* he resided in the United States, but he is unable to tell me whether he has *ever* been there in his life, even as a young child. He certainly has no intention at present or in the immediate future of going to America, where I understand that he has neither interests nor business connections.

I inclose passports issued by the State Department to Mr. Keller's father, Edgar Keller, now deceased, in 1866 and in 1870; also a document issued in February 17, 1857, by our consulate at Mexico, to Mr. Edgar Keller, setting forth the dates on which his children were born.

I ought to add that, on the strength of the aforesaid documents, passports have been issued by this legation to Mr. Herman Keller in July 15, 1881, and to his wife in May 2, 1884.

I have the honor to inquire whether I shall comply with his request and again issue a passport to him.

Mr. Keller particularly asked that the inclosed documents might be returned to him. I told him that I should transmit the request, but made no promise in the matter.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 926.]

Application of Hermann Keller for a passport.

NO.—, ISSUED FEBRUARY 12, 1889.

I, Hermann Keller, a native and loyal citizen of the United States, do hereby apply to the legation of the United States at London for a passport for myself.

In support of the above application I do solemnly swear that I was born at the City of Mexico, in the Republic of Mexico, on or about the 22d day of March, 1855; that my father was a naturalized citizen of the United States (I produce my father's naturalization papers); that I am domiciled in England, my permanent residence being at 102 Fenchurch street, in the city of London, where I follow the occupation of a merchant; I am unable to say whether or how long I resided in the United States, as I came to Europe when I was very young; that I am the bearer of passport No. 330, issued by this legation on the 15th day of July, 1881; that I at present have no intention of returning to the United States with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of traveling on the continent.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

HERMANN KELLER.

LEGATION OF THE UNITED STATES at London.

Sworn to before me this 12th day of February, 1889.

HENRY WHITE.

DESCRIPTION OF APPLICANT,

Age, thirty-three years; mouth, moustache; stature, 6 feet — inches, English; chin bearded; forehead high; hair brown; eyes gray; complexion fair; nose straight; face, oval.

[Inclosure 2 in No. 926.]

Birth certificate of Herman Keller.

No. 72.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Mexico, February 27, 1887.

This day in this consulate personally appeared Edward Keller, a citizen of the United States of America residing in this city, and declared that by his lawful wife, Harriet Magdalen Charlton Keller, on the 22d of March, A. D. 1855, in this City of Mexico, he had born to him a son, to whom he has given the name of Silvester Paul Herman Edward Keller.

And at the same time said Edward Keller declared that on the 9th of January of the present year, by his aforesaid wife, he had born to him a son, to whom he has given the name of John Gustavo Adolphus Ricard Keller, and that he does hereby place his before-named children under the protection of the American flag in order that they may severally enjoy all the rights, privileges, and protection to which they are entitled by the existing laws of the said United States.

E. KELLER.

Attest;

JOHN BLACK,
Consul.

No. 83.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Mexico, February 28, 1857.

I, the undersigned and consul of the United States of America for the City of Mexico, hereby certify that I have this day carefully examined and compared the foregoing document with the original record in this consulate No. 72, Register 1, folio 19, and that it is a true and faithful copy of said original record register 1, folio 12.

In testimony whereof I have hereunto set my hand and affixed the consular seal the day and year first above written.

JOHN BLACK,
Consul.

Mr. White to Mr. Bayard.

[Extract.]

No. 928.]

LEGATION OF THE UNITED STATES,
London, February 23, 1889. (Received March 5.)

SIR: Referring to your instruction No. 1049 of the 23d ultimo, I have the honor to inclose herewith the copy of a note which I addressed to the Secretary of State for Foreign Affairs on the 20th instant, relative to the case of the American ship *Bridgewater*.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 928.]

Mr. White to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, February 20, 1889.

• MY LORD: With reference to Mr. Bayard's notes of June 22, 1888, to Mr. Edwardes, Her Majesty's chargé d'affaires at Washington, and of November 23 last, to Mr. Herbert, at that time chargé d'affaires of Great Britain in the United States, I have the honor to acquaint your lordship that I am instructed to bring to the attention of Her Majesty's Government the case of the American ship *Bridgewater*, wrongfully seized at Shelburne, Nova Scotia, on the 27th July, 1887, and for eighty-one days held by the Canadian Government.

The circumstances of the case are so fully set forth in Mr. Bayard's note to Mr. Edwardes above referred to, that it is unnecessary for me to repeat them. The *Bridgewater* was released unconditionally on the 15th of October, 1887, but not until after the acting commissioner of customs had endeavored unsuccessfully to release her subject to the "condition that she takes a clearance to a foreign port and leaves the country on the completion of the repairs, after first paying all expenses incurred in connection with the seizure, and after you (the owner's agent) have formally withdrawn the protests made and given a written abandonment of all claims upon the Government or seizing officer on account of seizure."

On the 24th of November last the Secretary of State was informed in reply to his second note to Her Majesty's legation at Washington on the subject of the *Bridgewater* that her owner, "before presenting the claim, commenced an action at law, which is still pending, and that the Canadian Government is unable to express an opinion on the claim until the settlement of the case in the law courts."

It is true that the owner of the *Bridgewater*, Mrs. Allen, instituted a suit in the Canadian courts to secure damages for her wrongful seizure and detention, but on the 24th of May, 1888, her agent was informed by the Canadian minister of customs, to whom he had addressed, on the 15th of that month, a claim amounting to over \$20,000 for damages by reason of the wrongful seizure and detention of the *Bridgewater*, that the minister of justice had decided that the claimant "could not recover against any officer of the Crown for damages sustained in consequence of the seizure;" and my Government is furthermore informed that the owner's agent also endeavored to obtain permission to bring a suit in the exchequer court, but that his application was not entertained.

I inclose herewith a copy of the aforesaid claim for damages with the accompanying documents, addressed by Mr. J. H. Allen to the minister of customs, and a copy of the latter's reply, previously referred to.

Acting upon this declaration of the minister of justice, Mr. Allen directed his attorneys to discontinue the suit so begun in the Canadian courts, and the owner decided, after failure to obtain a remedy against the Government of Canada in the exchequer court, and in view of the official opinion that no recovery could be had in any court against any officer of the Crown, to invoke the intervention of her own Government.

She thereupon presented a petition to the Secretary of State, of which I inclose a copy. The sworn statement therein referred to, of the losses Mrs. Allen has sustained and of the amount at which she assesses the damages, will be found in inclosure No. 1.

I also inclose copies of a letter on the subject addressed by Mr. J. H. Allen on the 19th ultimo to the Secretary of State of the various protests, and of a statement of the case forwarded by the United States consular agent at Shelburne to the consul-general at Halifax.

Mrs. Allen's petition is dated June 1, 1888, more than ten months subsequent to the date of the seizure of the vessel, and nearly eight months after her unconditional discharge; the intervening time having been spent in fruitless endeavors to obtain redress, which it was finally ascertained was not to be had through the Canadian law courts, nor from that Government.

A serious injury has thus been unquestionably inflicted upon a citizen of the United States by the authorities of the Dominion of Canada, for which the head of their department of justice has declared that no remedy is afforded by their laws.

To obviate such an evident failure of justice appeal is now made by the Government of the injured party to the plenary power of the Government under whose jurisdiction and official agency the injury was wrongfully inflicted.

I am therefore instructed to bring the matter without delay to the attention of Her Majesty's Government, and to ask that just compensation may be rendered to the claimant.

I have, etc.,

HENRY WHITE.

Mr. Bayard to Mr. White.

No. 1089.]

DEPARTMENT OF STATE,
Washington, March 1, 1889.

SIR: I inclose herewith a copy of a dispatch, No. 173 of the 22d ultimo, from the United States consul at St. John, New Brunswick, in relation to the shipment of seamen on American vessels in that port.

The laws of the United States provide that all seamen shipped on board of American vessels in foreign ports shall sign articles before the United States consular officers there. This provision is enforced with appropriate penalties.

By section 126 of the Canadian seaman's act of 1876 the requirement of shipment of crews before a Canadian shipping-master is extended to the shipping of seamen on foreign vessels; but there is a saving clause in favor of vessels belonging to countries between which and Great Britain there is a treaty to prevent such extension.

It is supposed that it has been under this clause and in consideration of the reciprocity existing in our ports that it has not been the practice in Canadian ports to require American vessels to ship seamen before Canadian shipping-masters and upon Canadian articles. If any American master has so shipped seamen he has failed to comply with our law in so doing, and no consul has been warranted in authenticating articles so entered into. The Department, therefore, on recently being informed that the consul at St. John, New Brunswick, had in some instances authenticated articles of shipment entered into and signed by masters and seamen of American vessels before the Canadian shipping-master at that port, directed him to abstain from such a course in the future, since it was unauthorized and illegal.

Being so instructed the consul on a recent occasion shipped seamen on an American vessel at his consulate in accordance with the laws of the United States; objection was made by the Canadian shipping-master, who claimed the sole right to ship the seamen under Canadian articles, whereupon the consul informed him of the instructions he had received from this Department to abstain in future from authenticating such articles.

This announcement called forth the letter from the shipping-master to the consul of the 21st ultimo, inclosed in the latter's dispatch of the 22d the same month, in which the shipping-master informs the consul that if hereafter seamen required for American vessels are not shipped in the former's office he shall be obliged to take such legal steps as will enforce compliance with the Canadian act as applied at the port of St. John.

Under these circumstances and as the subject is one of wide-spreading importance I deem it expedient to bring the matter to the attention of Her Britannic Majesty's Government with a view to secure corrective action in the premises without waiting for a case of controversy to arise.

It is believed to be an accepted doctrine that the right of a vessel to be governed in respect of her internal discipline by the laws and regulations of her own country is not forfeited by her entrance into the port of a foreign country. The position of the Canadian Government in regard to the shipment of seamen at St. John would not only deprive a vessel of that right while in that port, but would by necessary consequence destroy the right until she had shipped another crew in another port, under the laws and regulations of her own country, for which in the meantime would be substituted the laws and regulations of the Dominion of Canada.

While under a strict construction of the terms of sections 4511 and 4512 of the Revised Statutes shipments of seamen on foreign vessels in ports of the United States might be required to be made before United States shipping commissioners, yet I am informed by the Treasury Department that the law has never been so applied, and that such shipments have invariably been allowed to be made before the foreign consular officer in accordance with foreign regulations, on the ground that such action was demanded by international comity. This Government, however, expects and requires reciprocal treatment for its vessels in the ports of other countries, and the Treasury Department does not at present recall any instance other than that now under consideration in which such reciprocal treatment is not accorded.

It is hoped that Her Majesty's Government will take the necessary measures to secure such treatment for American vessels in Canadian ports.

You will communicate a copy of this instruction to Her Majesty's Government.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 1089.]

Mr. Murray to Mr. Rives.

No. 173.]

CONSULATE OF THE UNITED STATES,
St. John, New Brunswick, January 22, 1889.

SIR: In the matter of shipping seamen at this consulate, I inclose herewith copy of a communication received this day from the shipping-master at this port.

I am, etc.,

JAS. MURRAY.

[Inclosure 2 in No. 1089.]

*Mr. Purdy to Mr. Murray.*DOMINION OF CANADA SHIPPING OFFICE,
St. John, New Brunswick, January 21, 1889.

SIR: Referring to your recent action in shipping seamen for American vessels at your consulate and your intimation that you would in future decline to attach your certificate to articles issued from this office to American vessels, I have the honor to inform you that, having laid the matter before the marine department at Ottawa, I am instructed that section "126 of chapter 74 of the Revised Statutes of Canada is within the competency of the parliament of Canada and expressly applies to foreign ships, and if a foreign ship in a Canadian port requires to ship any seaman, such seaman must be shipped in the manner prescribed by the act," and that "there is no treaty between Great Britain and the United States which relieves the United States from this duty." I therefore beg to inform you that if seamen required for American vessels at this port are not shipped at this office I shall be obliged to take such legal steps as will enforce compliance with the act.

I have, etc.,

W. H. PURDY.

Mr. Bayard to Mr. White.

No. 1092.]

DEPARTMENT OF STATE,
Washington, March 5, 1889.

SIR: Your dispatch No. 926, in relation to the application of Mr. Herman Keller, for a passport, has been received.

Upon the facts stated it appears that the applicant is the son of Edgar Keller, now deceased, who was naturalized in the marine court of the city of New York on April 2, 1847; that he, the son, was born on or about 22d March, 1855, in the city of Mexico; that he has no knowledge of ever having been in the United States, and that he expressly declares that he at present has no intention of returning to the United States with the purpose of residing and performing the duties of citizenship therein.

On this statement the case does not appear to be a proper one for the issuance of a passport to the applicant.

The original papers which accompanied your dispatch are herewith returned, with the exception of Mr. Keller's sworn application, which has been placed on file here, with your dispatch. You may return the papers to Mr. Keller as of personal interest to him. It is proper that the word "cancelled" should be distinctly written across the face of the passports, which, as you report, were issued to Mr. Hermann Keller by your legation July 15, 1881, and to his wife (if she be not independently a citizen of the United States) May 2, 1884. The passports of Mr. Edgar Keller, the applicant's deceased father, do not require cancellation.

I am, etc.,

T. F. BAYARD.

Mr. White to Mr. Blaine.

No. 966.]

LEGATION OF THE UNITED STATES,
London, March 23, 1889. (Received April 2.)

SIR: Referring to Mr. Bayard's instruction No. 1089, of the 1st instant, respecting the shipment of seamen on American vessels in Canadian ports, I have the honor to acquaint you that I lost no time in communicating a copy of the same to Her Majesty's Government.

I have, etc.,

HENRY WHITE.

Mr. Blaine to Mr. Lincoln.

No. 25.]

DEPARTMENT OF STATE,
Washington, June 25, 1889.

SIR: The attention of the Department has recently been called by Sir Julian Pauncefote to the late extradition case of Thomas Barton, who was examined in Philadelphia before a United States commissioner on a charge of forgery alleged to have been committed in England. The prisoner, after much delay, was committed to await the action of the Executive, and was finally surrendered, but only upon the strength of oral proof of the admissibility of some of the documents presented to the commissioner. All papers depending for their admissibility upon the authentication of the legation at London were rejected, owing to the defective form of the legation's certificate.

In order that a similar difficulty may be avoided in the future, I inclose herewith a blank form of a certificate, which is to be used by the legation hereafter in authenticating papers for use in extradition cases in this country.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 25.]

Form of certificate.

I, _____, envoy extraordinary and minister plenipotentiary of the United States in London, hereby certify that the annexed papers, being _____ (here state what papers are) _____ proposed to be used upon an application for the extradition from the United States of _____, charged with the crime of _____, alleged to have been committed in _____, are properly and legally authenticated, so as to entitle them to be received in evidence for similar purposes by the tribunals of _____, as required by the act of Congress of August 3, 1882.

Mr. Lincoln to Mr. Blaine.

No. 31.]

LEGATION OF THE UNITED STATES,
London, July 10, 1889. (Received July 22.)

SIR: I have the honor to inform you that application has been made to this legation by Mr. Rudolph Ernest Brünnow for the issuance to him of a passport, he making to me a verbal statement in substance as follows:

His father went in 1854, being then a subject of the King of Prussia, to the United States and became an officer of the University of Michigan; in 1857 he declared his intention to become an American citizen, and shortly thereafter married the daughter of the chancellor of the university, a native citizen of the United States. The applicant was born in 1858, and, being yet unmarried, has ever since lived with his parents. They remained in America until 1863, when they returned to Germany, and there resided until 1867, when the father was appointed by Trinity College, Dublin, to be astronomer royal of Ireland. He resigned this office in 1873, went to Switzerland and lived there until 1888,

when he changed his residence to Oxford, in England. It is now the purpose of the family, including the applicant, to establish their residence at Heidelberg, it being the special purpose of the son to assume a relation to the University at Heidelberg as a "privat docent," which I understand to be that of a semi-official instructor. No member of the family has been in the United States since 1863; and, while it is not intimated that the parents have any thought of returning there, it is stated that neither the father nor the applicant has done any act which could be construed as a renunciation or to operate as a forfeiture of citizenship of the United States. The applicant stated, as to himself, that he had no present intention of returning to America, using in particular the expression that he could not say within five years when he might do so. He added, however, that he would be glad to get a professorship at some institution of learning in the United States, but did not intend to go there personally to seek it.

He has since addressed to me a letter, of which I inclose a copy herewith; but this does not, I think, materially affect his verbal statement, unless importance is given to the remark in his letter to the effect that he desires the passport in order to become an officer of a foreign university, and that he would abandon his claimed citizenship, if necessary, to obtain the place he is seeking. It is, perhaps, a baseless conjecture to associate the peculiar liability which rested on all our able-bodied citizens in 1863 with the departure from America of the applicant's father for a sojourn abroad, which has lasted without interruption for twenty-six years, and is to last indefinitely; and if such an association were well founded, the applicant, then an infant, would not be responsible for any deduction from it; but his own failure, during the ten years which have elapsed since he attained his majority, to assume any of the duties of our citizenship, and his present utter lack of a reasonably definite purpose ever to assume them, and, more, his declared purpose of its renunciation if necessary to obtain a petty office in Germany, make me reluctant to give him a badge of the citizenship he appears to value so lightly.

It is true that his case does not involve the consideration of any act from which might be implied the taking on of an allegiance to another government; but if I correctly apprehend the policy of the Department in former times, as indicated in the extracts from instructions mentioned in the "Digest of International Law," his application, in the circumstances in which he permits himself to be, is not one that would have been looked upon with favor. It seems, however, that his case is essentially similar to that of Rau, which was the subject of an instruction by Mr. Evarts to Mr. Fish, October 19, 1880; and unless the ruling of Mr. Evarts is held to be modified by the more recent issuance by the Department of State of the blank form of application for passports, providing for a sworn statement of a purpose to return to the United States within a time to be indicated by the applicant, or unless it has been modified by some instruction to which my attention has not been directed, it would seem to be my duty to issue a passport to Mr. Brünnow. As, however, I should greatly regret to learn after having done so that, in your opinion, he was not entitled to a passport, I beg to request your instructions in the premises.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 31.]

*Mr. Brünnow to Mr. Lincoln.*2 NORHAM GARDENS, OXFORD,
July 4, 1889.

SIR: In the interview your excellency kindly granted to me I omitted to state that my father had already, before leaving Germany in 1854, formally renounced his Prussian allegiance; consequently, he was not a Prussian at the time of my birth in 1858; and, in fact, had no nationality whatever, as he had not yet become an American citizen. The official paper attesting this renunciation is in my father's possession. Can I, therefore, be considered an American citizen by birthright, or was I born without any nationality? In any case, I was not born as a subject of any foreign power whatever.

I find in the United States Digest for 1878, p. 123, the following decisions, which I would respectfully submit to your excellency:

1. Removal from the country and residence under another government for a period of years does not deprive one of his citizenship in this country.

2. The citizenship of the child is determined by that of the father, and though the latter reside in another country, the child will be a citizen of this, if the father has not forfeited or surrendered his allegiance thereto (1876, *State v. Adams*, 45 Iowa, 99).

I am well aware that these decisions are based upon the common law, and that the common law is no longer followed in questions of citizenship; but in all the cases which I have been able to examine where it was not followed, either the child, though of an American father, was born out of the country, and had never returned there, or the father, though his child was born in America, had never become naturalized. But my case does not fall under either of these two heads, and the decisions quoted above appear to be perfectly applicable to it. My father came to America with the full intention of becoming naturalized, a fact which is proved by the paper releasing him from his Prussian allegiance. Two years after my birth he became an American citizen, and he has remained one ever since, for he never placed himself under the dominion of any foreign government, and never renounced his citizenship. I was not born a subject to any foreign power, and I certainly participated in my father's citizenship at least until I was twenty-one. Shortly after I had attained that age, in 1880, I applied for and obtained from the United States minister at Berne a passport, which was accidentally burned a couple of years ago. Was not this application a sufficient declaration of my intention to remain an American citizen? Neither I nor my father, nor my grandfather ever had the slightest idea that I could forfeit my citizenship; nor did one ever suggest the possibility of such a contingency, as we all imagined the common law which gave me citizenship by virtue of birthright to hold good; and we never thought it necessary for me to take any extraordinary steps to retain it. Besides the protracted illness of two members of my family would have prevented my returning to America at that time for any lengthened period.

Two years ago I could have unequivocally declared that it was my intention to live in America, as I had at that time some prospect of a university post, and we had in fact made our preparations for the voyage, when the severe illness of my mother put a sudden stop to our plans, the doctors having declared her unfit to take a long sea voyage for some years to come. I have since then applied to ex-President White, of Cornell, who had expressed his hope of seeing me soon at an American university when he was visiting us in Vevey, to inquire what my chances were at present, and received from him the answer that every place was filled, and that it would be better for me to become a Privat-Dozent at a German university, as this would give me far more chance of being appointed to a professorship in America than if I returned there now myself, teachers from German universities being much sought after. Your excellency will, therefore, I trust, understand why I could not at the present moment give an unqualified assurance that I would return to America within a given period, although I may have the wish to return. Without a passport I can not become a Privat-Dozent, and I should probably even have difficulty without one in becoming a German citizen, should I eventually feel myself forced to apply, in order to become a Privat-Dozent. I should, therefore, be compelled to remain in England, unless my family circumstances should allow me to return to America without a university post. If, on the other hand, an American passport should be granted to me, and circumstances should lead me to definitely decide upon remaining in Europe and making it my permanent home, I should consider it a matter of honor to return my passport at once. I wish particularly to state that I should have no intention whatever of making any improper use of such a passport in endeavoring to elude duties which I might legally incur by residing in a European state, and thus causing the American Government embarrassment. But it appears to me that, as I was not born a German subject, I could never incur any such duties, military or civil, by residing in Germany. And I

trust also that your excellency will not leave out of consideration the fact that my having lived so many years away from America was owing to the force of circumstances, and that I did not do so of my own free will.

In conclusion, I hope your excellency will pardon the liberty I have taken in addressing you at such length, but it seemed to me that a careful restatement of my case from my own point of view would perhaps not be superfluous.

I have, etc.,

RUDOLPH ERNEST BRÜNNOW.

Mr. Lincoln to Mr. Blaine.

No. 36.]

LEGATION OF THE UNITED STATES,
London, July 11, 1889. (Received July 23.)

SIR: I have the honor to acknowledge the receipt of your instruction, numbered 25, of June 25, relative to the case of Thomas Barton, who was recently extradited from the United States on a charge of forgery, and to state in reply that the form of certificate transmitted therewith shall in future be used by this legation for the authentication of papers for use in extradition cases in the United States.

It is proper to add that the certificate attached to the papers in Barton's case was the same as that used by this legation under similar circumstances for several years past.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Lincoln to Mr. Blaine.

No. 51.]

LEGATION OF THE UNITED STATES,
London, July 31, 1889. (Received August 10.)

SIR: I have the honor to transmit to you a copy of a note from Sir James Fergusson (on behalf of Lord Salisbury) and of an accompanying memorandum of the Government of Canada, which I have received in reply to Mr. White's note of February 20, 1889, in reference to the American ship *Bridgewater*, a copy of which was sent to the Department of State by Mr. White in his No. 928 of the 23d of February last. It will be observed that the statement of the claimant, Mr. Allen, that he, on May 26, 1888, abandoned the suit begun by him in the supreme court of Nova Scotia against the officer who seized and detained the *Bridgewater* is expressly contradicted by the Canadian Government; it being stated that the action is still pending, although subject to be dismissed for want of prosecution and for failure to give the security for costs required of non-residents, but that the agent of the Department of Justice in Nova Scotia has been instructed not to ask for such dismissal until a reasonable time has elapsed after the transmission of the memorandum of the Canadian Government for security to be given and for the case to be proceeded with.

It will also be observed that the Canadian Government asserts that immediately upon the issuance of the adverse opinion of the minister of justice Mr. Allen was informed that the opinion was withdrawn as having been based solely on an erroneous statement of the date of beginning his suit and not upon the merits of the case.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in No. 51.]

Sir. James Fergusson to Mr. Lincoln.

FOREIGN OFFICE, July 26, 1889.

SIR: With reference to my note to Mr. White of the 27th of February last I have now the honor to transmit a memorandum giving the reply of the Government of Canada to his note of the 20th of that month respecting the case of the United States vessel *Bridgewater*.

I have the honor to request that you will communicate this memorandum to the United States Government and point out to them that, as it is still open to Mr. Allen to take his legal remedy by proceeding in the suit already commenced and not discontinued in the supreme court of Nova Scotia, the case is not one for diplomatic treatment.

I have, etc.,

(For the Marquis of Salisbury),
JAMES FERGUSSON.

[Inclosure 2 in No. 51.]

Memorandum.

The Government of the Dominion have had under consideration the note received through the foreign office from the United States chargé d'affaires stating that the law courts of the Dominion of Canada could afford no redress to the owner of the United States ship *Bridgewater*, and inclosing papers laid before the United States Congress relating to the case of this vessel.

The facts upon which the claim in relation to the ship *Bridgewater* is based appear to be as follows:

The ship put into Shelburne, Nova Scotia, in a damaged condition about the 5th April, 1887. An examination was made of the injuries which she had sustained with the result that the captain was advised to discharge his cargo and transfer it to another ship. The cargo was accordingly unloaded and transferred to another vessel, and went to its destination. The managing owner, John H. Aller, who has been active in promoting the present claim against the Dominion Government, arrived at Shelburne soon after the vessel put in there, and the decision seems to have been formed about that time to treat the vessel as a constructive total loss in consequence of the probable expense of repairing her, and to sell her as a wreck not worth repairing in order to bind the underwriters to pay for a total loss. In pursuance of this purpose the vessel was offered for sale, and was bought in by Mr. Allen on the 8th June, 1887. This attempted sale was abandoned at about the same time when the collector of customs made it a reason for exacting customs duty, and Mr. Allen proceeded to make the repairs which were required to put the ship in a seaworthy condition.

The collector of customs at Shelburne, assuming that the sale had been a *bona fide* one, claimed that a duty of 25 per cent. should be paid on the proceeds of the sale in pursuance of the act relating to duties of customs.

The collector does not seem to have relinquished, entirely, his control of the vessel until the 14th October, 1887. The owner claims damages from the Canadian Government and its officers by reason of his ship being delayed. The delay is claimed to have been from the date of the seizure, about July 27, until the date of the ship's release, and is based on the vessel's demurrage and loss of possible profits, together with delays and difficulties in making her voyages after the release. There is also a claim for injury and deterioration.

The Government of Canada do not deem it necessary at present to discuss the merits, or want of merits, of the various portions of this claim, but they desire to say generally with regard to it that the delay of the vessel was not caused by the seizure.

The repairs had been begun before the seizure took place. What the collector did was simply to place a watchman over the vessel to see that she was not removed without his knowledge. This watchman had distinct orders not to interfere in the slightest degree with the workmen who were carrying on the repairs. So that there might be no misunderstanding on that point, the collector informed the foreman of the workmen that there would not be the slightest interference with his work or that of his subordinates, and Mr. Allen, the managing owner, was also informed of the same fact by the collector.

Notwithstanding this Mr. Allen availed himself of the watchman's having been employed by the collector to withdraw his workmen, cease all repairs, and commence the present claim for damages. Notwithstanding that the intimations that there would

be no interference with the work of repairing the vessel were repeated to him, Mr. Allen, and the United States consular agent at Shelburne, both verbally and in writing, declared that the owner would not go on with the repairs and Mr. Allen used the expression that he would "throw her upon the customs." His refusal continued until the final relinquishment of all control by the collector. After that the repairs had to be done at a most unfavorable season for them and for continuing the navigation of the ship.

Some injury is alleged to have been done to the outfit or apparel of the vessel, but as to this it seems at present that the customs officer is able to show that no injury whatever was done to the property belonging to the vessel or the vessel itself while she was under the care of the watchman. These matters, however, are rather for the authority or tribunal which may have to decide on the amount of compensation to be awarded if the principle be established that the owner of the vessel is entitled to compensation.

It is a preliminary point of some importance that neither Mr. Allen nor any other person connected with the vessel has made any application by petition of right to the Dominion Government, notwithstanding his assertions and those of the honorable Mr. Bayard to the contrary. If such a petition were presented it is not probable that a fiat would be refused. At the same time it must be stated that the Canadian law upon this subject is the same as that of England, and that it is not probable that a petition of right would be an available remedy for a tort such as the owner of the *Bridgewater* claims was committed with regard to that vessel. It by no means follows, however, from that circumstance that the owner is without redress in the courts of Canada. On the contrary, while the Crown (in right of Canada) is not liable for a wrong any more than the Crown is liable in the courts of Great Britain, any officer who commits a wrong against one of his fellow subjects, or against a foreigner, is liable to answer for that wrong in the courts of justice in the ordinary way.

If the *Bridgewater* was properly liable to customs duty and properly seized, there can be no claim against the Dominion Government or against its officers. If she was improperly seized or improperly detained, the officer who seized and detained her is liable to compensate those whom he has injured by such illegal proceeding. On these points Mr. Allen has no doubt been well advised.

The United States consular agent at Shelburne, who is likewise understood to be his solicitor, is a member of the bar, thoroughly practiced in the law, and of the highest character and attainments. It appears from the documents which have been before the government that Mr. Allen was early advised that a petition of right would not be an available remedy and he therefore commenced an action for damages in the supreme court of Nova Scotia, against the collector of customs, for all the injuries caused by and resulting from the seizure.

The late Secretary of State of the United States has been incorrectly informed as to what has taken place with regard to this suit for damages. Being, of course, familiar with the rule, which has been invariably followed in his own Department, as appears by the diplomatic intercourse of that Department with other countries, that a claim can not be entertained as a matter of diplomatic negotiation if it may be the subject of redress in the courts of justice, he intimates "no recovery can be had in any court against any officer of the Crown," and that "it was finally ascertained that redress through the Canadian law courts or from the Canadian Government was not to be had."

He professes to base these statements on the official opinion of the minister of justice of Canada, conveyed, it is said, by the minister of customs, on the 24th of May, 1888.

There can be doubt that the honorable Mr. Bayard was informed by Mr. J. H. Allen to that effect. It appears by Mr. Allen's letter to Mr. Bayard, dated 19th January, 1889, that Mr. Allen made the statement that when the owner was in Ottawa he "made an application to the minister of customs for his permission to take the necessary steps (without which, so he was advised, no progress could be made), to the end that the cause could be tried in the Exchequer court, in which event the Government itself would be the actual defendant; but the application met with prompt and unequivocal refusal."

The minister of customs has nothing to do with any such proceeding, and in this case his permission was not asked, nor was any refusal given by any person. Mr. Allen further states in that letter to Mr. Bayard that an action was commenced in Nova Scotia against the seizing officer, but that it was abandoned, as the Canadian authorities are well aware, on May 26, 1888, on receipt of the official letter of that date, stating that the claimant could not recover, etc.

The value of these statements will be presently seen, but it can not be regarded as otherwise than remarkable that Mr. Allen, regardless of the advice of his own counsel, should have abandoned his suit against the seizing officer on the mere opinion alleged to have been given by the minister of justice that he could not succeed.

Such a proceeding would have been remarkable if it had occurred, but the state-

ment that it did occur and that the Canadian authorities are aware of it, is untrue. The minister of customs on the 24th of May, 1888, wrote a letter to Mr. Allen stating that he was in receipt, that day, of the opinion of the minister of justice as to the claim for damages, and that the minister of justice was of opinion that the claimant could not "recover against any officer of the Crown for damages sustained in consequence of the seizure." The opinion of the minister of justice, referred to in this connection, was conveyed in a letter, dated 22d May, 1888, from the deputy minister of justice, in which, irrespective altogether of the merits of the seizure, it was stated, according to the information then in the possession of the Department of Justice, that the action against the seizing officer had not been brought within three months of the time when the action had accrued, as required by section 47 of the customs act, and in which was stated the opinion that the claimant could not recover; that opinion being based solely on the information then in the possession of the Department. It was also stated in the letter of the deputy minister of justice that the propriety of insisting on this limitation was a question of policy to be decided by the minister of customs.

Mr. Allen being then in Ottawa, was informed by the deputy minister of justice of the reason on which the opinion was based, and he in reply informed the deputy of the minister of justice that the action against Collector Attwood had been commenced within the time limited by law, and on the 25th of May, 1888, the deputy minister of justice informed the minister of customs by letter that Mr. Allen had corrected the statement on which the opinion of the 23d May had been formed. Mr. Allen had then received and had shown to the deputy minister of justice a telegram from his own solicitor stating that the date on which the action had been brought was within the requirements of the law, and assuring him that the case could be tried in September, 1888. This was at the time when Mr. Allen asserts that the suit was discontinued and that the Canadian Government well knew of its discontinuance.

So far from it being true, therefore, that Mr. Allen was in any way induced by the answer of the minister of customs to discontinue his suit, he understood before leaving Ottawa that the opinion communicated to him had been formulated on an erroneous statement of dates and had therefore been withdrawn, and he had been advised by his own solicitor that the action was entered in due time and that it could be tried if he pleased in September of that year.

It is untrue that he discontinued the suit against the collector or that any intimation that he had done so or intended to do so was made to the Canadian Government.

It is also a misrepresentation to state that he finally ascertained that redress through the Canadian law courts was not to be had. The suit has never been discontinued. It is still pending in the supreme court of Nova Scotia, and can be tried whenever the plaintiff cares to carry it on to trial.

At present the proceedings have been stayed until security for costs shall be given according to the law of the province in regard to suits by persons living out of the jurisdiction.

The Canadian Government therefore are of opinion that the owner of the *Bridgewater* is not now in a position to assert any claim against the Government of Canada, but must proceed with the suit for redress which has been begun against the seizing officer and which is still pending, notwithstanding the statements to the contrary contained in the letter of Mr. Allen to Mr. Bayard, and in the letter of Mr. Bayard to Mr. Phelps, which have been previously referred to. It has been already stated that in such an action the legality of the seizure could be tested and damages awarded in full compensation for any illegal act which the officer may have committed. For reasons which it is not now necessary to enter upon, any judgment which would be finally recovered against the seizing officer would be sure of being responded to, and it is by no means certain, even if the statutory limitation were to apply as to the date when the action was brought, or if it should stand as a bar to the recovery by the plaintiff on the merits of the case, that such an objection would be insisted on. It probably would not be insisted on, although there is probably no sufficient reason why such a statute should not be made available, and the rule has always prevailed in the United States, even in cases in which the Government of that country was immediately concerned, to insist on a statutory limitation even against foreign claimants as a complete bar to redress.

It will be time enough, however, to consider the question as to insistence on the limitation when it appears that that limitation is a bar to the decision of the claim of the owner of the *Bridgewater* on its merits. At the present moment that does not appear to be the case, and the documents made public show that Mr. Allen was not so advised. The suit pending in the supreme court of Nova Scotia having been some time ago stayed until security for costs should be given, according to the practice of the court, it is now in a position to be dismissed for want of prosecution, but the agent of the department of justice in Nova Scotia has been instructed not to ask for such dismissal until a reasonable time has elapsed after the transmission of this report for security to be given and for the case to be proceeded with.

The Government of Canada are further of opinion that if Mr. Allen does not, after the United States authorities have been informed of their opinion and of the position of the suit at law, proceed with his action, application should be made to dismiss the suit, and no further application to the Government should be entertained; for the relinquishment of the suit, under all the circumstances, could only be regarded as a deliberate abandonment of the proper and legitimate mode of redress.

The delay which has occurred in bringing the suit to trial in face of the advice of Mr. Allen's own counsel that it might have been tried in September, 1888, is incapable of explanation on any other ground than that Mr. Allen was aware that he had incurred the expense and the loss consequent on the ship's delay by his own act only, and was unwilling to have the facts investigated, but preferred to make his claim the subject of diplomatic correspondence, in the hopes that he might thereby avoid an investigation of the facts on which his claim ought to depend.

Mr. Wharton to Mr. Lincoln.

No. 68.]

DEPARTMENT OF STATE,
Washington, August 26, 1889.

SIR: Referring to Mr. Bayard's instruction, No. 1089, to Mr. White, concerning the demand of this Government for certain reciprocal privileges for American vessels in Canadian ports, I now inclose herewith for your information a copy of a dispatch from our consul-general at Halifax, relative to a memorandum of the customs department of the Government of the Dominion of Canada, requiring a certificate from the shipping commissioner that captains of foreign vessels have complied with the provisions of section 32, chapter 74, of the Revised Statutes of Canada, 1886; and, also, calling attention to the discrimination in pilot dues made in the port of Halifax.

I also inclose for your information a copy of the letter from the Treasury Department, which is referred to in Mr. Bayard's instruction, No. 1089; and, also, of a communication from the same Department relative to the questions raised by Mr. Phelan's dispatch, No. 310. Copies will be sent you of any further correspondence which may be had with the Treasury Department.

In view of the fact that Her Majesty's Government has not answered the complaints contained in Mr. Bayard's instruction No. 1089, and of the new complaint as to pilot dues brought to notice by Mr. Phelan's dispatch, No. 310, you are instructed to press the subject upon the attention of Her Britannic Majesty's Government, with a view to having the matter properly adjusted between Her Majesty's Government and the Government of the United States.

I am, etc.,

WILLIAM F. WHARTON.

[Inclosure 1 in No. 68.]

Mr. Bayard to Mr. Fairchild.

DEPARTMENT OF STATE,
Washington, February 15, 1889.

SIR: I have the honor to inclose herewith a copy of a dispatch, No. 173, of the 22d ultimo, from the United States consul at St. John, New Brunswick, in relation to the shipment of seamen on American vessels in that port.

As you are aware, the laws in the United States provide that all seamen shipped on board of American vessels in foreign ports shall sign articles before the United States consular officers there. This provision is enforced by appropriate penalties.

By the Canadian "Seamen's act" of 1886, the requirement that the shipment of crews of vessels in Canadian ports shall be before a Canadian shipping master is extended to foreign vessels, but there is a saving clause in favor of vessels belonging to countries between which and Great Britain there is a treaty exempting vessels of those countries from the operation of the law in question.

Whether under this clause or no, it is believed that it has not been the practice in Canadian ports generally, and certainly not in some of them, to require American vessels to ship seamen before Canadian shipping masters.

The Department was, however, recently informed that the consul at St. John had in some instances authenticated articles entered into and signed by masters and seamen of American vessels before the Canadian shipping master at that port, and that he had not required the seamen to be brought to the consulate to sign articles in the form and under the restrictions prescribed by our law. Thereupon the Department directed him to discontinue such practice, and to observe strictly the requirements of the United States Statutes.

Being so instructed, the consul, on a recent occasion, shipped seamen on an American vessel at his consulate, and when objection was made by the Canadian shipping master, informed him that in the future he should be obliged to ship seamen on American vessels himself, and to abstain from authenticating the Canadian articles.

This announcement called forth the letter from the shipping master to the consul of the 21st ultimo, herewith inclosed, in which the shipping master informs the consul that if hereafter seamen required for American vessels are not shipped in the former's office, he shall be obliged to take legal steps to enforce compliance with the Canadian act.

The Department contemplates bringing the subject to the attention of her Britannic Majesty's Government as being a matter of much importance affecting the internal discipline of vessels of the United States entering Canadian ports. But before taking this step, I should be glad to have the views of the Treasury Department on the subject, and a statement of what the law and practice are within the United States, with a view to ascertain how far, if at all, the laws of this country control or regulate the subject.

It is important that an early reply be sent to this communication.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 68.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT, *February 25, 1889.*

SIR: I have the honor to acknowledge the receipt of your letter, dated the 15th instant, relative to the shipment of seamen on American vessels at St. John, New Brunswick.

It appears that the United States consul at St. John, in some instances, has authenticated articles entered into and signed by masters and seamen of American vessels before the Canadian shipping master at that place, and that on discontinuing such practice he was informed by the Canadian shipping master that if hereafter seamen required for an American vessel are not shipped in the shipping master's office the latter will be obliged to take legal steps to enforce compliance with the Canadian act.

As a reply to your request for the views of this Department upon the subject, and for a statement of what the law and practice are within the United States, I have the honor to inform you that, while under a strict construction of the terms of sections 4511 and 4512, Revised Statutes, shipments on foreign vessels in the United States before United States shipping commissioners might be enforced, the law has never received such a construction, and shipments on such vessels have invariably been exempted from its operation, and allowed to be made before the foreign consular officer in accordance with the foreign regulations, on the ground that such action was demanded by international comity. This Department does not recall any instance at present, other than that above mentioned, in which a foreign government does not reciprocate by allowing our consular officers to take action as regards shipments in accordance with the instructions embodied in the Consular Regulations.

Should it be made satisfactorily to appear to this Department that the Canadian Government is an exception to this rule, and that it approves of the action of the shipping master at St. John, in not permitting the shipment of seamen upon American vessels to be made at that port before our consular officers, I shall deem it my duty to instruct the officers of this Department, charged with the execution of the laws of the United States upon the subject, to require that all shipments of seamen

upon British vessels in American ports shall be made before United States shipping commissioners, and not before foreign consular officers, as has been the practice heretofore.

The action of your Department in instructing the United States consul at St. John to discontinue the authentication of articles signed before the Canadian officer accords with the views of this Department, which heartily approves the intention you express of bringing the matter to the attention of the British Government, and is strongly of the opinion that the present instructions of this Government upon the subject, as set forth in the Consular Regulations, should continue to be observed, as necessary to the interests of American shipping in foreign ports.

The United States courts take notice in analogous cases of foreign law, and, in exercising jurisdiction, administer relief by comity in accordance with the flag of the vessel.

(The *Olga*, 32 Fed. Rep., 330. The *Brantford City*, 29 Fed. Rep., 372. The *John Ritsan*, 35 Fed. Rep.)

Respectfully, etc.,

C. S. FAIRCHILD,
Secretary.

[Inclosure 3 in No. 68.]

Mr. Phelan to Mr. Wharton.

No. 310.]

UNITED STATES CONSULATE-GENERAL,
Halifax, Nova Scotia, June 15, 1889.

SIR: I have the honor to inclose herewith a circular just distributed to the collectors of customs instructing them to refuse clearance to foreign vessels unless the captains of such vessels shall produce a certificate from the shipping commissioner that such captain has complied with section 32, chapter 74, Revised Statutes of Canada, 1886.

Only a few weeks ago an order in council was issued to inspect the two American steam-ships of the Boston, Halifax and Prince Edward Island Steam-ship Company. We could not object to this as we compel foreign steamers in our ports to produce a certificate of inspection. Nor can we object to the rule requiring a certificate from the pilot commissioners showing that the pilotage was paid, because it is general and applies to all vessels alike. The new order applies only to foreign vessels, being especially directed to American vessels. It makes the captains of the two American steamers, which call here weekly, and which never have business with the shipping master, go to his office and obtain a certificate that the section of the law quoted has been complied with before they can get a clearance.

In this connection I would invite your attention to the discrimination in pilot dues in this port. American vessels of 80 tons and over are liable to pilotage, which is practically compulsory, while Canadian vessels are exempt up to 120 tons. The regulations for our ports should be so adjusted as to mete out exact justice to Canadian vessels by treating them as our vessels are treated in Canadian ports.

I am, etc.

M. H. PHELAN.

[Inclosure 4 in No. 68.]

Circular to Canadian collectors of customs.

MEMORANDUM.

CUSTOMS DEPARTMENT, *Ottawa, June 1, 1889.*

COLLECTOR OF CUSTOMS, *Port of*——.

“Shipping master’s certificate.”

The undersigned is instructed by the minister of customs to call your attention to section 32, chapter 74, Revised Statutes of Canada, 1886, and to inform you that he is advised that the provisions of said section apply to foreign vessels, including, of course, vessels of the United States, and you should, therefore, refuse clearance in all cases until “the shipping master’s certificate to the effect that all requirements

of this act have been complied with, or to the effect that the agreement is in his office partially signed, waiting an engagement of a portion of the crew, as the case may be," has been produced by the master or proper officer of the ship.

J. JOHNSON,
Commissioner.

[Inclosure 5 in No. 68.]

Mr. Blaine to Mr. Windom.

DEPARTMENT OF STATE,
Washington, June 26, 1889.

SIR: I have the honor to inclose herewith for your information a copy of dispatch No. 310 of the 15th instant from our Consul General at Halifax in relation to a circular recently issued to the collectors of customs of Canada, by order of the minister of customs, instructing them to refuse clearance to foreign vessels unless the captains of such vessels shall produce a certificate from the shipping commissioner that such captains have complied with section 32, chapter 74, Revised Statutes of Canada, 1886. He also calls attention to the discrimination in pilot dues at that port.

I have, etc.,

JAMES G. BLAINE.

[Inclosure 6 in No. 68.]

Mr. Windom to Mr. Blaine.

[Extract.]

TREASURY DEPARTMENT, July 6, 1889.

SIR: I have the honor to acknowledge the receipt of your letter dated the 26th ultimo, with which you inclose for my information a copy of dispatch No. 310, from the United States consul-general at Halifax.

The consul-general reports that a circular has been distributed to Canadian collectors of customs by the Government of Canada, instructing them to refuse clearance to foreign vessels, including those of the United States, unless the master in each case produces a certificate from the shipping commissioner that the captain has complied with section 32, chapter 74 of the Revised Statutes of Canada, 1886. The consul-general also refers to the fact that American vessels of 80 tons and over are liable to pilotage, which is practically compulsory, while Canadian vessels are exempted if under 120 tons in burden.

The opinion of this Department, as regards the compliance by masters of American vessels with Canadian shipping regulations, was set forth in a letter addressed to your predecessor February 25, 1889, in which it was stated that the action of your Department in instructing the United States consul at St. John to discontinue the authentication of articles signed before the Canadian shipping officer accorded with the views of this Department, and was heartily approved. It was stated further that the existing instructions of this Government, as set forth in the Consular Regulations, should continue to be observed as necessary to the interests of American shipping in foreign ports.

Respectfully, etc.,

W. WINDOM,
Secretary.

Mr. Adee to Mr. Lincoln.

No. 70.]

DEPARTMENT OF STATE,
Washington, August 31, 1889.

SIR: Your dispatch No. 31 of the 10th ultimo, in relation to the application of Mr. Rudolph E. Brünnow for a passport has been received.

The Department is of opinion that Mr. Brünnow is not entitled to a passport. It does not appear to admit of a doubt that his father during

the minority of the applicant renounced his American citizenship by abandonment of his adopted country and permanent residence abroad. Assuming, therefore, that the applicant acquired by birth a right to claim American citizenship, it is nevertheless true that during his minority his national status was affected by the conduct of his father. Upon attaining his majority, the son might have come to the United States and claimed his right of American citizenship, but having failed to do so, he must be held to have renounced it.

I am, etc.,

ALVEY A. ADEE.

Mr. Lincoln to Mr. Blaine.

[Extract.]

No. 84.]

LEGATION OF THE UNITED STATES,
London, September 19, 1889. (Received October 1.)

SIR: I have the honor to acknowledge the receipt of Mr. Wharton's instruction No. 68, of August 26, 1889, in relation to the subjection of American vessels in Canadian ports to the provisions of the Canadian "Seamens' act, 1886," and to the discrimination in the port of Halifax against American vessels of a certain tonnage, in the matter of pilot dues, and to acquaint you that I yesterday addressed to Lord Salisbury a communication on the subject, of which a copy is inclosed, and also personally pressed the subject upon the attention of Sir Thomas Saunderson, in the absence from England of Lord Salisbury.

Sir Thomas stated to me that the matter was new to him, as he had assumed his present duties since March, but that he would see that it had immediate attention.

I have, etc.

ROBERT T. LINCOLN.

[Inclosure in No. 84.]

Mr. Lincoln to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, September 18, 1889.

MY LORD: On the 18th of March, 1889, Mr. White had the honor of addressing to your lordship a copy of a communication from Mr. Bayard, instructing him to bring to the attention of Her Majesty's Government the action of the Canadian authorities in extending the enforcement of the Canadian seamen's act of 1886 (originally of 1873) so as to require vessels of the United States in Canadian ports to conform, in respect to the shipment of crews, to the laws of the Dominion of Canada instead of the laws of the United States, and requiring the shipment of seamen by our vessels in such ports to be made before a Canadian shipping-master instead of the proper consular officer of the United States. In that communication it was observed that, while under a strict construction of the laws of the United States, shipments of seamen on foreign vessels in ports of the United States might be required to be made before United States shipping commissioners, yet it was understood that such a construction had never been adopted, but such shipments were invariably allowed to be made before the proper consular officer of his Government. This course of the United States is in accordance with an international comity which is reciprocated, as my Government is advised by every foreign government excepting that of Canada, and it was hoped that such reciprocal treatment for American vessels in Canadian ports would be secured by the presentation of the case to Her Majesty's Government. As no answer has been made to the complaint upon the subject, addressed to your lordship in March last, and as the minister of customs of the Dominion of Canada has since, in the month of June

last, instructed the collectors of customs to enforce the thirty-second section of the seamen's act above mentioned, by refusing clearance to the vessels of the United States until the production of a shipping-master's certificate to the effect that all requirements of the act have been complied with, I am instructed by my Government to recall the subject to your lordship's attention, with a view to its proper adjustment between Her Majesty's Government and the Government of the United States.

I beg also to acquaint your lordship that I am further instructed to call the attention of Her Majesty's Government to a discrimination in respect to pilot dues at the port of Halifax, Nova Scotia, by which American vessels of tonnage ranging from eighty to one hundred and twenty are subjected to pilotage dues from which Canadian vessels of like tonnage are exempt, and to express the hope that the removal of this discrimination may be secured.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Lincoln to Mr. Blaine.

No. 86.]

LEGATION OF THE UNITED STATES,
London, September 24, 1889. (Received October 7.)

SIR: Referring to my dispatch numbered 84, of 19th instant, I have the honor to inclose the copy of a note which I have received from Sir Thomas Saunderson in reply to my note to Lord Salisbury of 20th instant, a copy of which was forwarded to you in my dispatch aforesaid, relative to the discrimination against American vessels in Canadian ports.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 86.]

Sir T. V. Lister to Mr. Lincoln.

FOREIGN OFFICE, September 21, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, respecting the requirements of Canadian law in the matter of the shipment of crews by United States vessels in Canadian ports, and also respecting an alleged discrimination in the pilotage dues at Halifax, Nova Scotia. In reply, I beg to state that Mr. Henry White's note of the 18th of March was transmitted to Canada for the consideration of the Dominion Government, and that I have suggested that their attention should now be called to the matter by telegraph.

I have, etc.,

T. V. LISTER.

Mr. Lincoln to Mr. Blaine.

[Extract.]

No. 90.]

LEGATION OF THE UNITED STATES,
London, September 27, 1889. (Received October 7.)

SIR: I beg to invite the Department's attention to the inclosed form of the information which it is necessary to present under oath in extradition cases here in order to procure a provisional warrant to prevent an escape before the application to the foreign office. In practice, Mr. Hodson, the messenger of the legation, signs and swears to the information and personally appears before the magistrate. In neither of the two cases which have occurred since my own arrival here was there information furnished the legation that a warrant had been issued in

the United States for the arrest of the accused, and it was with great reluctance in each case that I assented to the making of the required statement in that regard by Mr. Hodson.

It is, of course, probably true in each case that a warrant had been issued, but in order that the sworn information may be in all cases strictly true, as it should be, I suggest that the State authorities, in moving the Department of State, be required to make their applications in such form as will enable the Department to communicate the facts to be set forth in the information.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 90.]

METROPOLITAN POLICE DISTRICT, *to wit*:

The information of _____, of _____, taken on oath this _____ day of _____, in the year of our Lord one thousand eight hundred and _____, at the Bow street Police court, in the county of Middlesex, and within the Metropolitan police district, before me, the undersigned, one of the magistrates of the police courts of the metropolis, sitting at the police court aforesaid, who saith that _____, late of _____, is accused [or convicted] of the commission of the crime of _____ within the jurisdiction of _____ and now suspected of being in the United Kingdom. I make this application on behalf of the _____ Government.

I produce _____.

I am informed and verily believe, that a warrant _____ has been issued in _____ for the arrest of the accused; that the said Government will demand h— extradition in due course, and that there are reasonable grounds for supposing the accused may escape during the time necessary to present the diplomatic requisition for h— surrender, and I therefore pray that a provisional warrant may issue under the provisions of 33 and 34 V., c. 52, s. 8.

Sworn before me, the day and year first above mentioned, at the police court aforesaid.

[Extradition forms. L. 12. Information.]

Mr. Lincoln to Mr. Blaine.

[Extract.]

No. 98.]

LEGATION OF THE UNITED STATES,
London, October 9, 1889. (Received October 19.)

SIR: It is my understanding that, properly speaking, diplomatic duties in extradition cases begin with the formal request of the legation to the foreign office for the extradition of a person whose detention has already been procured upon the action of some one acting as the agent in that behalf of the authorities of the State to which the extradition is sought. Such person is required in England to present an information under oath, a draught of which I had the honor to inclose in my dispatch No. 90, of 27th ultimo.

It seems that a practice has grown up here under which the state or local authorities rely upon this legation, without themselves being very definitely committed, to furnish a person to make oath to the information necessary for the arrest and detention, to await proper papers from the Department of State, and Mr. Hodson, the messenger of the legation, is accustomed to make the oath. It seems to me that in doing so he can not be considered as acting for the Department of State through this legation; but his actual connection with the lega-

tion is perfectly well known to the magistrates and the police authorities here, and he is no doubt considered by them as acting under the instructions of the legation so as to make it responsible.

When, therefore, the proceedings become abortive by reason of the failure of the State authorities to follow up a case in hand after the police here have either arrested the accused with considerable trouble or have devoted much energy in following out clews which they still think good, not only must the dissatisfaction at having done useless work fall on this legation, but it may be that a claim for damages for wrongful arrest will be presented to it.

These cases usually originate in a telegram from our local police authorities to the Scotland Yard officials, and I see no way to prevent such embarrassment to the representative of the United States Government and to place it where it belongs, on our local police, unless by requiring our local police to employ their own agents here to cause arrests and the messenger of this legation to cease acting in that capacity.

I have, etc.,

ROBERT LINCOLN.

Mr. Lincoln to Mr. Blaine.

[Extract.]

No. 101.]

LEGATION OF THE UNITED STATES,
London, October 16, 1889. (Received October 26.)

SIR: Referring to my dispatches numbered 84 and 86, of the 19th and 26th of September last, relative to the subjection of American vessels in Canadian ports to the provisions of the Canadian seaman's act, 1886, as to the shipping of seamen, and also relative to the discrimination in the port of Halifax against American vessels of a certain tonnage in the matter of pilot dues, I have now the honor to inclose to you a copy of a note from the foreign office, of the 12th instant, including an extract from a report of a committee of the Canadian privy council, bearing date the 20th September last, from which it appears that the Canadian Government has directed the cessation, for an indefinite period, of the enforcement of the seamen's act as to shipping seamen before shipping masters, so far as American vessels are concerned.

It will be observed that an answer to the complaint in respect to pilotage dues at Halifax may not be expected for a short time.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in No. 101.]

Sir T. V. Lister to Mr. Lincoln.

FOREIGN OFFICE, *October 12, 1889.*

SIR: With reference to my note of the 21st ultimo, I have the honor to transmit herewith an extract from a report of a committee of the Canadian privy council, which I have received from the secretary of state for the colonies, upon the subject of the action of Canadian shipping masters in relation to the shipment of crews by United States vessels in Canadian ports.

I beg leave to add that a further communication may be no doubt expected shortly

from the Dominion Government upon the subject of the discrimination complained of between the United States and British vessels in the matter of pilotage dues at Halifax, to which reference is made in your note of the 18th ultimo, when I shall have the honor of addressing a further communication to you.

I have, etc.,

(For the Marquis of Salisbury.)

T. V. LISTER.

[Inclosure 2 in No. 101.]

Report of a committee of the Canadian privy council.

[Extract.]

The committee of the privy council have had under consideration a dispatch, dated 8th May, 1889, from the right honorable the secretary of state for the colonies, forwarding an extract from a letter from the foreign office, inclosing a note from the American chargé d'affaires in London, complaining of the action of Canadian shipping masters in relation to the shipment of crews by United States vessels in Canadian ports, and claiming reciprocal treatment in Canada to that extended to British vessels in the United States ports in this matter.

The minister of marine and fisheries, to whom the said dispatch and inclosures have been referred, submits that it appears from Mr. Bayard's dispatch to the American chargé d'affaires that exception is taken to the action of the shipping master at the port of St. John, N. B., in requiring masters of American vessels to ship their seamen before him instead of the United States consul; and it is claimed that, as the laws of the United States provide that all seamen shipped on board of American vessels in foreign ports shall sign articles before the United States consular officers, the right of a vessel to be governed by the laws and regulations of her own country should not be interfered with. It is also claimed that, while under the laws of the United States shipment of seamen on foreign vessels in United States ports might be required to be made before the United States shipping commissioners, the law has never been so applied, seamen having been allowed to be shipped before foreign consular officers, on the ground that such action was demanded by international comity. It is further stated that the United States Government expected and required reciprocal treatment for its vessels in the ports of other countries.

The minister reports that in December last the shipping master for the port of St. John informed the minister of marine that the United States consul, acting under instructions from his Government, had claimed the right to engage seamen for American vessels, and disputed his right to interfere in any way in the engagement of seamen for United States vessels, and that he had found on his appointment to office as the shipping master that the engagement of seamen for all foreign vessels had been effected at the shipping office, and he had continued shipping them, and he asked for instructions as to the course to be pursued.

That the shipping master was duly advised that his action was legal and that by section 126 of Chapter 74, Revised Statutes, the provisions of the act relating to shipping of seamen extended and applied to ships in the merchant service of every foreign country and to all persons in relation to such ships, in the same manner as the provisions extended and applied to ships in the British merchant service, and it would be necessary, therefore, that seamen belonging to United States ships, should be shipped at his office, but at the same time there was no objection whatever, to the United States consul shipping men at his office also, if he wished to do so.

The minister represents that a certificate of the shipping master is necessary under the thirty-second section of the seamen's act to be produced to the collector of customs, to the effect that all the requirements of the act have been complied with.

That the opinion of the minister of justice was obtained stating that the provisions of this section applied to the foreign vessels mentioned in section 126 of the act, including of course American vessels.

Instructions were accordingly given to the collector of customs and shipping master at the port of St. John, N. B.

The minister observes there can be no doubt as to the right of the Government of Canada to enforce the different provisions of the act in question.

That the aim of the Government of Canada in effecting the legislation now objected to, was to restrain the evils attendant upon the crimping of seamen and to prevent desertion. Seamen being required to appear before the shipping master of the port before engagement a much stricter watch can be kept over deserters, and the practice of crimping restrained the more easily.

The minister represents that it appears from Mr. Bayard's dispatch and from reports made to the minister of marine by Her Majesty's consuls at the ports of New York, Boston, and Philadelphia, that while, under the existing laws of the United States, shipment of seamen on foreign vessels in the ports of the United States might be required to be made before United States shipping commissioners, the law has not been so applied, and the shipment of seamen has been and is still permitted to be made before the foreign consular officer, in accordance with foreign regulations.

The minister under the foregoing circumstances, considering the desire of the United States authorities that the ships of that country should not enjoy the benefit this legislation was designed to afford, and observing the practice now prevailing in the United States ports regarding British ships in this respect, recommends that while the operation of the different clauses of the shipping act so far as the rights of private persons may be concerned, can not be interfered with by your excellency without the authority of an act of Parliament, that Her Majesty's Government be informed that instructions will be issued to the collectors of customs and the different shipping officers not to insist upon a compliance with the provisions of the act requiring the shipment of foreign seamen before the shipping master, so far as American vessels are concerned, until further notice.

OTTAWA, *September 20, 1889.*

Mr. Blaine to Mr. Lincoln.

[Extract.]

No. 103.]

DEPARTMENT OF STATE,
Washington, October 22, 1889.

SIR: Referring to your dispatch, No. 98, of the 9th instant, I inclose for your information copies of the Department circular to the governors of the States and Territories on the subject of provisional arrest in Great Britain.

I am, etc.,

JAMES G. BLAINE.

[Inclosure in No. 103.]

Circular to governors of States and Territories.

DEPARTMENT OF STATE,
Washington, October 9, 1889.

To his excellency, _____,
The Governor of _____.

SIR: Applications both by telegraph and by letter are frequently made to this Department for its intervention to obtain the arrest and provisional detention of fugitives from justice in England, in advance of the presentation of the formal proofs upon which a demand for their extradition may be based. In such cases the only manner in which the Department can intervene is by informing the minister of the United States in London of the facts and instructing him to take the necessary measures. This the minister does by authorizing some one connected with the legation to make complaint on oath before a magistrate, in accordance with the requirements of the British extradition act of 1870. The form of this complaint is hereto annexed.

Attention is invited to its provisions and especially to the statement deponent is required to make that he is informed and believes that a warrant has been issued in the foreign country for the arrest of the accused. This Department, when requested to intervene in such a case, should always be enabled to inform the minister that such a warrant has been issued in order that the complaint before the British magistrate may be made in due form and without delay.

I have the honor to be, sir, your obedient servant,

JAMES G. BLAINE.

(Inclosure: Form of complaint.)*

Mr. Blaine to Mr. Lincoln.

No. 107.]

DEPARTMENT OF STATE,
Washington, October 29, 1889.

SIR: The Department is gratified to learn by your No. 101 of the 16th instant that the Canadian Government has directed the non-enforcement, for an indefinite period, of the act of 1886 as to shipping seamen before "shipping masters," so far as American vessels are concerned; and you will take occasion so to inform Her Majesty's Government.

As regards the discrimination against American vessels at Halifax in the matter of pilotage dues, the Department can not doubt that the expected decision of the authorities will be favorable.

I am, etc.,

JAMES G. BLAINE.

CORRESPONDENCE WITH THE LEGATION OF GREAT
BRITAIN AT WASHINGTON.

Mr. Bayard to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, November 23, 1888.

SIR: On the 22d of June last, I had the honor to address a note to Mr. Edwardes, chargé d'affaires *ad interim* of the British legation, touching the case of the American ship *Bridgewater*, the circumstances of which were fully detailed in that communication. On the 25th of the same month a note was received from Mr. Edwardes, in which he informed me that he had transmitted my note to his Government. Since that time no further communication in regard to the case has been received.

The telegrams of the Canadian officials referred to in my note seemed so clearly to admit the irregularity of the proceedings against the *Bridgewater*, and the principles of protection to disabled merchantmen which were involved were so important that it was hoped the Government of Her Majesty would concur with that of the United States in the opinion that a satisfactory adjustment of the claim between the two Governments should speedily be reached. But as this Department has failed as yet to receive any reply to its representations, I would be obliged to you if you would bring the matter again to the attention of Her Majesty's Government, and in so doing communicate an expression of the hope of this Government that a favorable answer may soon be returned.

I have, etc.,

T. F. BAYARD.

Mr. Herbert to Mr. Bayard.

WASHINGTON, November 24, 1888. (Received November 26.)

SIR: With reference to your note of yesterday's date, asking for an early settlement of the *Bridgewater* case, I have the honor to inform you that I telegraphed to Her Majesty's principal secretary of state

for foreign affairs, in the sense of your above-mentioned note, and have received a reply stating that the owner of the *Bridgewater*, before presenting the claim, commenced an action at law which is still pending, and that the Canadian Government is unable to express an opinion on the claim until the settlement of the case in the law courts.

I have, etc.,

ARTHUR HERBERT.

*Marquis of Salisbury to Mr. Edwardes.**

No. 42.]

FOREIGN OFFICE,
March 7, 1889.

SIR: On the 4th December last the United States minister at this court transmitted to me a copy of a dispatch which he had received from the Secretary of State respecting the Mosquito reservation.

In that dispatch, of which a copy is inclosed herein, Mr. Bayard draws attention to a note addressed by my directions to the Nicaraguan minister for foreign affairs on the 10th September last, by Mr. Gastrell, Her Majesty's minister accredited to the Republics of Central America.

Owing to a complaint made to Her Majesty's Government by the chief of the Mosquito reserve in regard to certain proceedings on the part of Nicaraguan authorities which he deemed to be inconsistent with the provisions of the Treaty of Managua of 1860, I had instructed Mr. Gastrell to make a friendly remonstrance to the Government of Nicaragua and to draw their attention to the wording of the treaty, and to the interpretation given to it by the award of the Emperor of Austria.

For your information, I inclose a copy of my instructions to Mr. Gastrell.†

Mr. Bayard prefaces his remarks on the matter to which he particularly desires to call attention by a brief historical review of the circumstances which led to the conclusion of the Clayton-Bulwer treaty, and of the convention between Great Britain and Nicaragua of 1860; but he observes that the latter was officially communicated to the Government of the United States, which, regarding it as a final withdrawal of British influence from the Mosquito country, expressed its satisfaction at a settlement that appeared to put an end to the disputes to which the Clayton-Bulwer treaty had given rise.

I am therefore not called upon here to discuss any question other than the respective rights and duties of Great Britain and Nicaragua under the convention referred to.

As Mr. Bayard observes, "differences arose between the Governments of Great Britain and Nicaragua in relation to the free port of Greytown, the payment of the annuity to the Mosquito Indians, and the precise extent of the rights of Nicaragua within the Indian reservation. By an exchange of diplomatic notes between the representatives of Great Britain and Nicaragua it was agreed that all of these questions should be submitted to the arbitration of the Emperor of Austria," whose decision was announced in July, 1881.

Mr. Bayard, however, states that the United States Government, not being a party to this agreement of arbitration, "is not bound by the award of the arbitrator, nor committed in any way to an admission of

* Handed to Mr. Blaine by Mr. Edwardes, March 28, 1889.

† Not transmitted to the Department.

the right of Great Britain to interfere in disputes between the Republic of Nicaragua and the Indians living within her borders." And he entirely dissents from the view as to Great Britain's rights of intervention expressed in the opinion or report on which the award is based.

Mr. Bayard contends that "the stipulations of the treaty of Managua relative to the privileges to be accorded to the Mosquito Indians were not for the benefit of Great Britain, and are not enforceable by her," and he states that "the President can not but regard the continued exercise of the claim on the part of Great Britain to interfere on behalf of these Indians as the assertion of a British protectorate in another form."

I may remark that the award of the Emperor was given more than seven years ago, and no objection has, till now, been made to it by the United States Government.

If the object contemplated by Her Majesty's Government had been an unconditional withdrawal of the protectorate of Great Britain, no convention would have been required or made; but Nicaragua entered into a distinct treaty arrangement with this country to secure certain rights and privileges to the Mosquito Indians as soon as the British protectorate should be withdrawn; and in the event, which has arisen, of the Mosquito Indians complaining that their rights are infringed by Nicaragua, by whom is remonstrance to be made to Nicaragua unless by Great Britain, with whom she has concluded the convention in question?

Mr. Bayard quotes as analogous to the present issue the treaty between the United States and France, Spain, and Russia for the cession, respectively to the United States of Louisiana, Florida, and Alaska, and he states that although difficulties have at times arisen between the Federal Government and the inhabitants of Louisiana and Florida, neither France nor Spain ever pretended that the treaty stipulations gave them a right to take part in the settlement of such disputes, and that were the Indians of Alaska to protest against alleged discriminations between the laws governing that Territory and the other Territories of the United States, the Emperor of Russia would not be authorized by the treaty of 1867 to demand a different treatment of those Indians. Mr. Bayard does not, however, say whether such intervention was, as in the present case, invoked by the inhabitants concerned, or whether the differences to which he refers were of a kind provided for in the treaties which he mentions.

Certain advantages were by the convention of 1860 secured to the Indians of the Mosquito Reserve, and Her Majesty's Government felt themselves in duty bound to bring to the notice of the Nicaraguan Government the cases specified in Mr. Gastrell's note. Mr. Bayard is, however, under a misapprehension as to the extent of the intervention exercised by Her Majesty's Government. They do not claim "to intervene in every dispute between the Mosquito Indians and their sovereign," but only within the limits of the report annexed to the Emperor of Austria's award quoted by Mr. Bayard.

They have no desire to "assert a protectorate" in substance or in form, or anything in the nature of a protectorate, and it would give them the greatest possible satisfaction if the Nicaraguan Government and the Indians would come to an amicable arrangement, under Article IV of the convention, and thus relieve this country from any further responsibility in regard to their affairs.

I have to request that you will read this dispatch to the Secretary of State, and leave a copy of it with him, and you may inform him that

I have recently received from the Nicaraguan minister at this court, a note giving explanations in reply to the representations made in Mr. Gastrell's note of the 10th September last.

I have, etc.,

SALISBURY.

Sir Julian Pouncefote to Mr. Blaine.

WASHINGTON, D. C., May 22, 1889. (Received May 22.)

SIR: I have the honor to call your attention to the following case:

On the 16th instant seven British subjects who arrived at the port of New York on the steamship *Obdam* of the Netherlands line were detained on board by the United States authorities as contract laborers. It seems that these men were furnished with letters to some one in Texas who, they were assured by the London agents of the steam-ship company, would endeavor to find them employment. These letters were taken by the United States authorities as contracts for labor, but it does not appear that they can reasonably be regarded as such.

The men are, moreover, respectable and desirable emigrants; they paid their own passage money, they are provided with railroad tickets to take them to their destination, they have some money, and are under obligations to no one.

Her Majesty's consul-general at New York wrote on the 20th instant to the collector of the port of New York on their behalf, but he was informed in reply that they could not be allowed to land.

The steamship *Obdam* leaves New York early to-morrow (Thursday), and I should esteem it a great favor if you would move the proper authorities to cause instructions to be sent to the collector by telegraph to hold the men until the matter can be investigated.

I have, etc.,

J. PAUNCEFOTE.

Mr. Blaine to Sir Julian Pouncefote.

DEPARTMENT OF STATE,
Washington, May 22, 1889.

SIR: I have the honor to acknowledge the receipt of your note of this date, calling my attention to seven British subjects, passengers on board the steam-ship *Obdam* of the Netherlands line, who were prevented from landing at the port of New York on the ground that they were under contract to perform labor.

So soon as your note was received I dispatched an officer of the Department to bring the matter to the attention of the Secretary of the Treasury, and to ask that your request that the men referred to might be detained until further investigation should be complied with.

The Secretary of the Treasury at once issued orders by telegraph to the collector of the port to cause the men to be detained pending further examination.

I beg to inclose for your information a circular issued by the Treasury Department on March 24, 1887, which contains the original Act of Congress, and the act amendatory thereof prohibiting the importation

of foreigners and aliens under contract, as I infer that during your residence in the United States questions similar to the one just brought to my attention may frequently arise.

I have, etc.,

JAMES G. BLAINE.

[Inclosure.]

Circular prohibiting the importation of foreign laborers under contract.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 24, 1887.

To Collectors of Customs, Commissioners of Immigration, and others :

The following is a copy of the original Act of Congress prohibiting the importation of foreign laborers under contract, approved February 26, 1885, to which is appended a copy of the act amendatory thereof, approved February 23, 1887, charging the Secretary of the Treasury with the duty of executing the provisions of both acts.

ORIGINAL ACT.

AN ACT to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, Territories, and the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

SEC. 2. That all contracts or agreements, express or implied, parol or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service by any person in the United States, its Territories, or the District of Columbia, previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect.

SEC. 3. That for every violation of any of the provisions of section one of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any alien or aliens, foreigner or foreigners, into the United States, its Territories, or the District of Columbia, to perform labor or service of any kind under contract or agreement, express or implied, parol or special, with such alien or aliens, foreigner or foreigners, previous to becoming residents or citizens of the United States, shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States or by any person who shall first bring his action therefor, including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States; the proceeds to be paid into the Treasury of the United States; and separate suits may be brought for each alien or foreigner being a party to such contract or agreement aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit at the expense of the United States.

SEC. 4. That the master of any vessel who shall knowingly bring within the United States on any such vessel, and land, or permit to be landed, from any foreign port or place, any alien laborer, mechanic, or artisan who, previous to embarkation on such vessel, had entered into contract or agreement, parol or special, express or implied, to perform labor or service in the United States, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such alien, laborer, mechanic, or artisan so brought as aforesaid, and may also be imprisoned for a term not exceeding six months.

SEC. 5. That nothing in this act shall be so construed as to prevent any citizen or subject of any foreign country temporarily residing in the United States, either in private or official capacity, from engaging, under contract or otherwise, persons not residents or citizens of the United States to act as private secretaries, servants, or domestics for such foreigner temporarily residing in the United States as aforesaid;

nor shall this be so construed as to prevent any person or persons, partnership or corporation from engaging, under contract or agreement, skilled workmen in foreign countries to perform labor in the United States in or upon any new industry not at present established in the United States: *Provided*, That skilled labor for that purpose can not be otherwise obtained; nor shall the provisions of this act apply to professional actors, artists lecturers, or singers, nor to persons employed strictly as personal or domestic servants: *Provided*, That nothing in this act shall be construed as prohibiting any individual from assisting any member of his family or any relative or personal friend to migrate from any foreign country to the United States for the purpose of settlement here.

SEC. 6. That all laws or parts of laws conflicting herewith be, and the same are hereby, repealed.

Approved February 26, 1885.

AMENDATORY ACT.

An act to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, the Territories, and the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia, approved February twenty-sixth, eighteen hundred and eighty-five, and to provide for the enforcement thereof, be amended by adding the following:

"SEC. 6. That the Secretary of the Treasury is hereby charged with the duty of executing the provisions of this act, and for that purpose he shall have power to enter into contracts with such State commission, board, or officers as may be designated for that purpose by the governor of any State to take charge of the local affairs of immigration in the ports within said State, under the rules and regulations to be prescribed by said Secretary; and it shall be the duty of such State commission, board, or officers so designated to examine into the condition of passengers arriving at the ports within such State in any ship or vessel, and for that purpose all or any of such commissioners or officers, or such other person or persons as they shall appoint, shall be authorized to go on board of and through any such ship or vessel; and if in such examination there shall be found among such passengers any person included in the prohibition in this act, they shall report the same in writing to the collector of such port, and such person shall not be permitted to land.

"SEC. 7. That the Secretary of the Treasury shall establish such regulations and rules, and issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act; and he shall prescribe all forms of bonds, entries, and other papers to be used under and in the enforcement of the various provisions of this act.

"SEC. 8. That all persons included in the prohibition in this act, upon arrival, shall be sent back to the nations to which they belong and from whence they came. The Secretary of the Treasury may designate the State board of charities of any State in which such board shall exist by law, or any commission in any State, or any person or persons in any State, whose duty it shall be to execute the provisions of this section and shall be entitled to reasonable compensation therefor, to be fixed by regulation prescribed by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe regulations for the return of the aforesaid persons to the countries from whence they came, and shall furnish instructions to the board, commission, or persons charged with the execution of the provisions of this section as to the time of procedure in respect thereto, and may change such instructions from time to time. The expense of such return of the aforesaid persons not permitted to land shall be borne by the owners of the vessels in which they came. And any vessel refusing to pay such expenses shall not thereafter be permitted to land at or clear from any port of the United States; and such expenses shall be a lien on said vessel. That the necessary expense in the execution of this act for the present fiscal year shall be paid out of any money in the Treasury not otherwise appropriated.

"SEC. 9. That all acts and part of acts inconsistent with this act are hereby repealed.

"SEC. 10. That this act shall take effect at the expiration of thirty days after its passage."

Approved, February 23, 1887.

EXAMINATION.

Under the provisions of section 8 of said amendatory act, approved February 23, 1887, the collectors of customs at the ports of the United States shall, on the arrival of vessels from foreign countries, cause them to be examined by residents of the port

who may be in the customs service, in order to ascertain what persons are alien immigrants on such vessels, and are forbidden to land within the provisions of sections 4 and 5 of the act approved February 26, 1885.

TABULAR STATEMENT.

The persons making this examination shall make out a tabular statement of the alien immigrants forbidden to land as being under contract to labor before arrival; shall specify in such statement as far as may be possible the following particulars in regard to each person: The country and town or city of birth; the sex, the age, and place of destination in this country; the name or names of the persons or firms by whom as aliens they were engaged to labor, and the State and place of business of persons so engaging such immigrants. This tabular statement (which is also to embrace the name of the vessel and master and date of her arrival) collectors of customs will forward weekly to the Treasury Department, retaining a duplicate thereof; and if no prohibited alien immigrants are found, collectors will return the tabular statements with the names of the vessels and the masters. Collectors of customs or the persons designated by them for this purpose will exercise the same fidelity of examination now required of them by section 9 of "the passenger act, 1882," in the examination of passengers for other purposes.

RETURN OF PROHIBITED IMMIGRANTS.

Whenever alien contract immigrants forbidden to land are discovered on board a vessel, collectors will use their discretion and utmost vigilance to prevent the landing of such immigrants and to secure their return to the countries whence they came by the vessel of their arrival.

REPORT OF CONTRACT OFFENDERS AND OFFENDING VESSELS AND MASTERS.

Upon ascertaining the names of the persons or firms instrumental in engaging or introducing into this country contract immigrants prohibited from landing as above described, collectors will report the names of such persons or firms to the United States attorney for the judicial district embracing their respective ports, and, so far as may be, will also report their places of business and residences; and they shall also report the names of the vessels bringing such contract immigrants and the names of their masters, suggesting the instituting of such prosecutions as may be required under sections 3 and 4 or other provisions of the original prohibitory statute. And especially if there be any refusal to return the contract immigrants herein mentioned, collectors will promptly institute the proceedings indicated in section 8 of the act of February 23, 1887.

Commissioners of immigration now acting as such at any port of the United States are requested to aid collectors of customs, and those persons designated by collectors for the service required by the foregoing statutes, so far as may be possible within the scope of their legitimate duties.

C. S. FAIRCHILD,
Acting Secretary.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, June 1, 1889. (Received June 4.)

SIR: With reference to my note of the 22d ultimo and to your reply of the same date on the subject of the detention of seven British subjects on board of the steamship *Obdam*, of the Netherlands line, I have the honor to inform you that Her Majesty's consul-general in New York reports that the order for the landing of the men was issued too late by the collector's department, and the ship left on the return voyage with the men still on board. It appears that the agent of the Netherlands line received from the deputy collector a letter, with a copy of the telegram which you had so courteously caused to be sent, too late on Wednesday for any action to be taken, but that the bond for the return of the men, which was required by the Treasury Depart-

ment, was executed in good time on Thursday morning for the order to be issued for their landing.

This order was, however, not received until past 1 o'clock, and the ship, which had been detained half an hour, had then left dock.

While regretting extremely this unfortunate circumstance, I should be very much obliged if you would be good enough to inform me whether, in the opinion of the United States Government, the case of these men comes within the terms of the acts of Congress prohibiting the importation of foreigners under contract. I venture to hope that it will be held not to come, at all events, within the spirit and intention of that legislation; but if the view of the deputy collector should be supported it will be my duty to report the case without delay to my Government, in order that proper steps be taken to obviate as far as possible a recurrence of so unfortunate an incident.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Blaine.

[Memorandum.]

WASHINGTON, June 20, 1889.

There is reason to apprehend that in future applications for the extradition of British fugitives from justice grave difficulties of procedure will arise in consequence of a decision recently given by Commissioner Edmunds, at Philadelphia, in the case of one Thomas Barton, whose surrender had been applied for by Her Majesty's Government on charges of forgery. It will be seen on referring to the proceedings in that case, which are no doubt in the hands of the State Department, that the form of certificate of authentication of documents which has been in use since passing of the act of Congress of August, 1882, was held by the Commissioner to be defective. That form was settled between the foreign office in London and the United States minister in 1883.

The undersigned has therefore the honor to draw the attention of the Secretary of State to the decision in Barton's case, in the hope that the difficulty which it has created may receive his early consideration, with a view to the adoption of a new form of certificate, which, if possible, may meet the requirements of section 5 of the act of 1882, and yet may not be inconsistent with the statement of British law contained in the certificate of authentication now issued by the under secretary of state for the home department in London.

JULIAN PAUNCEFOTE.

Form of authentication of extradition papers held insufficient under the act of August 3, 1882.

LEGATION OF THE UNITED STATES,
London, ———, 188—.

I hereby certify that I believe the signature _____, on the preceding page, is the handwriting of _____, under secretary of state for the home department; and that the signature _____, at the foot of the preceding page, is the handwriting of _____, under secretary of state for foreign affairs. And I further certify that the annexed copy of the warrant of arrest and of the depositions upon which it was granted, so certified by a magistrate having jurisdiction in the place where the same was issued and taken, and authenticated by a minister of state

and sealed with his official seal, would be received as evidence of criminality of a fugitive criminal from the United States charged before a tribunal in Great Britain with an extradition crime under the extradition treaty between the United States and Great Britain.

In witness whereof I hereto sign my name and cause the seal of this legation to be affixed this — day of —, 188—.

[SEAL.]

*Envoy Extraordinary and Minister Plenipotentiary of the United States
of America to the United Kingdom of Great Britain and Ireland.*

Mr. Wharton to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 2, 1889.

SIR: With reference to your notes of the 22d of May last and of the 1st ultimo, relative to the case of certain British subjects who arrived on the steam-ship *Obdam* at the port of New York, where they were not allowed to land on the ground that they were laborers under contract, I have the honor to inclose herewith for your information a copy of a letter of the Secretary of the Treasury officially reporting the action of the authorities in the premises.

I have, etc.,

WILLIAM F. WHARTON.

[Inclosure.]

Mr. Windom to Mr. Blaine.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., June 25, 1889.

SIR: On the 13th instant I informed you that as soon as the proper advices were received from New York a further answer would be sent to you relating to the case of the seven British subjects who arrived at the port of New York on the 11th ultimo on board the steamer *Obdam*, were detained, and were returned on the same vessel, notwithstanding the order of this Department by telegram to the collector of customs at New York to allow them to land on bond being given for their conditional return.

I have the honor to say that advices have now been received from New York which enable me to state the following facts, viz:

That the bond which the agents of the Netherlands line undertook to furnish was not delivered to the collector of the port until 11.20 a. m. of the 23rd ultimo: that instructions were immediately sent to the surveyor of the port to turn the said seven immigrants over to the agents of the said line; that this order on being received was immediately copied by the surveyor, and an order, addressed to the inspectors of the vessel in compliance therewith, was given into the hands of the representative of the steam-ship company (who was waiting to receive it) at 11.35 a. m., in ample time to reach the steamer before sailing, the steamer, as is stated, having been delayed twenty minutes after 12 m., the advertised hour of sailing.

From these facts you will see that it was not the fault of our officers that the seven immigrants referred to were not landed in New York.

The British minister requested to be informed whether, in the opinion of this Government, the case of these men comes within the terms of the act of Congress prohibiting the importation of foreigners under contract to labor in the United States, and this inquiry you desire to be enabled to answer.

In reply I have the honor to say that the collector of the port obtained and has transmitted to this Department seven affidavits made by the said immigrants, together with their letters of introduction and agreement to accept work, one of which is herewith inclosed for your consideration.* "On these papers," the collector said,

* The inclosure was returned to the Secretary of the Treasury.

"it appearing to me satisfactory evidence that there was a contract, express or implied, in each case, I originally barred them from landing."

Under the law and regulations the collector of the port is vested with discretionary power in cases of this kind. In this case the collector's judgment was that there was a contract, express or implied. An appeal was taken and a mode of relief was provided, and the fact that deportation of the men resulted was not the fault of our officers.

In view of the possibility of the recurrence of similar cases under circumstances that might prevent the timely and final action of this Department, it is suggested that time might be saved and deportation before investigation prevented by the prompt action of the owners of steam-ships or vessels in offering bonds for the conditional return of immigrants whose landing may, in the exercise of the best judgment of collectors, be prohibited.

The return of the inclosure is respectfully requested.

Respectfully, etc.,

W. WINDOM,
Secretary.

Sir Julian Pauncefote to Mr. Blaine.

WASHINGTON, July 3, 1889. (Received July 5.)

SIR: With reference to my note of the 1st ultimo, relating to the case of the seven British immigrants on board the steam-ship *Obdam* who were refused permission to land at the port of New York on the ground that they were laborers under contract and who were subsequently returned on board the same vessel to Europe, I have the honor to inform you that I learn that four of these men have come back to this country on the *Obdam* and have again been held by the customs officials, pending the decision of the Solicitor of the Treasury in regard to their case, the agents of the Netherlands Company having refused to give bonds to produce them if released.

In the letter from the Secretary of the Treasury inclosed in your note of yesterday's date, which I have just received, he reports upon the action of the United States officials on the 23d ultimo in connection with the return of the immigrants. On this point the testimony appears to be conflicting, and I propose to refer once more on the subject to Her Majesty's consul-general at New York. As regards the main question, whether the case comes within the prohibition of the act of Congress, the Secretary of the Treasury observes that under the law and regulations the collector is invested with discretionary powers in cases of this kind and that, in the opinion of that official, "there was a contract, express or implied." But it is not stated whether in the opinion of the United States Government the collector rightly interpreted the statute and properly applied the law to the case under consideration. That there was no contract, express or implied, for the performance of any particular "labor or service" must be admitted, and the only contract which could reasonably be implied from the documents would seem to be a promise on the part of the Southern Pacific Company to endeavor to procure some employment for the immigrants. I venture with great deference to submit that the discretion of the collector must be governed by the terms and spirit of the act, and that there is no contract in this case, expressed or implied, which brings it within the prohibition of the law. The act in its terms contemplates the existence of a contract for a specific labor or service, whereas the contract in the present case was only to provide board and lodging until the emigrants should obtain such "labor or service."

I should therefore be much obliged if you would move the Secretary of the Treasury to express his opinion on the legal merits of this case

as soon as possible, as the matter, owing to the return of the immigrants to New York, has become a very urgent one.

In conclusion I would earnestly press that in view of their long detention in New York and of the hardships incurred by them in their double journey across the Atlantic some leniency might properly be shown them, and that they should be allowed to proceed to their destination without prejudice to the general consideration of the case, as the ship-owners can hardly be expected to give a bond for the appearance of the men who are total strangers to them, and over whose movements they can have no control.

I have, etc.,

J. PAUNCEFOTE.

Mr. Wharton to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, July 22, 1889.

SIR: Referring to Sir Julian Pauncefote's note of the 22d of May last, concerning the case of certain British subjects who were not allowed to land from the steam-ship *Obdam* at the port of New York on the ground that they were contract laborers, I now have the honor to inclose for your information a copy of a letter from the Secretary of the Treasury sustaining the action of the collector in refusing to allow the persons in question to land.

I have, etc.,

WILLIAM F. WHARTON.

[Inclosure.]

Mr. Windom to Mr. Blaine.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, July 17, 1889.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, inclosing a copy of a further note from the British minister relating to the case of the British immigrants who arrived at New York by the steamer *Obdam*, intending to go to Texas.

The British minister, referring to the action of the collector of the port of New York in this case, expresses the opinion "that there is no contract in this case expressed or implied, which brings it within the prohibition of the law," adding that "the act in its terms contemplates the existence of a contract for a specific labor or service, whereas the contract in the present case was only to provide board and lodging until the immigrants should obtain 'such labor or service.'" And he asks "the Secretary of the Treasury to express his opinion on the legal merits of this case as soon as possible."

In reply I have to say that, after careful consideration and consultation with the Solicitor of the Treasury, to whom all the papers in the case, including the British minister's last note, were referred with request to report whether, in his opinion, the papers referred furnished evidence of the existence of a contract between the immigrants and other parties contrary to the provisions of the alien contract labor acts, I concurred in his opinion that there was a contract between said immigrants and other parties which justified the Secretary in deciding that they should be returned, as the law requires, to the country from which they came; and I have to add that instructions have been sent to the collector of customs at New York that, in all cases where the evidence of importation under contract is the same as that in the case of the British immigrants who came by the steam-ship *Obdam*, with letters of introduction from J. M. Wrightson & Co., of London, to Samuel Neel, agent at Seguin, Texas,

with the signature appended thereto of the immigrant, stating that he is "willing and able and will accept work as above stated," such immigrant must be returned by the importing vessel to the country from which he came.

Respectfully, yours,

W. WINDOM,
Secretary.

Sir Julian Pouncefote to Mr. Blaine.

WASHINGTON, November 11, 1889. (Received November 12.)

SIR: In obedience to instructions which I have received from Her Majesty's principal secretary of state for foreign affairs I have the honor to transmit herewith copy of a dispatch which he has received from Her Majesty's ambassador at Constantinople stating that, in conjunction with his excellency, the United States legation has been using its influence to bring to trial the notorious Moussa Bey.

I am at the same time to express the acknowledgments of Her Majesty's Government for the assistance rendered to Sir William White by the United States chargé d' affaires in this case.

I have, etc.,

J. PAUNCEFOTE.

[Inclosure.]

Sir William A. White to the Marquis of Salisbury.

Therapia, October 11, 1889.

MY LORD: With reference to my dispatch No. 415 of this day's date, I have the honor to state that the United States legation has also been using its influence to bring Moussa Bey to trial.

Mr. Pendleton King, the United States chargé d' affaires, has also addressed a note to the Sublime Porte, in which he calls its attention to the fact that Moussa Bey is the same man who, in the year 1883, committed an outrage on two American missionaries, and that, while his guilt was clearly established, he remained unpunished, and asking that, whatever the result of the present trial, he may suffer his punishment for the former outrage.

Mr. King has kindly furnished me confidentially with a copy of this note,* which I have now the honor to inclose for your lordship's information. As no complaint whatever has been made by any British subject against Moussa our title to watch the proceedings in this case rests purely on general grounds, but the rights of the legation of the United States can not be questioned; moreover, they can not be suspected by any one of being guided by selfish political objects, and I can not sufficiently express my obligation to Mr. Pendleton King for having acted with me in the matter, and I trust that your lordship may find some fitting opportunity of conveying to his Government my appreciation of his action, in which he has found means of combining the interests of humanity with the national interest he defends so ably.

I have, etc.,

W. A. WHITE.

Mr. Blaine to Sir Julian Pouncefote.

DEPARTMENT OF STATE,
Washington, November 15, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, in regard to the efforts of Her Majesty's ambassador at Constantinople, in conjunction with those of Mr. Pendleton King,

* Printed *infra*, p. 727.

chargè d'affaires *ad interim* of the United States there, to bring to trial Moussa Bey.

It gives me pleasure to state that Mr. King's note to the Sublime Porte to which Sir William A. White refers, in relation to the unredressed outrages committed by Moussa Bey on inoffensive citizens of the United States in Armenia in 1883, has been approved by the Department, with expression of the earnest hope that justice, however long deferred, may at least be done in respect to the well-grounded complaints of this Government and its repeated and urgent appeals to the sense of justice and amity of Turkey for adequate reparation for the wrongs suffered by American citizens at the hands of a delegate of the power of the Sultan's Government.

I have, etc.,

JAMES G. BLAINE.

GREECE.

Mr. Fearn to Mr. Blaine.

No. 168.]

LEGATION OF THE UNITED STATES,
Athens, February 20, 1889. (Received March 16.)

SIR: In a recent interview, Mr. Dragoumis having stated to me that the Hellenic Government could not regard article 1 of our treaty with Greece as applicable to joint stock companies and other associations, and that the legal status of the latter, in the cases of Great Britain and Austria-Hungary, had been determined by special agreement between the respective Governments, I informed him that such rights were fixed by law in the United States, and that foreigners and foreign corporations there not only had the right to appear in all the tribunals, but could, if they thought proper, transfer their cases from the State to the Federal courts. This, he said, was all that was needed, and that an official declaration to that effect from my Government would be adequate, such declaration being required by Greek law.

As there are several American corporations seeking a domicile here, notably the New York Life Insurance Company, which require the sanction of the Government to engage in business, I beg the Department will send me the necessary certificate as soon as possible.

The arrangement with Austria-Hungary was made by certificate signed by Count Kalnoky; that with Great Britain by agreement, a copy of which I inclose.

I have, etc.,

WALKER FEARN.

[Inclosure in No. 168.]

AGREEMENT BETWEEN GREECE AND GREAT BRITAIN.

His Hellenic Majesty's Government and that of Her Britannic Majesty, being desirous to effect the reciprocal regulation in the Kingdom of Greece and in the United Kingdom of Great Britain and Ireland of the position of joint stock companies and other commercial, industrial, and financial associations, the undersigned, duly authorized to that effect by their respective Governments aforesaid, have come to the following agreement:

Joint stock companies and other associations, commercial, industrial, and financial, constituted in conformity with the laws in force in either of the contracting states, may exercise in the dominions of the other all their rights, including that of appearing before tribunals for the purpose of bringing an action or of defending themselves, with the sole condition in exercising such rights of always conforming themselves to the laws and customs in force in the said dominions.

It is understood that these dispositions shall be applicable as well to the companies and associations constituted and authorized previously to the signature of this agreement as to those which may subsequently be so constituted and authorized.

The present agreement shall come into operation on the 15th of the present month of August and shall remain in force until one of the contracting parties shall announce to the other, one year in advance, its intention to terminate it. Such modifications may, however, by common consent be introduced into it as experience may show to be desirable.

Done in duplicate at Athens the, etc.

Mr. Adee to Mr. Fearn.

No. 77.]

DEPARTMENT OF STATE,
Washington, September 19, 1889.

SIR: Your No. 168, Diplomatic Series, of the 20th February last, in relation to American joint stock companies in Greece, was received at this Department on the 16th of the following month. In that dispatch you stated that the Greek minister for foreign affairs in an interview with you had expressed the opinion that the Hellenic Government could not regard the first article of the treaty between the United States and Greece of December 22, 1837, as applicable to joint stock companies and other business associations whose status in Greece in the cases of Great Britain and Austria-Hungary had been determined by special agreement between the respective Governments.

That article provides as follows:

The citizens and subjects of the two contracting parties may with all security for their persons, vessels, and cargoes, freely enter the ports, places, and rivers of the territories of the other wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories; to rent and occupy houses and warehouses for their commerce; and they shall enjoy generally the most entire security and protection in their mercantile transactions on condition of their submitting to the laws and ordinances of the respective countries.

On the 2d of April last a copy of your dispatch was submitted to the Attorney-General, with a request for his opinion whether there would be any objection to this Department instructing you to give the Hellenic Government an assurance in the form of a simple declaration that corporations, joint stock companies, and other associations, commercial and industrial, constituted in conformity with the laws in force in Greece, may exercise in the United States all their rights, including that of appearing before tribunals for the purpose of bringing an action, or of defending themselves, with the sole condition in exercising such rights of always conforming to the laws and customs in force in this country.

On the 10th of May last the Department received from the Attorney-General his opinion as requested, a copy of which is herewith inclosed. The purport of his opinion is that corporations and associations, such as are described in your dispatch, are, if duly authorized under the laws of Greece, entitled to lawful rights and remedies in the United States, and that there is no objection to this Department communicating assurance to that effect to the Hellenic Government, it being of course always understood, as expressed in the treaty, that these rights and remedies are to be enjoyed, subject to the appropriate laws of the United States and of the several States.

Since the exercise of those rights and remedies may be enjoyed by corporations and associations of Greece under the Constitution and laws of the United States, taken in connection with the treaty above referred to, it is not thought to be necessary that a specific agreement to continue for a certain time and to be terminable upon a certain notice should be entered into with the Hellenic minister of foreign affairs. It is thought that a proper precedent for the present case may be found in the protocol of conferences and declarations concerning judicial procedure, signed at Madrid on the 12th of January, 1877, by the minister of the United States and the minister of state of His Majesty the King of Spain. This being so, all that would be necessary would be to formulate a protocol setting forth that in view of the desire of the Government of the United States and of that of His Hellenic Majesty to effect a reciprocal understanding in regard to the

rights and remedies of corporations and associations organized under the laws of one of the countries in the territories of the other, the minister of the United States declares that joint-stock companies and other associations commercial, industrial, and financial, constituted in conformity with the laws in force in Greece, may exercise in the United States the rights and privileges of subjects of Greece under Article I of the treaty of commerce and navigation between the Government of the United States and that of His Hellenic Majesty, concluded in London on the 10th-22d of December, 1837, including the right of appearing before tribunals for the purpose of bringing an action or defending themselves, with the sole condition that in exercising those rights they always conform themselves to the laws and customs existing in the United States and in the several States. The Hellenic minister for foreign affairs could then make a reciprocal declaration containing a satisfactory assurance that similar rights and privileges shall be enjoyed by American corporations and business associations in Greece, whether now or heretofore organized or to be created in the future.

I am, etc.,

ALVEY A. ADEE.

[Inclosure in No. 77.]

Mr. Miller to Mr. Blaine.

DEPARTMENT OF JUSTICE,
Washington, May 10, 1889.

SIR: By your letter of the 2d of April, 1889, you submit the following inquiry: "Whether, in your opinion, there would be any objection to this Department instructing the minister of the United States at Athens to give the Hellenic Government an assurance * * * that corporations, joint-stock companies, and other associations, commercial and industrial, constituted in conformity with the laws in force in Greece, may exercise in the United States all their rights, including that of appearing before tribunals for the purpose of bringing an action or defending themselves, with the sole condition in exercising such rights of always conforming to the laws and customs in force in this country." The first article of the treaty of the 22d of December, 1837, between the United States and Greece provides:

"The citizens and subjects of each of the two high contracting parties may, with all security for their persons, vessels, and cargoes, freely enter the ports, places, and rivers of the territories of the other wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of such territories; to rent and occupy houses and warehouses for their commerce, and they shall enjoy generally the most entire security and protection in their mercantile transactions, on condition of their submitting to the laws and ordinances of the respective countries."

By virtue of the provisions of the sixth article of the Constitution of the United States this treaty became a part of the supreme law of the land, and is obligatory as such in every court, both National and State. Whatever rights the treaty grants are guaranteed to the subjects of Greece with all the force of law.

The second section of the third article of the Constitution declares the judicial power of the United States "shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority * * * between a State, or the citizens thereof, and foreign States, citizens or subjects."

This section is enforced by proper legislation. Both the right and the remedy are thus assured to Grecian subjects. The word "subjects" in the Constitution is used as descriptive of those who owe perpetual allegiance to a Government monarchical in form, as the word "citizens" is used to describe those who owe perpetual allegiance to our own Government or other republics. The word "citizens" in the Constitution has been interpreted by the courts to include corporations and associations such as are described in your letter. The word "subjects" is entitled to a like interpretation, so as to include like foreign corporations and associations. The protection and guarantee to corporations, as citizens, of their lawful rights and remedies, has been carefully considered, and frequently affirmed, by the Supreme Court of the United States.

In the case of the Louisville Railway Company *vs.* Letson (2 How., 558) the law is thus declared:

"A corporation created by, and doing business in, a particular State is to be deemed to all intents and purposes as a person, although an artificial person, and inhabitant of the same State, for the purposes of its incorporation, capable of being treated as a citizen of that State, as much as a natural person. Like a citizen it makes contracts, and though, in regard to what it may do in some particulars, it differs from a natural person, and in this especially, the manner in which it can sue and be sued, it is substantially within the meaning of the law a citizen of the State which created it, and where its business is done, for all the purposes of suing and being sued."

In the case of the Ohio and Mississippi Railroad Company *vs.* Wheeler (1 Black., 296) the court, citing the above case with approval, declared the principle settled, in the following language:

"That where a corporation is created by the laws of a State the legal presumption is that its members are citizens of the State in which alone the corporate body has a legal existence; and that a suit by or against a corporation, in its corporate name, must be presumed to be a suit by or against citizens of the State which created the corporate body, and that no averment or evidence to the contrary is admissible for the purposes of withdrawing the suit from the jurisdiction of a court of the United States."

The same doctrine is maintained in the cases of *Marshall vs. The Baltimore and Ohio Railroad Company* (16 How., 329); *Covington Draw-bridge Company vs. Shepherd* (20 How., 233), and *Cowles vs. Mercer County* (7 Wall., 121).

The word "subjects" in the treaty embraces such corporations and associations as are described in your communication, and in the courts of the United States their legal rights, as defined and limited by the laws of the United States and of the several States, are fully protected by adequate remedies. There is, therefore, no legal objection to your communicating to the minister of the United States at Athens such instructions as are suggested in your letter, with the qualification which is annexed as a condition to the first article of the treaty, that the rights and remedies of such corporations and associations are to be enjoyed subject to the appropriate laws of the United States and the laws of the several States.

I am, etc.,

W. H. H. MILLER,
Attorney-General.

Mr. Blaine to Mr. Snowden.

No. 26.]

DEPARTMENT OF STATE,
Washington, March 8, 1890.

SIR: In the published reports of the consuls of the United States, No. 96, of August, 1888, there was printed, on page 205, without date, a report entitled "Tobacco imports into Egypt," signed by Mr. John Cardwell, then the consul-general of the United States at Cairo. That report contained reflections upon the methods in which commercial operations were understood by the writer to be conducted by Greek merchants in the Levant, and incidentally embraced a general reference to the Greek people, which is open to animadversion as altogether unnecessary and unjust.

The minister of Greece in England, who is also duly accredited to the Government of the United States as the representative of the Hellenic Government, brought this publication to the personal attention of Mr. Phelps, the late minister of the United States in London, and was assured by Mr. Phelps of the regret with which the publication of the remarks was regarded by the Government of the United States. At no time has the minister of Greece availed himself of his diplomatic character to address the Government of the United States formally on the subject, nor has any representation in the premises been made directly to the minister of the United States at the Hellenic court.

This Government appreciates the delicate courtesy and good will of the Government of Greece in refraining from official remonstrance in

respect to utterances which, from their nature, could not have failed to wound the just susceptibilities of the people of Greece; and in turn takes pleasure in offering to that Government a sincere expression of its regret that, through an oversight as much to be condemned as it is deplored, the remarks of Mr. Cardwell should have been thus published through the agency of a subordinate bureau of this Department.

As His Hellenic Majesty's Government is aware, the reports of the officers of the United States in foreign countries are prepared for the use and behoof of their own Government. Their utility can not be circumscribed by prohibition or censure looking to the exclusion of subjects of report save such as may be agreeable to other Governments or peoples. Hence, were Mr. Cardwell still in office, this Government could not assent to a proposition that he should be publicly censured or punished for a statement which, however erroneous in judgment, was yet clearly privileged as between the agent and his principal.

It is, accordingly, for the publication of Mr. Cardwell's utterances that this Government spontaneously tenders to the Government of Greece its sincere regrets, with the earnest assurance that the act was by no means intentional, and that the Government and people of the United States are actuated only by the most cordial respect and friendship for a country and people to whom they are linked by indissoluble ties.

You are at liberty to read this instruction to His Hellenic Majesty's minister for foreign affairs, leaving with him a copy, should he so desire. At the same time you may say to him that copies hereof will be sent to the legation of the United States in London and to our agency and consulate-general at Cairo for preservation on their files; and that the present communication will in due course appear in the published diplomatic correspondence of this Department.

I am, etc.,

JAMES G. BLAINE.

HAWAII.

Mr. Merrill to Mr. Bayard.

No. 219.]

LEGATION OF THE UNITED STATES,
Honolulu, November 19, 1888. (Received December 4.)

SIR: In connection with my No. 213, of the 6th ultimo, regarding Cook's Islands, I have the honor to inclose an account of the action of the consul at Raratonga in asserting a British protectorate over the group. The article was published in a paper in Auckland and republished in the Advertiser of this city.

I have, etc.,

GEO. W. MERRILL.

[Inclosure in No. 219. From the Commercial Advertiser, Honolulu, November 19, 1888.]

A Protectorate.

THE HERVEY OR COOK GROUP.

The acting consul at Raratonga, Mr. Exham, received authority by the steam-ship *Richmond* to proclaim a British protectorate over Raratonga and all the islands of the Hervey group, and the Queen's flag was hoisted at noon on September 20. Mr. Exham's instructions were to recognize the authority of the three queens of the group, and also to recognize the chiefs there. The inhabitants were notified that the ceremony would take place at noon on September 20, and the principal chiefs from all parts of the group assembled at Queen Makea's residence. The following proclamation was read, both in English and in the native language, and it was affixed to the Queen's flag-staff:

"By virtue of instructions received from Her Britannic Majesty's principal secretary of state for the colonies, contained in a dispatch from Sir James Prendergast, deputy governor of New Zealand, dated government house, New Zealand, August 16, 1888, I hereby declare that Her Britannic Majesty's Government has this day assumed a protectorate of the group of islands known as the Hervey (or Cook's) group, situated in the South Pacific Ocean, between 18 degrees and 22 degrees south latitude and 156 degrees and 160 degrees west longitude, and that the following islands are included in such protectorate: Raratonga, Maingai, Aitutaki, Atiu, Taoki, Mitiaro, Manuae, and all the small islands or islets depending on them.

"Dated at Her Britannic Majesty's consulate, Raratonga, this 20th day of September, 1888.

"RICHARD EXHAM,
Her Britannic Majesty's Consul.

"God save the Queen."

The three great chiefs were then presented with the British flag, which they were authorized to hoist on their flag-staffs, and they were informed that under this flag they would be in no way molested or interfered with by foreign war-ships.

Southeast of Samoa about 700 miles is the scattered Hervey or Cook Archipelago, consisting of nine islands, either volcanic or coralline, and rendered difficult of access by dangerous reefs and the absence of harbors. Raratonga, the largest, is volcanic and hilly, with fertile and well-watered valleys. The islands produce cocoa-nuts, bread-fruit, bananas, coffee, cotton, and tobacco. The natives of the group are now in an advanced state of civilization. They all read the Bible, dress after the European fashion, and live in stone dwellings grouped in little townships under separate chiefs. They seem, however, to be rapidly diminishing in number, the present population

being, perhaps 10,000, of whom 6,000 are in Raratonga alone. They petitioned in 1864 for annexation to Great Britain. It is a curious fact that in Oparo, a small, sterile island, there are the remains of native forts of hewn stone on the summits of the highest hills. The stones are well squared and smoothed, and joined with a hard cement. Some of them are of two tons weight. The natives have a legend of a migration from Samoa.

Admiral Fairfax, with the *Calliope* and *Lizard*, left Tonga for Samoa, intending to call at Niné or Savage Island, and establish a protectorate over that island, in compliance with a request from the natives there.

It is reported that Captain Aldiner, during his late cruise, has succeeded in making one of the deepest soundings that has ever been made, at a few miles off Kaafa or Pylstaart Island, the most southern island of the Tongan group. He obtained soundings of 4,223 fathoms.

HAYTI.

Mr. Bayard to Mr. Thompson.

No. 139.]

DEPARTMENT OF STATE,
Washington, December 10, 1888.

SIR: In further reference to the matter of the steamer *Haytien Republic*, and supplementing my instruction No. 137 of the 30th ultimo, with which I transmitted copy of my note of the 28th November to Mr. Preston, communicating to him the decision reached by this Government upon the question, I now inclose for your information copy of a letter addressed by me to the honorable the Secretary of the Navy on the 7th instant, in which, by direction of the President, I requested that a naval force should forthwith proceed to Hayti to receive the *Haytien Republic*, under the determination aforesaid, and to protect endangered interests of our citizens in that country. With this letter I also send copies of such of the inclosures therein mentioned as have not already been communicated to you.

Since my letter to the Secretary of the Navy I have received Mr. Preston's response to my note of the 28th ultimo. It contained a proposal that the *Haytien Republic* shall be given up on condition of being brought to the United States by a naval vessel, and being there turned over to our courts for adjudication of her alleged violations of neutrality and the alleged rights of her captors thereunder. This proposal I declined, and at the same time informed Mr. Preston that the courts of the United States were open to foreign Governments, their agents, or private citizens to test any rights known to the law.

Copies of Mr. Preston's note* and of my reply† are herewith inclosed, and complete the history of the case upon your files.

I am this morning in receipt of a telegram from Mr. Preston, who states that he is empowered, as he proposes to do toward the end of the week, to sign a protocol for the surrender of the *Haytien Republic*.

Preparations for the departure of the U. S. S. *Galena* to-morrow morning, under instructions to receive the *Haytien Republic* from those holding her in custody, being fully made, it is not deemed necessary to delay her departure and the restoration to her owners of the *Haytien Republic* in order to confirm the conclusion already reached by this Government in the premises.

The commander of the U. S. S. *Galena*, in the execution of the instructions he has received, will confer with you as to the proper disposition of the *Haytien Republic* after she has been released.

I am, etc.,

T. F. BAYARD.

*Printed *infra*, p. 504.

† Printed *infra*, p. 506.

[Inclosure 1 in No. 139.]

*Mr. Bayard to Mr. Whitney.*DEPARTMENT OF STATE,
Washington, December 7, 1888.

SIR: I beg leave to inclose for your information copies of certain correspondence lately had by this Department with Mr. Preston, the minister of Hayti at this capital, and with the United States minister at Port au Prince, in relation to the American steamer *Haytien Republic*.

The history and present status of the case are sufficiently and succinctly set forth in the correspondence now transmitted, and as the report by Captain Ramsay, of the United States steamer *Boston*, on this subject was made to your Department, and is therefore in your possession, repetition of its contents would be unnecessary.

The proceedings at Port au Prince in the seizure and condemnation of the steamer *Haytien Republic* were very properly deferred by the provisional government to the decision of the President of the United States, and his decision has been deliberately arrived at and has been conveyed to the Haytian minister to this country and to the provisional authorities at Port au Prince, under whose assumed authority the vessel in question was seized and is still held.

The instruction of this Department to Mr. Thompson, our minister to Hayti, defines the action to be taken and the result to be accomplished.

The presence and active co-operation with our minister of a vessel of our Navy in the Haytian waters at this juncture is deemed essential, and the instruction to Mr. Thompson will clearly indicate to the commanding officer of the vessel you may dispatch on this errand his line of duty in the event of a failure or refusal of the provisional government of Hayti or whoever else may be found to be in control on his arrival, in obtaining the prompt restoration of the *Haytien Republic* to her American owners or their agents.

Redress for any loss or injury to our citizens growing out of this incident, must await further investigation, in making which the commanding officer in question may be enabled to assist, and by free conference and counsel with Mr. Thompson, our minister, a satisfactory settlement may be promoted.

A telegraphic dispatch to this Department, dated yesterday, from the United States consul at Santiago de Cuba, of which I herewith inclose a copy, contains notification of a condition of affairs at Cape Haytien which renders the presence there, at the earliest possible moment, of a protecting naval force imperatively necessary for the safety of American interests.

I had hoped before closing this note to have received from the Haytian minister (who is in New York) a more satisfactory reply to my communication to him of the 4th instant. A telegram from that official, received last evening, promised a reply to-day, but it has failed to come.

I do not, however, conceive that the line of action and duty of this Government in the premises can be controlled by further correspondence with Mr. Preston on the subject, and the case being thus made up your Department will proceed to accomplish the results contained in the decision of the President, as hereinabove communicated.

I am, etc.,

T. F. BAYARD.

Mr. Thompson to Mr. Bayard.

No. 233.]

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, December 14, 1888. (Received Dec. 31).

SIR: I have received to-day from the counselor of the department of foreign affairs copy of a decree issued by the National Assembly of Constituents, which declares the ports of St. Marc, Gonaïves, Port de Paix, and Cape Haytien closed to commerce provisionally, and the right of "changing ports" to the Grand Saline, the Mole St. Nicholas, and Fort Liberty suppressed.

The counselor prays me to inform my Government of this. Copy of the decree is herein transmitted, with translation. I acknowledged receipt of such dispatch without making any comments, but feel constrained to call your serious attention to the matter, from the fact that

by such decree the authorities at Port au Prince assume great responsibility in closing ports to commerce over which they have no control whatever; and this decree takes in the entire north of Hayti, right up to the boundary of Santo Domingo.

Our commerce has suffered greatly already from the arbitrary action of the local authorities at Port au Prince; in fact, it looks as if Americans and their interests in particular have had to stand the brunt of this unlawful state in which this country finds itself. For example, on October 22, last, when the question of the *Haytien Republic* and the schooner *William Jones* was particularly rife and the newspapers of this city were teeming with cries against the Americans and their intentional violation of the laws, the French bark *Joinville* was at St. Marc, was loaded regularly by the house of Hermann & Co., and departed without any molestation whatsoever. I note in Wharton's International Law Digest, volume 3, page 374, Mr. Seward to Mr. Sullivan says: "Only such blockades as shall be duly proclaimed and maintained by adequate force, in conformity to the laws of nations, will be observed and respected by the United States;" and referring to your Nos. 133 and 137, particularly the inclosure to the latter, wherein Mr. Preston is informed, "In the midst of such bloody contentions and the various factional attempts to obtain power it is unjust and unreasonable that merchant vessels of the United States should be made the victims of such lawless proceedings." Also, "the rights of person and property of American citizens engaged in business in Hayti can not be permitted to become the foot-ball of contesting factions and their evanescent authority; and the protecting arm of the United States will be interposed for their security." And "the defects and misfortunes of the Republic of Hayti must not be visited upon the citizens of a friendly country, who have contributed in no way to the unhappy condition of affairs with which they find themselves unexpectedly confronted." These words encourage me to take the liberty of suggesting that, as a motive of our personal commercial interests, apart from our prestige, which this end of the island either appears to forget or attempts to treat with contempt, it would be well to enforce by some means a proper respect for the law of nations, in order that we may have some basis for the accomplishment of the legal pursuits of our citizens who, interfering with no one, justly call for liberty of action to gain their livelihood.

Suppose, now, the northern provinces had also an insufficient naval force and declared Port au Prince with the ports of the South in a state of blockade; thus by two rival factions Hayti would be shut out to the world at large. The question of their local authoritative rights in the premises, as compared with those of the authorities in these parts, is certainly debatable. "There can be without blockade (effective) no closure of a port not in possession of the sovereign issuing the decree." (Professor Perels in Wharton's International Law Digest, vol. 3, page 376.) Hayti can not be said to-day to have a sovereign vested with constitutional power.

I find the honorable Secretary of State, in his dispatch to Mr. Becerra, No. 197, April 24, 1885, Foreign Relations, 1885, page 254, has, with other details, fully pointed out such case as this portion of Hayti is in at present, violating international law with regard to blockades, and I most respectfully request that such instructions be given me that I may be warranted in pointing out these important facts to the *de facto* authorities here.

By insisting that these people keep to regularly recognized interna-

tional forms we would do them in truth a deal of good, and prevent many unjust atrocities.

Those reports that I have received from northern parts indicate that peace and order reign; in fact, it seems that the depredations to persons and property on land and sea meet with more encouragement hereabouts than elsewhere on the island.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 233.—Translation.]

Liberty.

Equality.

Fraternity.

REPUBLIC OF HAYTI.—DECREE.

The National Assembly of Constituents, considering that all free and independent countries have the right to close to foreign commerce one or several of its ports, decree:

Article 1. The ports of St. Marc, Gonaïves, Port de Paix, and Cape Haytien are provisionally closed to outside commerce.

Article 2. The right of changing ports granted to Grand Saline, Mole, and Fort Liberty are suppressed.

Article 3. The present decree shall be executed at the diligence of the counselor of the department of finances and commerce and that of foreign relations.

Given at the palace of the National Assembly of Constituents at Port au Prince the 10th of December, 1888, eighty-fifth year of the independence.

CLERIE,
President of the Assembly.
JEREMIE,
G. LABASTILLE,
Secretaries.

In the name of the Republic the chief of the executive power orders that the above decree of the National Assembly of Constituents be printed, published, and executed in the whole extent of the Republic.

Given at the palace of the chief of the executive power at Port au Prince the 11th of December, 1888, eighty-fifth year of the independence.

F. D. LÉGITIME.

By the chief of the executive power:

A. ROSSIGNOL,
The Counselor of the Department of Finances and of Commerce.
EUG. MARGRON,
The Counselor of the Department of Foreign Relations.

Mr. Thompson to Mr. Bayard.

No. 237.]

LEGATION OF THE UNITED STATES,
Port au Prince, December 20, 1888.

(Received December 31.)

SIR: Yesterday afternoon it came to my knowledge that a crew under one Captain Williams were on board of the Atlas steam-ship *Arran*, which arrived in this harbor Tuesday, the 18th instant, and that there seemed to be something mysterious about such crew. Later I learned the crew were destined for the steamer *Haytien Republic*; that great secrecy was given to the matter; and through a gentleman that left New York for Kingston, Jamaica, with the above-named crew and transferred there with them to the *Arran*, I found out that it was by

some scheme of Mr. Stephen Preston with the Atlas Steam-ship Company that this crew were sent here by special steamer from Kingston. From items picked up here and there it seems as if designs to recapture the vessel or to clandestinely take her from this harbor to New York; arrived there, place her in the custody of our courts. Imagining what Mr. Preston's sentiments regarding such steamer must be, and not knowing what means under cover the Atlas Company might consent to take against this rival company, and hearing it whispered that during the night such vessel was to be taken out of the harbor with the connivance of the authorities here, I deemed it necessary as a precautionary measure to take a hurriedly prepared dispatch to the counselor of foreign affairs. I transmit herein copy of such dispatch, that holds the authorities responsible absolutely in the premises. There was a plot of some kind, and from present indications, since it was frustrated to-day, I believe it will be fully exposed shortly.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 237.]

Mr. Thompson to Mr. Margron.

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, December 19, 1888.

SIR: It has come to my hearing that a plan of some kind with designs on the American steamer *Haytien Republic* is on foot, and that something may occur to that vessel detrimental to her or to her owners or contrary to the decision of the United States Government pertaining to her; therefore I, John E. W. Thompson, minister resident of the United States of America, do by the present hold the Haytian authorities responsible in the premises for any displacement or any damage or removal of such vessel from her present position in the harbor of Port au Prince until she has been duly delivered to the owner or owners thereof through this legation; and I hereby inform the Haytian department of foreign relations that I hold by the present document not only that they be responsible to the United States for damages in case of any wrong, but also pecuniarily responsible to any sum that the United States Government will request should such vessel be removed from her present moorings before as aforesaid properly delivered to the custody of this legation.

I have, etc.,

JOHN E. W. THOMPSON.

Mr. Thompson to Mr. Bayard.

No. 239.]

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, December 24, 1888.
(Received January 9, 1889.)

SIR: Early on Thursday morning, the 20th instant, the two United States ships, *Galena* and *Yantic*, of the North Atlantic squadron, and under command of Rear-Admiral Luce, came into this port. The former anchored in the outer harbor, the latter ran alongside of the American steamer *Haytien Republic* in the inner harbor, and was prepared to tow out such steamer. Lieutenant Griffin came up to the legation, and I immediately, after reading my dispatches, went on board the *Yantic*, the rear-admiral being there. It was determined that I go to the palace and request the immediate surrender of the steamer *Haytien Republic*, and if they refuse to give her up, to demand her by 3 o'clock that afternoon. In company with Lieutenant Meigs I went to the palace. We

met Mr. Margron, minister of foreign affairs, whom I requested to see alone. On explaining to him my mission he left us to consult with President Légitime. Returning, he said they refused to give up the ship without being forced so to do. Mr. Margron again left us to consult with President Légitime, and returned with the proposition to refer the case to the diplomatic body at Port au Prince. This I informed him as unworthy of a second thought after the prior decision of so high an authority, and further declined to talk in that manner on the subject, saying I was ready to meet the president and the ministers. General Légitime came in with his ministers, and after some discussion they decided to give up the steamer, but reserving all rights to place the matter in a court of admiralty in the United States for adjudication. Inclosure 1 is a translation of Mr. Margron's dispatch on the subject.

They were not apparently satisfied with the decision rendered by the President of the United States, as shown in conversation during an official visit the 21st instant, and wished to appeal therefrom. They appeared to have an idea that in leaving the question to be decided upon by our Government that the Senate and House of Representatives, should have taken it up, and although it was explained to them, as Chief Magistrate, the President of the United States answered for the Government, and, as far as it was concerned, such decision was final, still they could not be convinced but that their case should be appealed.

Referring to my dispatch No. 237, it has been ascertained that the crew that were brought here on the Atlas steamer *Arran* were here for the purpose of carrying the *Haytien Republic* to New York, there to place her case in our courts for decision.

Regarding indemnity, Mr. Morse claimed \$200,000 for the detention of the vessel and \$150,000 for the officers, passengers, and crew, making a total of \$350,000. In reply to this request, they appeared to understand from the decision that the question of indemnity was one for later investigation.

The ship was towed out by the steamer *Grande Rivière*, one of Rivière's coasting-boats, and was duly handed over to Mr. B. C. Morse, the agent for the owners, by Rear-Admiral Luce, on Sunday, the 23d instant, as per copy of dispatch herein inclosed.

I have had interviews on this question of indemnity, with a view of settling the case satisfactorily to the owners and without the delay that usually follows international claims when partially settled, but at present, owing to the amount of indemnity requested, I have been unable to do anything. If Mr. Morse will accept a compromise doubtless the affair can be finished in a few days. If such a settlement by compromise was affected the owners of the vessel would escape further legal litigation which may entail expense in the future, as the authorities here would doubtless consider the affair finished.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 239. Translation.]

Mr. Margron to Mr. Thompson.

COUNCIL OF SECRETARIES OF STATE,
Port au Prince, December 20, 1888.

MR. MINISTER: On account of the relations of friendship that exist between the Republic of the United States and the Republic of Hayti, the Government decides to make to the admiral the remise of the merchant steamer *Haytien Republic*, which was

captured in the waters of St. Marc. Nevertheless, the Government makes its reserves in what concerns the judiciary action to which it can have recourse before the American courts.

Accept, etc.,

EUG. MARGRON,
Secretary of State for Foreign Relations.

[Inclosure 2 in No. 239.]

Admiral Luce to Mr. Morse.

U. S. S. GALENA,
Port au Prince, Hayti, December 23, 1888.

SIR: It gives me great pleasure to turn over to your keeping this day, in as good order as it was practicable to make her, the steamer *Haytien Republic*.

Respectfully,

S. B. LUCE,
Rear-Admiral, U. S. Navy, Commanding North Atlantic Squadron.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 240.] LEGATION OF THE UNITED STATES,
Port au Prince, December 26, 1888. (Received January 9, 1889.)

SIR: I have received to-day your No. 140, of the 13th instant, and in reply must acknowledge the oversight of not informing the Department of the notification at this legation, on the 30th of October last, that the ports of Jacmel and Port de Paix were decreed under blockade. Such decree never took effect at Jacmel, which remains, as are all the other ports on the southern coast of Hayti, viz, Miragoane, Petit Goane, Jeremie, Jacmel, and Aux Cayes, open to foreign trade.

I have, etc.,

JOHN E. W. THOMPSON.

Mr. Bayard to Mr. Thompson.

No. 141.] DEPARTMENT OF STATE,
Washington, January 2, 1889.

SIR: Your No. 237 of the 20th ultimo has been received, and I have pleasure in approving your prompt and energetic protest addressed to Mr. Margron on hearing of the arrival at Port au Prince of a crew destined for the steamer *Haytien Republic* and of a scheme to take the vessel out of Haytien jurisdiction and turn her over to a court in the United States or elsewhere.

The departure of the crew in question from New York by a steamer of the Atlas Line was generally reported here a few days before the sailing of the *Galena* and *Yantic*, and while the proceedings in that city were surrounded by an air of mystery, much the same as at Port au Prince, it was intimated that the purpose was to tender the *Haytien Republic* to the Government of the United States, subject to a renewed proposal for adjudicating the legal status of the vessel. A more logical

inference, however, was that the object in sending this crew to Port au Prince was to put them on board as a prize crew and carry the vessel into some neutral port and attempt to secure there a judicial decision recognizing her status as a lawful prize. It is probable that your latter dispatches will show the true character of the proceeding.

There was, however, in the step so taken by Mr. Preston, or with his cognizance, enough to excite apprehension lest any delay in the arrival of our national vessels at Port au Prince might give an opportunity to carry it into effect and thus add complications to the case.

Your protest of the 19th ultimo appears to have been most timely in preventing action on that day, and the arrival of the *Galena* and *Yantic* early the next morning ended that phase of the case by the prompt delivery of the *Haytien Republic* to her owners.

I am, etc.,

T. F. BAYARD.

Mr. Thompson to Mr. Bayard.

No. 249.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, January 16, 1889. (Received January 30.)

SIR: The U. S. S. *Ossipee* left this harbor 5.50 p. m., yesterday en route for Kingston, Jamaica, taking in tow the steamer *Haytien Republic*. The U. S. S. *Galena* steamed from here at 9 o'clock this evening, bound for Key West, Florida.

I have, etc.,

JOHN E. W. THOMPSON.

Mr. Bayard to Mr. Thompson.

No. 156.] DEPARTMENT OF STATE,
Washington, February 27, 1889.

SIR: Recent advices from Hayti, received from sources both official and unofficial, induce me to call your attention to the proclamations by General Légitime of a blockade of certain ports of Hayti, which blockade the evidence in the possession of this Department tends to show has never been continuously or effectively maintained, and has now been practically abandoned.

A review of the evidence shows that the blockade of the ports of the Cape Haytien, Gonaïves, and St. Marc was decided upon October 15, 1888, and notified to you on the following day, and from that time on the authorities at Port au Prince have refused to clear vessels of the United States and vessels chartered by American citizens for those ports.

With regard to Cape Haytien, it appears that the blockade was attempted to be established by a Haytian man-of-war, on October 28, no prior notice having been received by any of the residents of the town of the intention to establish such blockade. During the next twenty days a merely formal attempt at a blockade seems to have been kept up, a vessel remaining in the neighborhood of Cape Haytien and cruising between it and Fort Liberté, distant about 24 miles to the eastward. During this time the cruiser never remained off Cape Haytien at night, and eight sailing vessels entered the port. These facts were certified by the

consuls of the United States, Austria, Belgium, Denmark, Germany, San Domingo, Spain, and Sweden and Norway. From November 23 to December 3, a period of twenty days, no blockading vessel whatever appeared off Cape Haytien. From November 2 to December 1, both inclusive, twenty-six sailing-vessels of various nationalities and two steamships entered the port. On December 3 two Haytian men-of-war appeared and proceeded to fire upon the city, and after remaining on the offing until December 6, they departed. From that time forward hardly a semblance of a blockade existed. On December 25, Rear-Admiral Luce, commanding the American naval forces in Haytian waters, reported that all the public armed vessels of Hayti were then at Port au Prince, so that, he said, "even such a semblance of blockade as may have existed at one time has ceased." Our latest advices from Cape Haytien are dated the 2d instant, and report that from January 17 to that date there had been no blockade whatever of the port, a fact vouched for by the United States consul and confirmed by Captain Howell, commanding the U. S. S. *Atlanta*.

It thus appears conclusive as to Cape Haytien that the blockade of that port was at no time valid or effective. It further appears that for long periods the blockading vessels were not upon their station or in the neighborhood, and that from the 17th of January, at least all pretense of blockade of the port must be regarded as having been abandoned.

With regard to the other ports declared blockaded on October 15, our evidence is less complete. The American schooner *William Jones* was seized off Gonaïves soon after the declaration of blockade; but having received no notice of its existence, was subsequently released by your intervention and an indemnity paid.

For some time the only vessels available for the blockade were the *Dessalines* and *Toussaint L'Ouverture*, and, as you pointed out in your dispatch No. 217, of October 29, these two vessels were insufficient to blockade the three ports of Cape Haytien, Gonaïves, and St. Marc, and both of them were on one or more occasions lying at the same time in the harbor of Port au Prince, and away from their stations. At a later date it appears that the authorities of Port au Prince chartered the three small passenger steamers of Rivière & Co., but these vessels are understood to have small coal endurance, and are not able to stay off the ports where they are stationed for any length of time.

On December 25, as I have already pointed out, all the public armed vessels of Hayti were together at Port au Prince.

In the latter part of December last the steamer *Alert* delivered an outward cargo of guano, and brought back a cargo of logwood from Gonaïves, arriving at New York January 6, 1889, not having been molested in any way. During the same month the French bark *Alphonse Eliza* and the German steamer *Allemannia* were also at Gonaïves.

So far as relates to the harbor of St. Marc, the Department has no special information as to the entrance and departure of merchant vessels, or as to the dates on which the blockading vessels were in that harbor.

The blockade of St. Nicholas Mole, Port de Paix, and Jacmel, was notified to you on October 28. With regard to Jacmel, you have already informed the Department in your dispatch No. 240, of December 26, that no blockade of the port of Jacmel was ever attempted.

With respect to St. Nicholas Mole, the Department has no definite information as to merchant vessels entering and leaving that port.

At Port de Paix the steamer *George W. Clyde* entered and departed

on October 30, finding no blockading force. The German steamer *Holsatia*, in November, also entered and departed without interference. The steamer *Alert* and the brig *Seabird* are also reported to have entered and departed during November. The steamer *William Coulman* arrived at Boston January 5, with a full cargo of logwood from Port de Paix, having delivered a full outward cargo at that port. The brig *Caroline Grey* entered at Port de Paix December 25 without interference.

As to all the five ports with respect to which a blockade has been attempted at different times, viz, Cape Haytien, Port de Paix, Mole St. Nicholas, Gonaïves, and St. Marc, the evidence therefore seems conclusive that the blockade has been at no time effective or valid; that it has always been intermittent, and that on several occasions the blockading forces had entirely abandoned the attempt to prevent ingress or egress.

The rules of international law respecting blockade are familiar and well settled and need not be repeated. The Government of the United States, in the early part of the year 1861, had occasion to contend strenuously for a liberal interpretation of those rules, but in Mr. Seward's correspondence there will be found no recognition of any blockade so ineffectual and irregular as that of the Haytian ports. That the blockade of the ports referred to has ever been effective in the sense of being maintained by a force sufficient to restrain access to the coast or to make it difficult for vessels to obtain ingress or egress, or to preclude a reasonable chance of entrance, can not for a moment be contended.

You will, therefore, lose no time in calling the attention of the authorities of Port au Prince, if you have not already done so, to the evidence in your possession, which is believed to be in many respects fuller and more recent than that of the Department, and in pointing out to them that this Government is compelled to take the view that no blockade of the ports above referred to exists, and to say further that if a blockade of those ports be again proposed, due notice of the commencement thereof must be given, and a reasonable period during which neutral vessels will be permitted to depart with their cargoes must be allowed and will be reckoned from the date of such actual commencement.

In your despatch No. 233, of December 14, you stated that you had received a copy of a decree, issued by the so-called National Assembly of Constituents, a copy of which you inclosed. By this decree it is stated that the National Assembly of Constituents, "considering that all free and independent countries have the right to close to foreign commerce one or several of their ports, decree the ports of St. Marc, Gonaïves, Port de Paix, and Cape Haytien are provisionally closed to outside commerce, and the right of changing ports (*échelle*) granted to Grand Saline, Mole and Fort Liberté are suppressed."

It has not been deemed necessary heretofore to refer to this matter in detail, but, in connection with the question of the validity or effectiveness of the blockade, it may be well to point out that this Government, following the received tenets of international law, does not admit that the decree of a Government closing any national ports in the possession of foreign enemies or insurgents has any international effect unless sustained by a blockading force sufficient practically to close such ports. This question was fully considered by me in 1885, at a time when the Republic of Colombia attempted by proclamation to close certain of its ports to foreign commerce; and in my note of April 24, 1885, to Mr. Becerra, published in Foreign Relations of that year, page 254, the question was fully discussed, and the views therein expressed I now reiterate.

You will also notify the authorities at Port au Prince that this Government will in due course present demands for indemnity for losses sustained or that may hereafter be sustained by reason of the refusal of those authorities to clear vessels for the ports declared to be blockaded while no actual blockade in fact existed. It is intended that a notice only should now be given, and the formal demand may await a more settled condition of affairs in Hayti.

I am, etc.,

T. F. BAYARD.

Mr. Thompson to Mr. Blaine.

No. 306.]

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 23, 1889. (Received Sept. 4.)

SIR: I hastily write this dispatch to catch the mail closing at 2 o'clock p. m. this day.

General Légitime abdicated yesterday at 3 o'clock p. m., going on board of the French ship of war *Kerguelen*; also the principal members of his cabinet.

The division of the northern army investing the city on the northern side, under the command of General Mompont, counsellor of state of the department of war and marine of General Hyppolite, the division investing the city on the eastern side, under General Nord Alexis, and the division of the troops from the southern departments, under General A. Simon, operating against the city on the southern side, have just completed their entry into the city and now occupy the forts and other military positions; their entry was made in the most perfect order, quietness reigns, and a general feeling of security prevails on all sides.

General Hyppolite and the other members of his cabinet are expected to arrive here from St. Marc on Monday next.

At this time I inform you that I was the chosen delegate, on the 20th instant, to go to St. Marc, and had full power to make conditions. I then, before the diplomatic and consular body, invited Mr. Garrido, the Spanish consul, to accompany me; he accepted. We returned at 10 p. m., the 21st instant.

The minister of France and the consul-general of Great Britain, although it was stated in the conditions, refused to meet the army of the North in entering. So, at the head of the other members of such corps, and in order to tranquillize the city, I met each division, and am proud to say, by the cries of "Vive le Ministre Americain," the effect was exactly as was anticipated by those desiring to see peacefulness once more reign in Port au Prince.

Full particulars will be forwarded by next mail.

I have, etc.,

JOHN E. W. THOMPSON.

Mr. Thompson to Mr. Blaine.

No. 307.]

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 29, 1889. (Received Sept. 17.)

SIR: Monday morning, the 19th instant, at 4 o'clock, the forces of General Hyppolite, under command of General Nord Alexis, attacked La Coupe; the battle lasted long into the day, and during the night

the minister of the interior of *Légitime*, Mr. Maximilien Momplaisir, evacuated *La Coupe*, leaving the northerners masters of the situation.

Early on the morning of Tuesday I received notice of a convocation of the diplomatic body from the French minister.

At 10 o'clock the different foreign representatives met at the French legation, when we were requested to go to the palace and have the meeting in the presence of General *Légitime*. When at the palace *Légitime* said that he had determined to withdraw from the Presidency, and would like the diplomatic and consular body to intervene for the preservation of peace and order. The minister of France, Mr. Sesmaisons, then said that he believed that I was the only man capable of bringing matters to a peaceful termination, now that *Port au Prince* was completely surrounded by the protesting faction, which included the entire population of Hayti with the exception of this city. In brief, I accepted on condition that I could have full power to treat with General Hyppolite; this was agreed to. Copy of this power and its inclosure, with translations, are herewith transmitted. I then invited the Spanish consul to accompany me, as reported in my No. 306. As it was supposed that the troops of General Nord were then marching down from *La Coupe* on the city, Mr. Sesmaisons asked me if I would undertake the dangerous mission of going to *La Coupe* first, in order to have them arrest their progress. This I also accepted, and, accompanied by Mr. Garrido, consul of Spain, started for *La Coupe*, but the firing at us from the outposts was so rapid that when we reached the foot of the *Fort Repoussé* we were forced to return. We learned later that they had been decoyed so often was the reason the white flag was not respected.

Tuesday evening we left *Port au Prince* on the steamer *Grande Rivière* direct for *St. Marc*, where we arrived at 3 o'clock, a. m., Wednesday. Hyppolite's man-of-war *L'Artibonite* was in the harbor and hailed us. On learning that I was there Commander Killick immediately came on board and conducted us on shore. General Hyppolite left his bed to receive us, and when the report of the object of our mission spread throughout the town, a band of music paraded through the streets; there was dancing and singing in the streets, and every other manner employed to show rejoicing that the civil war was about to end. I sent a special letter to Admiral Gherardi, who was at *Gonaïves*, telling him my mission, and asking him to repair immediately to *Port au Prince*.

We returned to this city and gave the reply from General Hyppolite on Thursday morning the 22d instant, about 10.30. Inclosed herein are copies and translations of the correspondence between us.

General *Légitime* the same day, at about 3.30 p. m., was embarked on board of the French man-of-war *Kerguelen*, which left here on Saturday the 24th instant.

According to the programme the three different corps of the army of General Hyppolite entered this city in the most perfect order the 23d instant, having at their head many members of the diplomatic and consular body, who accepted my invitation to carry out fully the conditions arranged. The French minister and British consul-general refused to accompany us to meet the army; it was just as well that they were not with us, as their presence might have caused a disturbance of some kind, or lent less value to our prestige as foreign representatives.

General Hyppolite, Provisional President of the Republic of Hayti, made his entry into this city on the 27th instant, amidst much rejoicing. After attending the cathedral, where the *Te Deum* was chanted, en route

to the National Palace, followed by his counsellors and at least fifteen hundred horsemen, he passed by this legation and here stopped to salute me and make the acquaintance of my family; he made me a most flattering yet short speech. These were the only places he stopped at on his tournée through the city.

To-day, accompanied by Rear-Admiral Gherardi and his staff, we made an official call upon the Provisional President. Our reception was most cordial.

The *Kearsarge* leaves here this evening direct for the Mole St. Nicholas.

From appearances, should General Hyppolite be definitely named President of Hayti, it looks that a new era of prosperity will follow his administration, for it must be admitted that commencing the revolution without any means whatever, while his adversary had every advantage, to so successfully terminate the revolution and hold in his troops who entered victoriously, and who thus far have committed no disorder, shows a superior intelligence in choosing his chief officers, and command in designating to them their duties, together with a strong mind and great will in carrying out his plans and humane desires.

I inclose herein copy and translation of a dispatch I have just received from the counsellor of foreign affairs, which shows for itself the pleasure the provisional government seems to have at the present friendly and peaceable status of affairs after such a long and bloody civil war.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 307.—Translation.]

Count de Sesmaisons to the members of the diplomatic corps at Port au Prince.

LEGATION OF THE FRENCH REPUBLIC IN HAYTI,
Port au Prince, August 20, 1889.

GENTLEMEN AND DEAR COLLEAGUES:

I have received from Mr. Solon Menos, secretary of state of foreign affairs, the letter which you will find inclosed a copy. The President of the Republic has made an appeal for the assistance of the diplomatic corps to endeavor to bring back peace in Hayti. Under the conditions, and without any intention of mixing ourselves in any manner in the internal affairs of the country, I think, in accord, moreover, with all of our colleagues, that it is our duty to accede to the desire of General Légitime and of his government, and to request you to kindly act as an intermediary between the general and the chiefs of the revolution.

Only, that there may be no misunderstanding, it is well agreed that you have full power to treat and bring to a solution that will, while giving satisfaction to all, assure the security of the inhabitants of the city, and guarantee order and respect of persons and property.

Accept, gentlemen, etc.,

SESMAISONS.

[Inclosure 2 in No. 307.—Translation.]

Mr. Menos to the Count de Sesmaisons.

DEPARTMENT OF STATE OF FOREIGN RELATIONS.
Port au Prince, August 20, 1889.

Mr. MINISTER: His excellency President Légitime, agreeably to the advice of the council of the secretaries of state, charged me to request the good offices of the diplomatic corps in view of a new effort to be made toward the revolutionary authorities of the North for the definite re-establishment of peace in Hayti.

You are aware that his excellency has already manifested the intention of withdrawing himself, to put an end to the civil war. The only conditions that were made for his resignation were the guaranty of order at the capital.

Divers considerations would not permit to treat directly on the terms of security that is due to the city of Port au Prince. His excellency thinks that the diplomatic corps will not refuse to act as an intermediary to obtain of the revolutionary authorities the formal assurance that order will be strictly maintained, and that persons as well as property will be effectively respected.

Please accept, etc.,

SOLON MENOS.

[Inclosure 3, in No. 307.—Translation.]

Messrs. Thompson and Garrido to General Hyppolite and his Counsellors.

ST. MARC, August 21, 1889.

Mr. PROVISIONAL PRESIDENT and Messrs. COUNSELLORS :

We have the honor to submit to you here inclosed the dispatch by which the dean of the diplomatic corps has recognized in us full power to come to an understanding with you on the acceptance of the propositions contained in the note that the counsellor for foreign relations, has remitted on the 7th of August to Messrs. Zohrab and Garrido.

We would be thankful to you to fix explicitly the mode of execution of the said note.

Accept, etc.,

MANUEL GARRIDO,
JOHN E. W. THOMPSON.

[Inclosure 4, in No. 307.—Translation.]

Mr. Firman to Messrs. Thompson and Garrido.

Liberty.

Equality.

Fraternity.

REPUBLIC OF HAYTI.

ST. MARC, August 21, 1889 (Eighty-sixth year of the Independence).

GENTLEMEN: The Provisional Government has authorized me to answer your dispatch of this day, which has been duly received.

Please find herewith a note signed and containing the details of the manner of execution of the note that I have had the honor to remit on the 7th instant to the Messrs. Zohrab and Garrido.

Accept, etc.,

A. FIRMAN.

[Inclosure 5 in No. 307.—Translation.]

Programme of the entry of General Hyppolite and his army into Port au Prince.

Liberty.

Equality.

Fraternity.

REPUBLIC OF HAYTI.

ST. MARC, August 21, 1889 (86th year of the Independence).

General Légitime having accepted the counter propositions that the provisional government made to him relative to the entry of the troops of the North and the South into Port au Prince, and having manifested the desire that the hour be fixed at which the entry shall take place, that he may be able to withdraw some moments beforehand, it is agreed that affairs shall be arranged as follows:

Friday, 23d instant, at 9 o'clock in the morning, the commission composed of the commander of the arrondissement, prosecuting attorney, and the magistrat communal, accompanied by the diplomatic and consular corps, will proceed to Port Rouge. There they will meet the army corps commanded by the counsellor of the department of war and marine, which shall make, in the most perfect order, its entry into the city by the St. Joseph's gates and occupy Fort National, the defences of the palace and its surroundings, the arsenal, and Fort St. Clair.

On the same date, at 11 o'clock in the morning, the army corps, accompanied as above, will go and meet on the Lalue road the army corps, commanded by the counsellor of the department of the interior, which shall make its entry into the capital in the best order and occupy the entire line northeast of the city, Fort National, Fort Dimanche, including Post Marchand.

The same date, at 1 o'clock in the afternoon, the same commission as above will take the army corps commanded by General Antoine Simon, commander of the arrondissement of Cayes, president of the delegation of the provisional government, superior chief of the southern forces, operating against Port au Prince, which shall make its entry in the best order and occupy Fort Bizoton, Fort Mercredi, the fort at the Leogane gates, in fact the whole of the southern line, and all the other posts that may be assigned to it by the minister of war, who shall be the first in authority in Port au Prince until the arrival of the provisional president of the republic, and of his other counsellors.

The ammunition taken by the commandant of the arrondissement of Port au Prince from the hands of the garrison of that city, conformably to the note of the 7th instant, shall be deposited at the arsenal, under the care of the said commander of the arrondissement, who shall render account thereof on the request of the provisional government.

It is well understood that it is not a question of disarming, that is to say, taking away the arms, but only taking away the ammunition, that becomes useless and even dangerous, once it is agreed that the besieging troops shall enter under arms (*armes au bras*) into Port au Prince.

The Haytian vessels of war shall be handed over to the counsellor charged with the departments of war and marine.

The whole shall be done loyally and in good faith, under the eyes of the representatives of the neutral and friendly powers who will be disposed to give their assistance for the last stage of pacification of the Republic.

A. FIRMAN.

[Inclosure 6 in No. 307.—Translation.]

Mr. Firman to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS,
Port au Prince, August 28, 1889.

MR. MINISTER: I have the honor to announce to you that yesterday at noon the Provisional President of the Republic made his entry in this city where the troops of the provisional government have preceded him four days.

Since the departure of General Légitime the whole Republic is absolutely pacified. The perfect order that reigns at Port au Prince, where persons and property are now respected, the upright attitude of the army, and the resumption of business are an evident proof that the country wishes to continue peaceably its work of reorganization in allowing no excess or weakness.

In begging you to have the kindness to inform your Government of this new state of affairs, I take the occasion, etc.,

A. FIRMAN.

Mr. Thompson to Mr. Blaine.

No. 314.]

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 11, 1889. (Received Oct. 28.)

SIR: On Wednesday, the 9th instant, at 3 o'clock in the afternoon, the National Assembly of Constituents, in session at the city of Gonaïves, elected on the first ballot and unanimously, General Florvil Hyppolite, President of the Republic of Hayti, for the term of seven years.

A delegation, composed of fifteen members of such body, with Dr. Aubry at their head, reached this city yesterday, the 10th instant, and informed General Hyppolite of his election.

There was rejoicing among the entire population. The new president will leave this city for Gonaïves on the 13th or 14th instant, to take there the oath of office on the 17th instant.

The diplomatic and consular body at Port au Prince are to have a government vessel placed at their disposition in order to go to Gonaïves to attend the ceremony. Under the circumstances, as I am at present dean of the diplomatic and consular body, I will go to Gonaïves and retain my position until after the inaugural ceremonies, for my successor not having presented any letter of credence, my absence would cause one of the *chargés d'affaires* in this city to head the foreign representatives, and the United States would not be represented.

I have, etc.,

JOHN E. W. THOMPSON.

Mr. Douglass to Mr. Blaine.

[Extract.]

No. 5.]

LEGATION OF THE UNITED STATES,

Port au Prince, Hayti, October 26, 1889. (Received Nov. 11.)

SIR: I have the honor to inform you that the presidential oath of office was administered at Gonaïves to General Hyppolite on the 17th instant, in presence of a large concourse of people. According to reports given by many and trustworthy persons who were present, the occasion was singularly imposing, and marked by many demonstrations of popular confidence in the new President of the Republic. On his return trip from Gonaïves toward Port au Prince, he is now wisely visiting several of the largest centers of population, and is doubtless making many friends by his gracious bearing towards the people.

Great preparations are now being made to give the President a royal welcome to the capital when he shall arrive from the North, a few days hence. Already the streets are extensively decorated with flags, and arrangements are being made on a large scale to make his reception one of joy.

The soldiers, of whom many of the sixteen thousand recently quartered here still remain, are now receiving new uniforms and are evidently much elated by the thought of exchanging their old and tattered raiments of war for the new and better habiliments of peace.

There is now no visible serious opposition to the newly organized government under General Louis Mondestin Florvil Hyppolite. Every one with whom I talk expresses the conviction that Hayti has had enough of war and is willing now to acquiesce in a condition of peace.

I am, etc.,

FREDERICK DOUGLASS.

Mr. Douglass to Mr. Blaine.

No. 14.]

LEGATION OF THE UNITED STATES,

Port au Prince, November 18, 1889. (Received Nov. 27.)

SIR: As indicating his confidence in the good disposition and loyalty of the people of Hayti, and the power of his government to maintain its authority and to guarantee peace to his country, I have the honor to transmit a copy of the proclamation of amnesty to all political offenders, issued on the 15th instant by His Excellency the President of the Republic of Hayti. I also inclose a translation of the same.

I am, etc.,

FREDERICK DOUGLASS.

[Inclosure in No. 14.—Translation.]

Proclamation of Amnesty.

DECREE.

Hyppolite, President of Hayti: Considering that the true strength of governments is in the popular consent; that the Government instituted the 9th October, 1889, by the unanimous vote of national constituent assembly has been acclaimed in all parts of the Republic; that it can, without danger to its stability and to the peace of the state, make for the benefit of those whom political passions have recently led astray a new act of clemency conformable in other respects to the spirit of generosity which contributed so much to the success of the revolution inaugurated the 2d of October, 1888.

On the report of the secretary of state for justice, and on the advice of the cabinet; in view of article 103 of the constitution, and articles 6 and 7 of the law of September 26, 1860, decrees:

Article 1. Full and complete amnesty is accorded to all persons who are detained in the prisons of the Republic, or who have gone into exile by reason of the political events of September 23, 1888, up to this date.

Article 2. In the present decree are not comprised the individuals accused of murder, of incendiarism, or of other non-political offenses, who will answer before competent tribunals.

Article 3. The present decree shall be published and executed under the diligence of the secretary of state for justice.

Given at the national palace at Port-au-Prince, the 15 November, 1889, the 86th year of independence.

HYPPOLITE.

By the President:

ST. MARTIN DUPUY,
*Secretary of the Interior.*LÉGER CAUWIN,
*Secretary of State for Justice and Worship.*CORRESPONDENCE WITH THE LEGATION OF HAYTI AT
WASHINGTON.*Mr. Bayard to Mr. Preston.*DEPARTMENT OF STATE,
Washington, December 4, 1888.

SIR: I have the honor to receive to-day your note* dated yesterday, in which reference is made to the affair of the steamer *Haytien Republic*, which had been made the subject of a very full communication by me to you on the 28th ultimo, and also on the 1st instant, which latter communication is not yet acknowledged by you.

In view of the exigency created by the most unexpected seizure and detention of this vessel, and the serious circumstances attendant, I am impelled to express my surprise and serious concern at the nature of your reply.

The communication of the Haytian authorities at Port au Prince, made to the United States minister, Mr. Thompson, under date of November 15, 1888, and confirmed by a subsequent note on the following day, defers the case of the seizure and condemnation of this vessel to the decision of the Government—and the language of your own note to this Department, under date of the 28th ultimo, stated your instructions to be to the same effect.

Having, therefore, possession of the history of the case, and the full proceedings of the prize commission taking cognizance of the case in

Port au Prince, and having bestowed the most careful and deliberate examination thereon, this Department conveyed to you, under date of the 28th ultimo, the decision of the President, and has sent to the United States minister at Port au Prince a copy of that communication, together with an instruction looking to the prompt restoration of the *Haytien Republic* to her owners.

Your reply of yesterday does not indicate that acceptance of the President's decision which was desired and I was entitled to expect, and this I make known to you in all frankness, in order that you may understand the condition of affairs as viewed by this Department, and which do not admit of long delay or dilatory action on the part of the Haytian authorities.

Accept, etc.,

T. F. BAYARD.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF THE UNITED STATES,
Washington, December 6, 1888. (Received December 7.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to acknowledge the reception of the note with which the Secretary of State of the United States addressed him on the 4th instant relative to the capture of the steamer *Haytien Republic*.

The undersigned thought that by the very terms of the agreement which had been made at Port au Prince between the councillor charged with the foreign relations of Hayti and the minister resident of the United States the whole affair was referred to the Government of the United States.

The very words used by the United States minister at Port au Prince were:

You do not hesitate to refer the case of the *Haytien Republic* to the Government of the United States, and express a desire so to do. (Mr. Thompson to Mr. Margron, November 15, 1888.)

And to indicate clearly the character of this reference Mr. Margron, in a note of the same date, said to Mr. Thompson:

Hence the Government of Hayti does not hesitate to leave to your Government the decision of the case of the *Haytien Republic*, all the documents of which will be submitted to its august consideration by our minister at Washington.

But it appears, from the note which the honorable Secretary of State wrote to the undersigned on the 4th instant, that, without awaiting the communication of the documents which the Haytian Government had instructed the undersigned to transmit, with his explanations, to the honorable Secretary of State; the surrender of the *Haytien Republic* is demanded on the strength of some *ex parte* documents, which the United States Government has not even communicated to the undersigned.

The undersigned, being brought face to face with this state of things, when he has neither been heard nor even enabled to examine the documents on which the notes of November 28 and of the 4th instant are based, will content himself with making the following proposition to the Secretary of State of the United States:

The steamer *Haytien Republic*, captured by a Haytian man-of-war, is now, according to international law, Haytian property.

The title of the Haytian Government rests on the act of capture and on possession; this being the state of the case, the undersigned, duly empowered for that purpose, proposes to the honorable Secretary of State that the steamer *Haytien Republic* be placed under the guard of a United States man-of-war, which shall take it to the port from which it set out, that is to say, New York. As soon as the said steamer shall arrive at that port the Haytian Government shall immediately institute proceedings in the United States court (in the district court for the southern district of New York).

With this view it will libel the steamer *Haytien Republic*; then the court having jurisdiction in the case will decide whether the title of the Haytian Government to the steamer *Haytien Republic* is valid, and will at the same time decide the incidental questions which depend on this principal question. It will be understood that the keeping of the steamer *Haytien Republic*, as long as she is intrusted to the United States, and until the Federal court of New York has taken jurisdiction, shall not in any case constitute, in the legal sense of the term, an abandonment of the rights of the captor over the capture, so that the question of the validity of the Haytian title to the captured property shall be presented in its entirety to the district court of the United States sitting at New York. In other words, the decision which that court may render shall not be in the least prejudiced, anticipated, or affected by the act of surrender of the steamer *Haytien Republic* to the United States, represented by one of their vessels.

This proposition appears to the undersigned of a nature to meet all the requirements of the situation, and it appears to him also to be in perfect conformity with the terms of the "reference" agreed to at Port au Prince November 15.

In fact, the case is thus definitely left to the tribunals of the Federal Government, which, according to the Constitution of the United States, the terms of which foreign nations are presumed to know, form one of the branches of this Government.

In conclusion, the undersigned would call the attention of the honorable Secretary of State to the fact that if this should be found preferable the Government of the undersigned would put a prize crew on board the *Haytien Republic* and would send it at its own expense to New York, where the proceedings above mentioned would be instituted.

In making these propositions to the honorable Secretary of State, the undersigned requests that he will see in them a new and complete proof of the feelings of high esteem and sincere friendship cherished by the Government of the undersigned towards the United States and their institutions.

Returning, by way of conclusion, to the note of the honorable Secretary of State of the United States dated November 28, the undersigned would mention briefly a few of the important points in which the proofs which he has in his hands contradict those upon which the honorable Secretary of State rests.

(1) David T. Compton knew perfectly well that the armed troops who were on board his ship were intended to arouse, excite, and develop the insurrection at Gonaïves, at St. Marc, at Les Cayes, and Jacmel; the pretended passengers who were found on board the vessel at the moment of her capture were the members of the revolutionary committee on their mission.

(2) On the 17th of October, from 6 o'clock in the morning until noon, the *Haytien Republic* was at Miragoane, and that day, in that same city of Miragoane, Compton learned of the blockade of the North.

(3) On the 18th he again heard of it at Les Cayes, and on the 19th at Jacmel.

(4) In Hayti the promulgation of laws does not take place through their insertion in the "Moniteur," but by publication in every district. As to that, in France, from which almost all the laws of Hayti are taken, the promulgation of the laws is not made by their insertion in the official journal.

The undersigned, not wishing to prolong the discussion at present, will restrict himself to these brief remarks relative to the note of the honorable Secretary of State dated November 28.

The other questions which are investigated in it will be the subject of a subsequent communication on the part of the undersigned, who has the honor, etc.

STEPHEN PRESTON.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, December 8, 1888.

SIR: I have the honor to acknowledge your communication, dated the 6th instant, and received on the afternoon of yesterday at this Department.

The explicit restatement which your note contains of the reference of the case of the American steamer *Haytien Republic* to the decision of the Government of the United States, according, as it does, with the statements of the representatives of the provisional government at Port au Prince to Mr. Thompson, the United States minister, makes it unnecessary for the undersigned to repeat the decision arrived at by the Government of the United States, as to the absolute invalidity of the seizure of the steamer *Haytien Republic*, and the consequent duty of those in authority at Port au Prince to restore the vessel promptly to the possession of her owners or their agents.

The undersigned deems it necessary, however, to draw your attention to the statement contained in your note, to which reply is now made, "that the surrender of the *Haytien Republic* is demanded on the strength of some *ex parte* documents which the United States Government has not even communicated to the undersigned," and the further statement: "The undersigned (Mr. Preston), being brought face to face with this state of things, when he has neither been heard nor even enabled to examine the documents on which the notes of November 28 and of the 4th instant are based, will content himself with making the following proposition," etc.

It is evident that you did not bear in mind when so writing that on November 14 you forwarded to this Department and brought to my attention the following papers relative to the capture of the steamer *Haytien Republic*, which you said you had received by the last mail from Port au Prince:

- (1) *Procès-verbal*.
- (2) Notice of blockade.
- (3) Reply of Minister Thompson.

You proceeded to promise to transmit other papers, which you hoped to receive by the next mail, and on November 19 you communicated to this Department the full text of the decision of the prize commission.

In your note last referred to you expressed a desire to make this decision of the commission the subject of further remark, or of a further

communication, in which you proposed "to examine the various aspects of the situation."

Coincidentally with the reception of these documents from you the Department received the official report of Captain Ramsey, of the United States steamer *Boston*, to which was annexed the full record of the proceedings of the special commission at Port au Prince under which the *Haytien Republic* was condemned.

From the United States minister at Port au Prince we also received the full text of all the correspondence in relation to the transaction between his legation and the provisional authorities at Port au Prince.

This Government was therefore in possession of the complete and authentic history of the period and the incidents to be reviewed, and proceeded without delay, and with the care and deliberation which the case demanded, to consider and decide as to its duty under treaty and the sanction of international law in the premises.

The decision so arrived at was promptly made known by the communication to you in my letter of November 28, in which the law and facts were fully reviewed and the reasons stated for the judgment so resolved upon.

As you were informed on the 28th of November and the 4th instant, instructions have been sent to our minister at Port au Prince to inform the provisional government there of the decisions of the President of the United States in order that the portions of the machinery removed from the *Haytien Republic* may be replaced by the provisional authorities and the vessel released and restored to the possession of her owners or their agents.

Prompt and voluntary compliance of the provisional authorities is anticipated, and the presence in Haytian waters of United States national vessels to co-operate in the restoration will undoubtedly be welcome in view of the sanguinary and discordant condition of affairs which is reported to exist, under which bombardment of Haytian cities by the naval force of the provisional government is reported by the United States consul at Cape Haytien.

The proposition contained in your note now under reply, that the *Haytien Republic* should be placed under guard of a United States man-of-war, brought to New York, and there libeled by the Haytian Government in the United States district court, is declined, and the decision of the President, as already communicated, will be carried into effect.

For testing any rights known to the law the courts of the United States are open to foreign governments, their agents, or to private parties, and can alone decide what matters are therein justiciable.

No power is vested in the executive branch of this Government to confer or restrict the jurisdiction of the judiciary, to whom, as is known throughout the civilized world, questions involving the dispensation of justice are committed with absolute confidence.

No greater or more friendly service to any government can be rendered by another than to assist in restraining the turbulence of anarchy and disorder within its borders and firmly maintain the standard of law.

Guided by this intent, and with this sole object, the Government of the United States has proceeded in the case of the *Haytien Republic*, and will carefully confine its action within the canons of law of self-preservation to its citizens in order that they may everywhere find protection under its flag when not violating treaties or international law.

Hoping that peace and order may soon be restored to Hayti, the undersigned renews, etc.,

T. F. BAYARD.

FOREIGN RELATIONS.

Mr. Preston to Mr. Bayard.

[Telegram.]

NEW YORK, *December 10, 1888.*

Your note of Saturday just received. Being now empowered to sign protocol for turning over the *Haytien Republic* to the United States; will send answer to note with draught protocol, and will be Thursday at Department to sign protocol.

STEPHEN PRESTON.

Mr. Bayard to Mr. Preston.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 10, 1888.

Your telegram received. The American minister at Port au Prince has been fully instructed to inform the provisional authorities there of the President's decision in the case of the *Haytien Republic*, so that nothing more will be necessary than compliance with that decision.

The U. S. S. *Galena* will sail from New York to-morrow morning, and should you desire to avail yourself of the courtesy, the commander will no doubt convey your communications.

T. F. BAYARD.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, December 12, 1888. (Received December 14.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti in the United States, has the honor to acknowledge the receipt of the note addressed to him by the honorable Secretary of State on the 8th instant.

Although the Secretary of State considers that the questions relating to the steamer *Haytien Republic* are closed between the Department of State and this legation, the undersigned feels compelled to present a few remarks in reply to the aforesaid note. He regrets to be obliged to advert at the very outset to the discrepancy existing between the views entertained by the Secretary of State and the undersigned with regard to the proper interpretation of the arrangement, concluded at Port au Prince on the 15th ultimo by the Haytian Government, with the United States minister resident. To this end the undersigned, re-establishing the natural order of events which, owing to the shortness of the time at his disposal, he inadvertently changed in his note of December 6, will quote, in the first place, the language used by the acting secretary of foreign relations of Hayti. Mr. Magron wrote to Mr. Thompson as follows:

The courtesy observed on the occasion of these interviews, both of which were characterized by the utmost cordiality, furnishes fresh evidence of the kindly feeling entertained toward Hayti by the great American Republic, and in the discussions which have been held on this subject have, notwithstanding the difference of our views, but drawn closer the bonds which unite the two Republics, owing to the amenity with which they were conducted.

The Government of Hayti does not hesitate to refer to your Government the case of

the *Haytien Republic*, all the papers relating to which will be laid before it by our minister at Washington.

Feeling convinced that the right is on its side, and entertaining every confidence in the impartiality of the great Republic, the Haytian nation does not in the least doubt that the American Government will admit the correctness of the decision pronounced by the prize-court at Port au Prince, and that it will respect the same, so that there will be no necessity of a recourse to arbitration.

It was evidently to this note, which was couched in such formal terms, that Mr. Thompson replied on the same day as follows:

I am in receipt of yours of this date, wherein you state that you do not hesitate to refer the case of the *Haytien Republic* to the Government of the United States.

After mature consideration of the question, * * * I have decided to comply with your request, and will therefore communicate to my Government, by the first opportunity, the tenor of your dispatch.

These two documents constitute, beyond all doubt, a synallagmatic contract. They form a whole, and the learned Secretary of State is so well read in law that there is no necessity of insisting on this point.

It is evident that the Government of Hayti understood, when it signed this stipulation, that there had at the beginning been an examination and a discussion between the Department of State and the undersigned, and that after both parties had communicated to one another the documents in the possession of each. Finally, if the matter could not be amicably settled, recourse to arbitration remained open. It was thus that the question came to Washington. The undersigned has communicated some of the documents in the order in which they were received, but not a single document in the possession of the United States has been communicated to him.

Moreover, the note which was addressed to the undersigned by the honorable Secretary of State under date of the 28th ultimo (which note reached him after the departure of the last mail for Hayti) contained a number of allegations, some of which were of the highest importance. One of them will be referred to here. The Secretary of State of the United States alleged that the proclamation of a blockade could not have been known to the *Haytien Republic* before it was captured. This allegation, however, was the consequence of an error with regard to the facts. The Secretary of State thought that the official acts of the Haytian Government were promulgated by insertion in the *Moniteur*; the undersigned, in his note of the 6th instant, stated that on the contrary such acts were promulgated by being published in each commune. The undersigned had moreover declared his readiness to prove that the *Haytien Republic*, while at Miragoane, on the 17th of October last, was aware of the existence of a blockade. Consequently a question of fact was to be established, and the undersigned thinks that according to the terms of the arrangements concluded at Port au Prince on the 15th of November he had a right to be heard and to prove his assertion.

The undersigned in his note of December 6th referred to other statements of fact and law almost equally important, and he now simply refers to what he said in that note.

The undersigned, however, when he was addressing those observations to the Secretary of State, had no idea that a decision had already been reached and made known at Port au Prince, yet such appears to have been the case from the frank declaration made by the honorable Secretary of State, which the undersigned will here reproduce in the original:

This Government was therefore in possession of the complete and authentic history of the period and of the incidents to be reviewed, and proceeded without delay, and with the care and deliberation the case demanded, to consider and decide as to its duty under treaty and the sanction of international law in the premises.

The decision so arrived at was promptly made known by the communication to you in my letter of November 28. As I informed you on the 28th of November and the 4th instant, instructions have been sent to the American minister at Port au Prince to inform the Government there of the decision of the President of the United States.

The undersigned has looked in vain in the note of the Secretary of State of November 28 for a word showing that a communication had at that time been sent to the United States minister resident at Port au Prince. However the case may be as regards this omission, the fact remains, that on the 28th November, as the Secretary of State declares, a decision had been reached; it was based upon *ex parte* documents and upon certain papers which had been furnished as they had reached the undersigned; also upon certain allegations whose correctness the undersigned, as soon as he had read them in the Secretary of State's note of November 28, declared his readiness to contest.

In the note which the Secretary of State addressed to the undersigned on the 28th of November he also said: "On the 26th instant the Department received a full report upon the case by the captain of the U. S. S. *Boston*," and on the 28th of the same month an irrevocable decision, it is stated, was adopted by the United States Government.

There is no occasion for making a formal protest now. Whatever incidents may arise at Port au Prince, whatever pressure force may exert, the Haytian nation being at peace with the United States, the Government of the undersigned instructs him to declare that its title as captor of the *Haytien Republic* can in no wise be affected by a decision of the nature of that which has just been adopted. That title and the rights connected with it consequently remain intact.

In his note of the 6th instant, and also day before yesterday by a telegram, the text of which is appended to this note, the undersigned submitted to the Secretary of State of the United States proposals for an arrangement which he still thinks would have been perfectly honorable to both powers. Those proposals were rejected.

In his reply, which bore date of the 8th instant, the Secretary of State said:

No greater or more friendly service to any government can be rendered by another than to assist in restraining the turbulence of anarchy and disorder within its borders and firmly maintaining the standard of law.

It is true that the following passage contains a sort of reservation:

The Government of the United States * * * will carefully confine its action within the canons of the law of self-preservation to its own citizens, in order that they may everywhere find protection under its flag.

Notwithstanding this reservation the undersigned read with surprise the declaration above quoted. Two cases have arisen since the overthrow of General Salomon in which citizens of the United States were interested, viz: that of the *William Jones* and that of the *Haytien Republic*. The former was settled to the satisfaction of the parties interested, while the undersigned has twice proposed a settlement of the latter.

The undersigned reserves his reply to a number of questions discussed by the honorable Secretary of State in his notes of November 28 and December 4 and 8, especially those relating to the blockade of the northern ports, which is fully recognized by Germany, England, France, and Spain, and which the United States Government itself has recognized, as is formally stated in the note addressed by the Secretary of State to the undersigned under date of the 29th of October last.

In conclusion, the undersigned will remark that the Secretary of State does not seem to have been correctly informed when, in his note

of November 28, he spoke of the ports in the possession of the insurgents. The insurgents hold Cape Haytien, Port de Paix, Gonaïves, and St. Marc. The established government occupies the other seven ports, viz: Jacmel, Aquin, Aux Cayes, Jeremie, Miragoane, Petit-Goane, and Port au Prince, the capital.

Finally, the government of General Légitime is supported by the Constituent Assembly, the total number of whose elected members is eighty-four, forty-six of whom, that is to say, more than an absolute majority, have for some days been in session at the capital of the Republic.

Thanking the honorable Secretary of State of the United States for the wishes expressed by him for the re-establishment of public peace, the undersigned is happy to inform him that, from the news last received from Port au Prince, he is fully confident of success, which he hopes will be retarded by no foreign intervention.

The undersigned has the honor, etc.

STEPHEN PRESTON.

Mr. Preston to Mr. Bayard.

LEGATION OF HAYTI,
Washington, January 2, 1889. (Received January 3.)

MR. SECRETARY OF STATE: In pursuance of instructions received from my Government I have the honor herewith to transmit to you a copy of the decree of the National Constituent Assembly, bearing date of December 16, 1888, whereby General François Denys Légitime was elected President of the Republic of Hayti for seven years.

Be pleased to accept, etc.,

STEPHEN PRESTON.

[Inclosure.—Translation.]

Liberty.

Equality.

Fraternity.

REPUBLIC OF HAYTI.—DECREE.

The National Constituent Assembly, in view of the decree of the central revolutionary committee, bearing date of August 23, 1888, hereby decrees as follows:

ART. I. General François Denys Légitime is elected President of the Republic of Hayti for seven years.

ART. II. He shall enter upon the discharge of the duties of his office on the day of his taking the oath provided by the constitution, which shall be done in presence of the Assembly on Tuesday, the 28th day of December, 1888, at 10 o'clock a. m.

This decree shall be published, printed, and posted throughout the Republic.

Done at the hall of the National Constituent Assembly at Port au Prince this 16th day of December, 1888, the eighty-fifth year of Haytian independence.

Solon Ménos, J. T. Lafontant, Tribonien St. Juste, Stephen Archer, Cadet Claude, Numa Rabel, Filsainé St. Fleur Pierre, Justin Carrié, Annulyse André, Diogéne Délineis, P. Goudré, Molière Barthélmey, B. Dufauval, Pétion Lochard, D. T. Fédé, Duroc Donat, Clernaux Chassagne, Jean Baptiste N. Débrosse, Henry Legagneur, Smanazar Alcégairre, D. Maignan, Redon Richard, M. Sylvain Ulysse Nicolas Mondésir, François N. Thevénin Salmon, fils, Pluviose, Coriolan Youance, Israël, N. Numa, Raphaël Lubin, Lacroix Lubin, Alexandre Casimir, Julien A. Jean Baptiste, Périclès Flambert, Isaac Pardo Jenne, Jean Baptiste Nelson Tassy, Georges Lacombe, F. Pauvo, T. Jn. Baptiste, Sévigné Loubeau.

CLÉRIÉ,
President.
JÉRÉMIE,
G. LABASTILLE,
Secretaries.

Mr. Preston to Mr. Bayard.

[Inclosure.—Translation.]

LEGATION OF HAYTI,

Washington, January 2, 1889. (Received January 3.)

Mr. SECRETARY OF STATE: I have the honor, in pursuance of instructions from my Government, herewith to transmit to you the decree of the National Constituent Assembly, bearing date of the 10th ultimo, closing, provisionally, to foreign commerce the ports of St. Marc, Les Gonaïves, Port de Paix, and Cape Haytien, and abolishing the right hitherto granted of putting into the ports of La Grande Salin, Môle St. Nicolas, and Fort Liberty.

Be pleased to accept, etc.,

STEPHEN PRESTON.

[Inclosure.—Translation.]

Liberty.

Equality.

Fraternity.

REPUBLIC OF HAYTI.—DECREE.

Whereas every free and independent country has the right to close one or more of its ports to foreign commerce.

Therefore, the National Constituent Assembly hereby decrees as follows:

ART. I. The ports of St. Marc, Les Gonaïves, Port de Paix, and Cape Haytien are closed, provisionally, to foreign commerce.

ART. II. The right hitherto granted of entering at La Grande Saline, The Môle, and Fort Liberty is hereby abolished.

ART. III. The counselor of the department of finance and the counselor of the department of foreign relations shall be charged with the execution of this decree.

Done at the hall of the National Constituent Assembly, at Port au Prince, this 10th day of December, 1888, in the eighty-fifth year of Haytian independence.

CLÉRIÉ,

President of the Assembly.

JÉRÉMIE,

G. LABASTILLE,

Secretaries.

In the name of the Republic the executive of the nation hereby orders that the above decree of the National Assembly be printed, published, and executed throughout the Republic.

Done at the executive mansion, at Port au Prince, this 11th day of December, 1888, the eighty-fifth year of Haytian independence.

F. D. LÉGITIME.

By the executive of the nation:

A. ROSSIGNOL,

Counselor of the Department of Finance and Commerce.

EUG. MARGRON,

Counselor of the Department of Foreign Relations.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,

Washington, January 4, 1889.

SIR: I have the honor to acknowledge the receipt of two communications signed by you, bearing date of the 2d instant, by the first of which you acquaint me with the issuance, on the 10th ultimo, by the National Constituent Assembly, of a decree provisionally closing to foreign com-

merce the ports of St. Marc, Gonaïves, Port de Paix, and Cape Haytien, and suppressing the privilege of touching at Grande Saline, Mole St. Nicholas, and Fort Liberté as ports of call (d'échelle), and with the second of the notes referred to you transmit a copy of another decree of the same Assembly, dated the 16th ultimo, purporting the election of General François Denys Légitime as President of the Republic of Hayti for the term of seven years.

Intelligence of the issuance of the two decrees in question had by our official channels already reached this Department.

As part of the coincident history of events in Hayti, it seems fitting to inform you that I have just received, under the date of December 13 last, dispatches from the consul of the United States at Cape Haytien, communicating the information of an organization at Gonaïves assuming to act as the Government of the Republic of Hayti, of which General Hyppolite has been elected provisional president, together with a council of ministers of five members and a council of state of fifteen members to advise the president when required.

I communicate the substance of the consular reports, in order that you may be enabled clearly to realize the attitude necessarily occupied by the United States and the logical expectancy with which this Government is compelled to await the issue of events in the domestic strifes in Hayti.

With a sincere hope that these strifes may soon be composed and that a well-established government of laws may soon be created by the citizens of the Republic of Hayti, I beg you to accept, etc.

T. F. BAYARD.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,

Washington, January 10, 1889. (Received January 11.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to acknowledge the receipt of the note which the honorable Secretary of State of the United States addressed to him on the 4th instant.

The Secretary of State of the United States informs the undersigned that the American consul at Cape Haytien announces to him that an

Organization has been formed at Gonaïves, assuming to act as the government of Hayti, of which General Hyppolite has been elected provisional president, with a council of five ministers and a council of state of fifteen members.

In other terms, it appears from the communication of the honorable Secretary of State that [there are?] upon some points of the Haytian territory certain individuals, pretending to have been elected or chosen, it is not said by whom or in virtue of what constitution, one of them provisional president, others ministers, and others still as councilors of state, although this latter office is unknown to the constitutions of Hayti. But in what respect can this fact modify "the attitude necessarily occupied by the United States," as the Secretary of State writes? This is what the undersigned, and he says it with regret, can not comprehend.

There exists, in fact, in Hayti one sole government exercising by just title the functions of sovereignty, and that is the government which is

the regular representative of the country, and it is established by virtue of a constitution. It has the support of the majority of the representatives elected; it has the support of the national judicial power; it is in relations with the foreign powers; it is the power and the sole power bound to the United States by a solemn treaty. Lastly, it occupies the capital of the country, and holds in its hands the mainsprings of the administration. What, on the other hand, are the individuals of whom the note of the Secretary of State speaks?

They are simply secessionists, in quest of a foreign protectorate, and the learned Secretary of State is not unaware of the opinion of the United States regarding those secessionists who, a quarter of a century ago, did not hesitate to take up arms for the purpose of withdrawing from the National Government. But, moreover, the United States could still less, in the presence of the revolt which has occurred on certain points of the Haytian territory, feel any embarrassment as to the line of conduct laid down by the precedents of their own history. Let us recall the words which were spoken on a grave occasion by the illustrious President of the United States, who, after having crushed secession in the United States, assured, during his incumbency of the chief magistracy, the maintenance of the neutrality of the United States, and by patient negotiations succeeded in causing the principles of such neutrality to be accepted by the British Government. President Grant expressed himself as follows in a message addressed, on the 13th of June, 1870, to the House of Representatives, on the subject of the Cuban insurrection:

During the whole contest the remarkable exhibition has been made of large numbers of Cubans escaping from the island * * * congregating in this country at a safe distance from the scene of danger, and endeavoring to make war from our shores, to urge our people into the fight * * * and to embroil this Government in complication, and possible hostilities, with Spain. It can scarce be doubted that the last result is the real object of these parties.

Mr. Monroe concisely expressed the rule which has controlled the action of this Government with reference to revolting colonies pending the struggle by saying, "as soon as the movement assumed such a steady and consistent form as to make the success of the province probable the rights to which they are entitled by the laws of nations as equal parties to a civil war were extended to them."

And, in conclusion, President Grant added:

There is not a *de facto* government in the island of Cuba sufficient to execute law and maintain just relations with other nations. Spain has not been able to suppress the opposition to Spanish rule in the island, * * * the question of belligerency, however, which is to be decided upon definite principles and according to ascertained facts, is entirely different from the manner in which the strife is carried on on both sides, and the treatment of our citizens entitled to protection. (See the special message of President Grant of 13th June, 1870.)

These principles so firmly exposed and so much in accord moreover with the numerous precedents cited in the "Digest of International Law," edited by Dr. Francis Wharton, are those which, as the undersigned is convinced, the Government of the United States will uphold in the present circumstances.

The organization of which the learned Secretary of State speaks is evidently inconsistent; it has not its origin in free suffrage; it is one of the numerous and deplorable incidents which have so often taken place during the last eighty years in a number of States of Central and South America; the United States have taken no account of them except in rare instances and when certain well determined facts have been presented.

The undersigned asks himself, however, why for some time past so unusual a movement has occurred in the United States in regard to the insurrection which has broken out in a part of the Republic of Hayti,

If it be compared with those recorded in the annals of the island it is far from presenting the importance of certain revolts which every one familiar with the history of the Antilles could immediately name, and yet the press is filled with the most audaciously false news of the events occurring in Hayti, and on the other hand preparations in violation of the laws of American neutrality appear to be in progress at this very moment upon the territory of the United States, what then is the cause of this movement, so unaccustomed and so difficult to comprehend?

The undersigned will briefly state it herein: A little band of revolted Haytians and a small number of American speculators, who are vainly endeavoring to conceal their names behind persons of little weight and whose schemes are, besides, perfectly known, are attempting to profit by the agitation in order to make money.

To this speculation, founded in part on the published false news and excited by eventual financial projects, is due the persistency of the Haytian insurrection, whose real headquarters are at New York. This is the cause of the evil and that is its seat.

Therefore, in thanking the learned Secretary of State for the desires he has expressed to the undersigned in favor of peace in Hayti, the undersigned expresses in turn to the Secretary of State the firm and sincere conviction he feels that the laws of the United States will strike if occasion demand all those who may render themselves liable within the limits of the territorial sovereignty of the United States for acts contrary to the principles of neutrality.

The undersigned has the honor, etc.,

STEPHEN PRESTON.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,

Washington, January 25, 1889. (Received January 26.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to call the particular attention of the honorable Secretary of State of the United States to the acts of insurgent Haytians and their American and foreign accomplices, to divers purchases of vessels in the jurisdiction of the United States, to the fitting-out of said vessels with a view to strengthening them, to arming them, and to sending them from the port of New York for the purpose of committing hostilities against the Republic of Hayti, with which the United States is at peace.

The facts which the undersigned would bring to the attention of the Secretary of State of the United States will be more easily understood, if he will recall, in the first place, the questions presented in his note under date of the 24th of November last. Speaking of certain armed expeditions, the undersigned said:

But in the case of the steamer *Saginaw* and in that of the steamer *Geo. W. Clyde* the question is complicated by the interposition of the consul of a third power and by the sending of arms, munitions, and other articles contraband of war to a neutral port. It is for this reason that the undersigned has deemed it his duty to enter here into certain explanations. * * *

In this month of November the consul of St. Domingo at New York, as it appears from the deposition of Mr. Bassett, has twice delivered a permit similar to those which the undersigned has just mentioned, with a view to authorizing the sending of arms to a small port of the Dominican Republic called Monte Christi. An examina-

tion of the map shows that this port situated in Dominican territory, is the nearest to Haytian territory; moreover, that the village situated near said port has scarcely 1,000 inhabitants. There is no commerce whatever of importance in this forsaken spot. And yet it is for this point that the two certificates of permit have been issued by the Dominican consul at New York to the steamer *Saginaw* * * * and to the steamer *Geo. W. Clyde*.

Emboldened by his success in thus sending contraband of war, which, immediately after it was disembarked at Monte Christi, was again sent forth to its true Haytian destination to the very ones who had paid for it in New York with the funds of insurrection, Mr. Julia, although consul of a nation neutral and friendly to the Republic of Hayti, has applied himself anew to this work.

One Nemours Auguste, agent of the Haytian rebellion, and other individuals sent to the United States under different titles by the pretended organization of the north of the island of Hayti, have deposited in two commercial houses in New York, to wit, Jimenes, Haustedt & Co., and Kunhardt & Co., various sums of money amounting to about \$200,000.

It is with this fund, evidently furnished by the rebels of Hayti, that there have been purchased in these last weeks the three ships which the undersigned is about to discuss.

(1) The steamer *Novelty*, of about 200 tons, has been purchased in Boston by Haytian agents with the assistance of Jimenes, Haustedt & Co., who have paid the money from the rebel fund. This is the same house that the undersigned has before called the attention of the Department to in his note of 24th November last.

The *Novelty* went secretly from Boston to New York with coal and arms. It arrived in the bay of New York in the night of the 9th instant. It anchored off Stapleton, Staten Island, and there it received the rest of its cargo. The next day, the 10th instant, at the same hour as the closing of the custom-house (4 o'clock in the afternoon), Mr. L. Julia, of whom previous mention has been made, cleared through said custom-house the steamer *Novelty* under the name of the *Mercedes*, and under the Dominican flag, the clearance being made out for Samana and Monte Christi. The *Mercedes*, according to her manifest, had nothing on board but a cargo of 200 tons of coal. This steamer remained at her wharf on the 11th, but perceiving that she was watched, she put to sea at 3 o'clock a. m. on the 12th instant. Three hours before this precipitate departure the captain had received the papers relative to the pretended Dominican registration, which appears, if we are to believe his own statements, to amount to a fictitious sale to Mr. Julia.

The undersigned will now invite the attention of the honorable Secretary of State to another transaction of Jimenes, Haustedt & Co. on the 12th instant. On that day this firm, which is of foreign nationality, dispatched the American schooner *Lizzie May* from the port of New York with the armament intended for the steamer *Novelty*, which had now become the *Mercedes*, and for the steamer *Madrid*. This armament, which consisted of cannons and munitions of war, appears in the manifest of the said schooner as wind-mills, bridges, tubing, iron bars, etc.

On the 14th instant the same firm of Jimenes, Haustedt & Co. dispatched to the above-named port of Monte Christi the American steamer *Caroline Miller*, with a cargo of merchandise for Cape Haytien, which port was closed by a decree of the Government of Hayti bearing date of December 10, 1888, and off which there is a Haytian naval force, whose instructions are to keep the port closed. Eight officers who had been recruited in New York sailed on board of the *Caroline Miller*.

(2) At the same time the said firm of Jimenes, Haustedt & Co. and

that of Kunhardt & Co. purchased the steamer *Madrid*, which is at this moment being converted into a war vessel in the Erie Basin at Brooklyn, paying for it with the funds that had been deposited with them by the Haytian rebels, and that openly. According to the information received by the undersigned, as soon as the *Madrid* shall be ready to put to sea, a fictitious sale of her will be made (as was done in the case of the *Mercedes*) to Mr. Julia, consul of the Dominican Republic at New York, she will fraudulently hoist the Dominican flag, and thus, under false colors, will proceed to Cape Haytien.

(3) Finally, Kunhardt & Co. have purchased the steamer *Geo. W. Clyde*, for which they have paid with funds deposited with them by Mr. Nemours Auguste, of whom mention has been made above. This steamer is being converted into a vessel of war at pier 15, East River, New York, under the very eyes of the public.

The undersigned knows, moreover, that the repairs which are now being made on the two steamers aforesaid are being paid for, and will finally be paid for, with the funds of the Haytian rebels.

The parties, furthermore, who are preparing the armaments for the two vessels just referred to, are Messrs. Reed, of Boston, and Hartley & Graham, of New York, and the funds with which these armaments are to be paid for are those furnished by the Haytian rebels.

Finally, the undersigned thinks that he knows that men for service, both at sea and on land, are at this very moment being enlisted in the city of New York.

These facts, which are for the most part public, and which are in all cases susceptible of absolutely conclusive proof if these various cases were brought before the courts of the United States, here appear in a very serious light.

The most open violations of the rules of neutrality are barely covered with the most transparent veil; the Dominican consul dispatches cargoes of arms, lends his name to fictitious sales, and screens all these violations of law with Dominican nationality. But what is the import of these criminal proceedings? The very essence of these transactions clearly reveals their true authors. It is the rebel Haytians who buy through intermediaries; it is they who pay from the rebel fund the vessels and their armaments; all belong to them.

Mr. Nemours Auguste, Mr. J. Haustedt, and Mr. William P. Clyde have boasted—very wrongly the undersigned is pleased to believe—of having learned from the mouth of the honorable Secretary of State that the Government of the United States considered these sales and these armaments of vessels transferred to a foreigner as simple commercial transactions.

The undersigned refuses to put the least faith in these statements when they refer to discussions relative to the duties of neutrals which have obtained the last quarter of a century. In 1871, when the United States presented their case to the Arbitral Tribunal of Geneva, they explained as follows the decision of Judge Story in the affair of the *Santissima Trinidad*, which was appealed to by England as a justification of her conduct, as far as regards a neutral power during the war of secession.

The undersigned feels obliged to reproduce here a passage of the case of the United States officially presented to the Geneva tribunal:

It may be assumed that a vessel of war is not to be confounded with ordinary contraband of war. Indeed the only respectable authority which has been cited even apparently to the contrary is an observation which Mr. Justice Story thrust into the opinion of the Supreme Court of the United States upon the case of the *Santissima Trinidad*.

If that eminent jurist had said that a vessel of war was to be regarded in public law as an article which might be legitimately constructed, fitted out, armed, equipped, or dealt in by a person in the territory of a neutral with the intent that it should enter the service of a belligerent, subject only to a liability to capture as contraband of war by the other belligerent, the United States would have been forced with great regret to ask the tribunal to disregard an opinion so at variance with common sense and with the whole current of the action of nations. Happily, they are under no necessity of casting an imputation on the memory of one of their brightest judicial ornaments.

And after having analyzed the facts of the affair, the recital of the United States adds:

It is apparent, he says, that she was sent to Buenos Ayres on a commercial venture. * * * The whole of his subsequent remarks turned upon the absence of an intent in Baltimore in the mind of the owner before she sailed that she should in any and at all events, whether sold or not, go into the service of the belligerent. * * *

On the very next day John Marshall, * * * in the parallel case of the *Irresistible*, a vessel built at Baltimore, sent to Buenos Ayres, and there commissioned as a privateer, pronouncing the opinion of the same court, declared that the facts as to the *Irresistible* showed a violation of the laws of the United States in the original construction, equipment, and arming of the vessel and that, should the court decide otherwise, the laws for the preservation of the neutrality of the country would be completely eluded. (Gran Para, 7 Wheaton 471, case of the United States, Vol. I, pp. 82, 83.)

The undersigned can not but concur in the opinion so well expressed in the passage above cited.

He will call attention besides to the fact that one of the rebel cruisers, for which damages have been energetically claimed from the British Government, the *Oreto*, later the *Florida*, when it was signified to the Government of the Queen, was also reported to have been sold or destined to a neutral Government, Italy; they said it would go to Palermo, just as to-day they say that the *Madrid* or the *Geo. W. Clyde* goes to Monte Christi.

The undersigned, without going further as to this point, will refer the honorable Secretary of State to the opinion of Hon. Charles Francis Adams, delivered in the Geneva Tribunal. The distinguished umpire for the United States spoke of a case precisely similar to the cases which we are discussing in such severe terms that the undersigned has nothing to add to them. (See the Opinion of Charles Francis Adams, Geneva Arbitration, Vol. IV, pp. 150 and following.)

The undersigned, without dwelling on the subject above mentioned as much as it requires, but which want of time compels him to avoid, must now call the attention of the Secretary of State of the United States to the duties of neutrals.

In conformity with the strict rules established by the treaty of Washington, and then declared an integral and essential part of the law of nations, as the United States had always understood it—

A neutral Government is bound, first, to use due diligence to prevent the fitting out, arming, or equipping within its jurisdiction of any vessel which it has reasonable ground to believe to be intended to cruise or to carry on war against a power with which it is at peace, and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above; such vessel having been adapted, in whole or in part, within such jurisdiction, to warlike use. Thirdly, to exercise due diligence in its own parts and waters as to all persons within its jurisdiction to prevent any violation of the foregoing obligations and duties. (Treaty of Washington, Article VI.)

And in its comment on these articles the statement of the United States formulates the following principles:

1. That the belligerent may call upon the neutral to enforce its municipal proclamations as well as its municipal laws.
2. That it is the duty of the neutral, when the fact of the intended violation of its sovereignty is disclosed, either through the agency of the representative of the belligerent

erent or through the vigilance of the neutral, to use all the means in its power to prevent the violation.

3. That when there is a failure to use all the means in the power of the neutral to prevent a breach of the neutrality of its soil or waters there is an obligation on the part of the neutral to make compensation for the injury resulting therefrom. (See case Geneva Arbitration, Vol I, pp. 58, 59.)

The principles above laid down are the very ones by virtue of which the undersigned calls the most serious attention of the Secretary of State of the United States to the facts above recited. They apply to them word for word in the most exact manner.

It is incumbent on the United States to examine these facts with the greatest care, and to act with firmness. In the accomplishment of this work the United States may count on the active co-operation of the undersigned; but the undersigned will remark once more, in the present circumstances, especially as certain agents of the Haytian rebels have boasted of having been received at Washington, and have pretended to find encouragement and sympathy there—all of this falsely, as the undersigned is convinced—he feels that he has the right to appeal to the honorable Secretary of State, and after reciting the facts to him, after telling him that almost all of them had become matters of public notoriety, to ask him to take immediate action.

Finally, in the absolutely impossible event that his just requests are not heard, he would have the right to reserve all ultimate resorts against the neutral whose negligence shall have eventually caused direct damages to the Government of the undersigned.

In 1883 a formidable insurrection broke out in Hayti. An agent, Mr. W. Bourke, was sent to Washington; the lamented predecessor of the Hon. T. F. Bayard hastened to get rid of him, and Mr. Frelinghuysen communicated to the undersigned the purport of the interview, when the rebel agent was not even permitted to explain himself. Attempts absolutely similar to those which the undersigned has above set forth were made in 1883, at Philadelphia and New York, but precise instructions had been given from Washington to the Federal functionaries in those States; and it is with gratitude that the undersigned here mentions the conduct then observed by the Government under circumstances which were particularly difficult. The *Tropic* expedition from Philadelphia led to the condemnation of two of the officers of the vessel, Pender and Rand. The *Tropic* would itself have been the object of a judicial action had the steamer not foundered on the voyage home. (See the Federal Reporter, Vol. XVII, pp. 142 *et seq.*)

The affairs of the *Mary N. Hogan*, which was bought at New York with rebels' funds and fitted out for a military expedition, gave rise at the time to important judicial discussions, and to a judgment which is found printed in the Federal Reporter (Vol. XVII, p. 818 *et seq.*; Vol. XVIII, p. 529 *et seq.*)

Lastly, her tender, the schooner *Erwin*, was in its turn the object of a prosecution before the United States court sitting in Virginia, and the matter terminated in this case again by the condemnation of the arms and munitions of war which were seized on board. (See the Federal Reporter, Vol. XX, p. 50 *et seq.*)

It is in the name of these precedents—of every sort, of every origin, some emanating from the Executive power, others from the judicial power—that the undersigned makes a solemn appeal to the honorable Secretary of State. He asks only the strict application of the principles established, proclaimed, and affirmed by this very Government of which he asks action without delay.

And the undersigned has the right to make this demand of the

learned Secretary of State of the United States, whatever may be the political opinion which the latter holds regarding the strife now occurring in Hayti. The statute, called the neutrality act, contains in formal terms these words:

Every person who within the limits of the United States fits out or arms or attempts to fit out and arm or procures to be fitted out and armed, or knowingly is concerned in the furnishing, fitting out, or arming of any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince, or state, or of any colony, district, or people with whom the United States are at peace. (See U. S. Rev. Stats., sec. 5823.)

This section is applicable under all possible hypothesis, even in the very improbable contingency of the triumph of the Haytien rebels; consequently, if the United States do not wish suddenly to break with their glorious past and with the memorable precedents of their neutrality, and to enter upon a path which their eminent men have ever avoided, there is occasion in the present instance for a rigid inquiry, and, as the undersigned deems, for a strict application of the law. The undersigned demands, therefore, formally, that the Government of the United States shall fulfill its duties as a neutral.

In conclusion, the undersigned can not do better than invoke, in favor of his demand, the high authority of the Hon. Thomas F. Bayard, who wrote to him on the 29th of October last:

As to any movement in the United States for the sending of vessels to Hayti, armed for the purpose of participating in an insurrection in that island, the Department will take prompt measures whenever information is laid before it to advise the proper authorities to inquire into the alleged movement.

The undersigned has the honor, etc.

STEPHEN PRESTON.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, January 28, 1889.

SIR: I have given the fullest consideration to the statements contained in your communication of the 25th instant, the receipt of which on the 26th instant I have the honor to acknowledge.

Without reviewing the assertions you therein make on the sundry citations of judicial and other opinious and expressions relating to the international duties of neutral States, or the statutes of the United States defining the remedies and the procedure by parties having interest thereunder, I find nothing in the cases so suggested which would change the declarations made in my note to you of October 29 last, the extract from which constitutes the closing paragraph of the note to which I now have the honor to reply.

The citation which you give should not, however, be dissociated from the immediately subsequent context, and the whole passage reads as follows:

As to any movement in the United States for the sending of vessels to Hayti, armed for the purpose of participating in an insurrection in that island, the Department will take prompt measures, whenever information is laid before it, to advise the proper authorities to inquire into the alleged movement. It would insure more prompt action, however, for Haytian agents at any place within the United States where such an expedition is supposed to be preparing, to apply directly and immediately to the United States district attorney, and present to him full information as to such illegal action.

In accordance with my expressed readiness to advise the proper authorities to inquire into the alleged movement, I have sent to Messrs. Mark D. Wilber, of Brooklyn, and Stephen A. Walker, of New York City, the attorneys of the United States for the eastern and southern districts of New York, respectively, copies of your communication of the 25th instant, with a request to inquire promptly into the movements therein alleged to be in progress. In order to enable these gentlemen to set the machinery of the courts in motion it will be necessary for them to be furnished with the proof of which you state your assertions are susceptible.

Accept, etc.

T. F. BAYARD.

Mr. Preston to Mr. Bayard.

[Telegram.]

NEW YORK, *February 4, 1889.*

Steam-lighter *Admiral*, at pier 10, North River, New York, has on board armament of rebel steamer *Madrid*, consisting of several one-hundred-pounder Parrott cannons with ship carriages and several hundred projectiles, part received from William Reed & Son of Boston, and part from from Joseph Frazer, of New York. They are, we believe, intended to be shipped on the tender of the *Madrid*, the American steamer *Carondelet*, now at Erie Basin, or on another vessel, for a neutral port, but in fact for Cape Hayti. Collector Magone advised, asked to telegraph to you for immediate instructions to act.

STEPHEN PRESTON.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, *February 5, 1889.*

SIR: I received at a late hour last evening a telegram, dated at New York on the 4th instant, in the following words:

Steam-lighter *Admiral*, at pier 10, North River, New York, has on board armament of rebel steamer *Madrid*, consisting of several 100-pounder Parrott cannons with ship carriages and several hundred projectiles, part received from William Reed & Son of Boston and part from Joseph Frazer of New York. They are, we believe, intended to be shipped on the tender of the *Madrid*, the American steamer *Carondelet*, now at Erie Basin, or another vessel, for a neutral port, but in fact for Cape Hayti. Collector Magone advised, asked to telegraph to you for immediate instructions to act.

STEPHEN PRESTON.

As heretofore, when allegations have been presented to this Department of the fitting out and arming, within the United States, of vessels for participation in the existing conflict in Hayti, I have communicated the information to the Secretary of the Treasury and the Attorney-General in order that the officers of their respective departments may be suitably instructed to co-operate in securing all possible opportunities for resort to the judicial branch. And I again impress upon you the necessity to which I adverted in my communication of the 28th ultimo, of setting the judicial machinery properly in motion in order to determine whether the facts you represent in respect of the participation of vessels of the United States in the internecine warfare of factions in Hayti constitute a violation of the statutes of the United States.

Accept, etc.,

T. F. BAYARD.

Mr. Preston to Mr. Bayard.

LEGATION OF HAYTI,
New York, February 14, 1889. (Received February 15.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to bring the following facts to the notice of the honorable Secretary of State of the United States:

The steamer *Carondelet*, laden with arms and munitions of war, was seized on Wednesday, the 6th instant, by the United States district court for the southern district of New York.

The case was set down by the court for the Saturday following, the 9th instant, with the consent of the district attorney; the time allowed, in view of the importance of the matter involved, was quite insufficient. The case was thus heard without any preparation save that resulting from the evidence or facts which the undersigned had been able hastily to collect; consequently, owing to his not having requested the court to allow him sufficient time to collect all the details, together with the evidence in support of his facts, the honorable district attorney was unable satisfactorily to establish the guilt of the suspected steamer.

It is true that the case, which was begun on Saturday morning, was adjourned until the following Tuesday; this extension, however, was manifestly too short, and yesterday, the 13th instant, the evidence of the United States was so insufficient that the district attorney declared that he would carry the case no further. The decision against the seizure was thus assured, and it was rendered immediately.

In order to secure a different result, and even the lawyers employed to defend the vessel and her cargo admitted the offense in their private conversations, the neutral, which in this case was the United States Government, should have taken the affair in hand and have made an investigation itself, showing something of the energetic skill and talent in preparing a case of which the undersigned was witness in 1883, when the case of the United States against the *Mary N. Hogan* was tried.

In fact, as the undersigned had the honor to remark in his note of the 25th ultimo to the Secretary of State of the United States, according to the letter of international law, as it has been understood and interpreted by the United States themselves, a neutral should exercise all due diligence "in its own ports and waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties." (See Treaty of Washington, Article VI.) This point, however, having been elucidated in the note addressed by the undersigned to the honorable Secretary of State on the 25th ultimo, there is no need of his discussing it again; suffice it to say, therefore, that in case of the *Carondelet* the district attorney at New York formally declared to the undersigned that he had no means of seeking for the facts. Consequently, on this essential point, the undersigned can not regard the action of the United States Government as having met the obligations that were imposed upon it; this Government did not exercise "due diligence." Doubtless the skillful and honorable officers of justice made the best use of the evidence hastily collected by the undersigned or under his direction, but it can not be admitted that the neutral in the case now under consideration sufficiently fulfilled his obligations.

As it was, the evidence indicated or suggested by the legation of Hayti was the only evidence that was considered.

The undersigned now comes to the steamer *Madrid*, to which refer-

ence was made in the note which he addressed to the honorable Secretary of State on the 25th ultimo.

It appears from the testimony of Henry R. Kunhardt, jr., of the firm of Kunhardt & Co., as given yesterday in the case of the United States against the *Carondelet*, that the *Madrid* was purchased by him, that it is being converted by him into a vessel of war, and being put in a proper condition to receive its armament.

This matter has been arranged with Nemours Auguste. Kunhardt declared, moreover, that Nemours Auguste had deposited with the firm of André, Giraud & Co., of Paris, a sum on which he (Kunhardt) is authorized to draw in order to re-imburse himself for his advances; that any surplus that may be due him will be paid at Samana, Santo Domingo, whenever the *Madrid* shall be delivered.

The undersigned scarcely need remind the honorable Secretary of State who Nemours Auguste is. A letter from Nemours Auguste, addressed to the Secretary of State of the United States, appears in Executive Document No. 69, which was communicated to the United States Senate on the 15th ultimo. (See No. 190, pp. 235 *et seq.* of the said document.) It is therefore admitted that the *Madrid* has been bought and paid for by Nemours Auguste; that the money is the Haytian rebel money is simply a matter of technical proof; in order to establish this nothing but a moral delay is needed, sufficient for the production of ample evidence in legal form.

In the meantime, the undersigned has learned that the steamer *Madrid* will probably sail on Saturday morning. He therefore requests that the collector of the port of New York may make use of the discretionary powers which are conferred upon him by section 5290 of the Revised Statutes of the United States, and that he may detain the *Madrid* provisionally. To this effect the undersigned begs the honorable Secretary of State to cause immediate instructions to be given to the said collector by telegraph.

At the same time, the undersigned asks that positive instructions may likewise be given to the competent district attorney, such instructions as may authorize that officer to use the due diligence which international law imposes upon a neutral.

The undersigned, on his part, will place all the evidence that he has already obtained or is likely to obtain, establishing the nature of the whole transaction relative to the steamer *Madrid*, in the hands of the officers of justice of the United States.

The undersigned can not conclude this note without adding the expression of his conviction that the honorable Secretary of State of the United States will appreciate, as he does himself, the necessity of causing the neutrality of the United States to be respected by all.

The undersigned has, etc.,

STEPHEN PRESTON.

[Inclosure.]

Testimony of Henry B. Kunhardt.

HENRY B. KUNHARDT, jr., being duly sworn and examined as a witness for the libellants, testifies:

By Mr. ROSE:

Q. What is your business?—A. General commission merchant and steam-ship agent and general business.

Q. You were served with a subpoena *duces tecum* this morning to produce?—A. No, sir, I was not; but I came here as I understood you would like to see me and I am willing to testify. I have not been served with a subpoena.

Q. Have you been out of the city for a few days?—A. I was last evening with my brother in Lawrence, who has a mill, and I came back by the night train in order to be here this morning in case I should be wanted for anything.

Q. When did you leave the city before?—A. I left the city by the 3 o'clock train on Monday and arrived in Boston at 9 o'clock. I went the following day to the mill in Lawrence.

Q. Answer my question.—A. Yes, sir.

Q. Who is C. P. Kunhardt?—A. C. P. Kunhardt is my cousin, first cousin.

Q. Has he been lately employed by you?—A. He has been lately employed by me.

Q. In what capacity?—A. In—to supervise work which I didn't know anything about and he did.

Q. Also as paymaster?—A. Also as paymaster.

Q. Where and to pay what men?—A. Well, he has been here in New York and in Brooklyn and in—

Q. I don't care anywhere excepting, has he been paying men on the *Madrid*?—A. He has; yes, sir.

Q. Have the repairs and alterations and work that has been done on her been done under your directions?—A. Under my orders.

Q. Under your orders?—A. Yes; I didn't know technically about the things.

Q. You had the contract to make these repairs and alterations and changes?—A. Well I don't know what you call contract, you see; if you will define it a little I will be glad to reply.

Q. How did you become to be interested in having the repairs to the *Madrid* made and done?—A. I was interested in it because I was asked if I was willing to send down a boat to strengthen them.

Q. Send down a boat to strengthen them?—A. To strengthen them to the South; strengthened to serve as a gun-boat.

Q. Who asked you if you were willing to do that?—A. A man by the name of Nemours Auguste.

Q. Do you know for whom he was acting?—A. I know what he told me he was acting for, yes, sir.

By Mr. MACFARLAND :

Q. What is the answer?—A. For the Government of the Republic of Santo Domingo.

Q. That is what he told you?—A. Yes, sir.

By the COURT :

Q. You said "send down," send down where?—A. Send down to Santo Domingo.

Q. Was any port named in Santo Domingo?—A. Either Port au Platte or Samana, at our option.

By Mr. ROSE :

Q. And you undertook that contract?—A. Most decidedly; the way I executed it—

Q. Answer my question?—A. Yes, sir.

Q. How much were you to get for it?—A. I was to get a sum of money to be paid, the balance to be paid down there on delivery of the vessel.

Q. The balance on delivery of the vessel?—A. Yes, sir.

Q. Has he paid any part of the sum that you were to receive?—A. Part of the sum has been deposited, yes, sir.

Q. Where?—A. In Paris.

Q. Subject to whose draft or check?—A. Subject to our indorsed drafts.

Q. To your indorsed drafts?—A. Yes, if you like I will explain the thing further.

Mr. MACFARLAND. Is it necessary to go into these private transactions? I don't think it is quite fair.

The WITNESS. I am willing to answer anything about the transaction.

Mr. MACFARLAND. I don't know that he has any objection to the inquiry.

The WITNESS. It is a commercial transaction.

Q. With those moneys you have paid for these repairs?—A. Not with one cent of those moneys did I pay for the repairs on the boat.

Q. You paid for it with your own moneys?—A. Every cent.

Q. And to get repaid by the moneys deposited in Paris?—A. No, sir; I said that was a deposit.

Q. How are you to get the moneys back that you have paid?—A. I am to be paid on the delivery of the steamer at Samana for the balance of the contract.

Q. At Samana?—A. At Samana or Port au Platte. I chose Samana.

Q. How much have you received?—A. Well—

Mr. MACFARLAND. Wait a moment. I don't know whether you have any objections to answering the question, but if you have them I ask the court whether it is necessary to interrogate the witness about it.

The COURT. Will Mr. Kunhardt first state whether he prefers not to answer.

The WITNESS. I prefer not to answer any commercial transactions. I don't see whose business it is except if the court orders it.

Mr. ROSE. If he objects to it, I don't wish to press it.

Mr. MACFARLAND. As to the main facts there is no desire to conceal the slightest circumstance about them.

The COURT. It wouldn't make any difference in the legal question whether the account was a few dollars more or less.

By Mr. ROSE:

Q. This deposit in Paris was made by whom or to be made by whom?—A. I want to be correct. By different merchants in different places in Europe, who were to accept certain drafts.

Q. Drawn by whom?—A. I don't know; I didn't care either.

Q. But was it to be made by Mr. Nemours Auguste?—A. The deposit was to be finally made, arranged by Mr. Nemours Auguste certainly.

Q. And how much was to be deposited there, was it to cover anything else than your dealings here that you know of?—A. Not a cent, didn't cover it either. No, I said the balance was to be paid on delivery of the steamer at Samana.

Q. I understood you were to have the whole of the money deposited in Paris?—A. The whole of what money?

Q. To pay for the repairs.—A. No, sir; I never said it; I said this was a deposit and that he paid that deposit, and the balance of our bill was to be paid on delivery of the steamer at Samana.

Q. By whom?—A. By the Government of the Republic of Santo Domingo.

Q. Name the person that was to pay you?—A. I do not know; I do not care.

Q. Was that contract in writing?—A. No, sir; they won't get the ship if they don't pay, that is one thing I know.

Q. Is Mr. Auguste a Dominican?—A. I do not know; I believe he is from Paris, but I do not know.

Mr. MACFARLAND. I beg that you won't state anything that you do not know, but simply state what you know.

Q. Where does Mr. C. P. Kunhardt live?—A. Somewhere in Twenty-third street. If you want him he can be had right away.

Q. Hasn't Mr. Auguste ever said to you that he represented the Government of Hippolyte?—A. Never, sir.

By Mr. O'CONNELL:

Q. Where was this money to be deposited in Paris, the sum you have mentioned?—A. At the firm of André, Giraud & Co. I do not know the exact address.

Q. What was the sum of money?—A. The court has ruled that I needn't answer that question.

Mr. ROSE. The court hasn't ruled.

The COURT. You may state proportion of the whole price, that will be sufficient.

The WITNESS. Not one-half.

The COURT. Less than one-half?

The WITNESS. Less than one-half.

Q. Have you had conversations with him?—A. I have known him for ten years; why yes.

Q. How recently?—A. This morning.

Q. Do you know what his business is in this country at present?—A. No, sir.

Q. He didn't tell you, did he?—A. He didn't tell me.

Q. At any time?

Mr. MACFARLAND. Wait a moment. The line must be drawn somewhere as to this sort of testimony, and I raise the objection. It is not a proper way of interrogating the gentleman.

Mr. O'CONNELL. If your honor please, this testimony is very important to us. This Mr. Frederic Elie is the agent, the representative in this country of the rebel Hippolyte, and he is engaged in purchasing arms and munitions of war for that person.

The COURT. You can ask this witness whether he knows any facts showing that.

The WITNESS. Ask me, please.

Q. I ask you if Mr. Elie has stated to you at any time what his business was in this country?

Mr. MACFARLAND. Unless the gentleman must answer that question I object to it.

A. Yes, sir.

Mr. MACFARLAND. I object to the steam-ship *Carondelet* and her cargo being embarrassed by some conversation which Mr. Kunhardt had with some one from Hayti.

The WITNESS. I am perfectly willing to state my conversations with Mr. Elie have been for the sale of coffee; he asked me if I got 16 cents for coffee; I told him I could not get more than 15 $\frac{1}{2}$, and wanted to sell it in order to make my commission.

Q. Did Mr. Elie deposit any money with your house?—A. Not one cent.

Q. Did Mr. Auguste deposit any money with your house?—A. Not one cent. I told you that Mr. Auguste deposited in Paris,

Mr. Preston to Mr. Bayard.

[Telegram.]

NEW YORK, *February 15, 1889.*

Latest information is that steamer *Madrid* will sail to-morrow; I ask the Government of the United States to send immediate instruction to collector of customs of New York to detain her.

STEPHEN PRESTON.

Mr. Bayard to Mr. Preston.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 15, 1889.

Your communication of yesterday and two telegrams of to-day received, and I have just telegraphed the collector of the port of New York as follows:

At the instance of Mr. Stephen Preston, representing the Government of Légitime in Hayti, your attention is drawn to sections 5289 and 5290, Revised Statutes, in connection with steamer *Madrid*, now lying in New York.

Mr. Preston applies to this Department to detain *Madrid* in order to give him reasonable time to obtain ample proof of her unlawful objects.

You will confer with district attorney, and if any evidence is adduced will detain the vessel until you can report to this Department and the decision of the President is had thereon.

T. F. BAYARD.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, February 15, 1889. (Received February 16.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to inform the honorable Secretary of State of the United States that an alliance was concluded a few weeks since between the Haytian rebels and the Government of the Dominican Republic, by a convention arranged between President Heureaux and General Hyppolite, the leader of the Haytian rebels, which alliance has been followed by acts of war on the part of the Dominican Government against the Government of the undersigned, in consequence of which orders have this day been issued to the Haytian forces to commence hostilities at once against the said Dominican Republic. These orders will be executed without delay.

In this grave situation the undersigned has the honor to request the United States Government to maintain a strict neutrality between the belligerents, viz, the Republic of Hayti and the Dominican Republic; and, consequently, especially to oppose the departure of the steamer *Carondelet*, with its cargo of arms for the Government of the Dominican Republic, and on board of which are: (1) the armament of the steamer *Novelty*, now known as the *Mercedes* (see the notes of the undersigned

of the 25th ultimo and the 14th instant), and (2) the armament of the *Madrid*. The *Carondelet* is now at Newport News, in the State of Virginia.

The undersigned further requests the United States Government to issue the necessary order, without delay, for the detention of the steamer *Madrid*, mention of which was made in the note addressed yesterday by the undersigned to the honorable Secretary of State, and also in his telegrams of to-day which not being in cipher, could hardly reproduce the above statements or even allude thereto.

The undersigned will hasten to make known in detail to the honorable Secretary of State of the United States the grave events which have necessarily led to this decision on the part of the Haytian Government; and, remembering the exalted position occupied in this hemisphere by the United States Government, the undersigned intends to appeal to it as a mediator, that it may, as soon as it shall be possible to do so, put a stop to a deplorable struggle, for which the course pursued by the Dominican Government renders it alone responsible, inasmuch as it has been guilty of all the aggressions.

The undersigned has, etc.,

STEPHEN PRESTON.

Mr. Preston to Mr. Bayard.

[Telegram.]

NEW YORK, February 16, 1889.

Deputy collector of customs, after consultation with district attorney, intends to clear this noon the *Madrid*, now called the *Conserva*. In view of the proofs I am ready to furnish, establishing that the *Madrid* is Haytian rebel property concealed under the flag of their Dominican allies, in view of the further facts stated in my note of yesterday, and in view of the state of war between the Republics of Hayti and Santo Domingo, I must earnestly request that positive and immediate orders be given to detain the *Madrid*.

STEPHEN PRESTON.

Mr. Preston to Mr. Bayard.

[Telegram.]

NEW YORK, February 18, 1889.

The *Madrid*, now the *Conserva*, is still in Gravesend Bay harbor of New York. Request you to order immediately her detention.

STEPHEN PRESTON.

Mr. Bayard to Mr. Preston.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 18, 1889.

I have your telegrams of the 16th and 18th instant requesting this Department to order the detention of the *Carondelet* at Newport News and the *Conserva* at New York. In accordance with your previous re-

quests full opportunity has been given for application to the judicial and customs authorities for investigation of facts in relation to both these vessels. The nationality and ownership of the *Conserva*, and the destination and objects of the cargo of the *Carondelet*, have been properly made the subject of investigation and decision by the officials of the appropriate Departments of this Government, and nothing has been brought to my knowledge which gives me authority to overrule, or ground to question their action in the premises.

T. F. BAYARD.

JAPAN.

Mr. Bayard to Mr. Hubbard.

No. 275.]

DEPARTMENT OF STATE,
Washington, January 29, 1889.

SIR: The inclosed copy of a report made by me to the President under date of the 22d instant, and of the dispatch of Consul Birch at Nagasaki, therein referred to, will apprise you of the circumstances under which I sought the direction of the President regarding the proper method of carrying out the purpose of the joint resolution of Congress, approved May 24, 1888, "to enable the President of the United States to extend to certain inhabitants of Japan a suitable recognition of their humane treatment of the survivors of the American bark *Cashmere*," which was abandoned in the vicinity of the island of Tanegashima, in September, 1885.

As you will perceive by the report of the United States consul at Nagasaki, that officer, in pursuance of the instructions of this Department, consulted with the Japanese authorities of the district and obtained through them a very carefully considered expression of the views of Watanabe, governor of Kagoshima Ken, within whose jurisdiction Tanegashima is situated, upon the subject of the contemplated employment of the amount appropriated. The governor's recommendation is that the bulk of the sum be bestowed upon the inhabitants of the island as a common fund, to be used for educational and industrial purposes, the fund or capital being invested in such a way that the interest accruing therefrom shall be sufficient to maintain educational institutions of the character suggested, in perpetuity, for the benefit of the islanders.

Before submitting the matter for the President's consideration and direction, I obtained an informal expression of Mr. Mutsu's general concurrence in the recommendation of Governor Watanabe, with the acceptable suggestion that the whole of the fund in question shall be devoted to the purpose indicated, without diversion of any part of it as personal rewards to Japanese subjects not residents of Tanegashima.

I have now received the President's directions in the premises. He fully agrees with the suggestions made as aforesaid by certain Japanese officials resident in the neighborhood of the proposed beneficiaries and acquainted with their situation, to the effect that the best application which could be made of the donation of this Government would be its use in furtherance of the educational advantages of the people of the island of Tanegashima. The President remarks that this island is reported to have an area of about 100 square miles and a population of about 22,000, but that the inhabitants of the two villages of Isekimura and Akimura appear to be entitled to an especial recognition of their humanity and generosity, and assuming that they do not lie far apart, he considers that the school to be established or endowed should be located in one or the other of the villages named, or else to be accessible to the residents of both. Adopting this line of action, as proposed, the

President directs me to instruct you to confer with His Imperial Japanese Majesty's Government with a view of procuring its action and consent to such an arrangement as we have in mind; and obtaining the assistance of that Government, and of the officials of the locality interested, in accomplishing the purposes set forth in my report.

I have therefore to instruct you to carry out the President's direction in the premises by laying the subject before the Japanese minister for foreign affairs and inviting his excellency to take steps for the suitable employment of the fund in the manner and to the ends suggested. The actual disbursement of the money should be made by the hands of the Japanese officials, but it will be proper that some clear understanding should be arrived at as to the general features of the plan to be adopted by the Japanese Government. From the informal suggestion made by a member of the Japanese legation here, it is thought that a sum not exceeding \$1,500 would suffice for the erection of a suitable school building on which perhaps should be placed a tablet inscribed with a brief statement of the gift by the United States and the circumstances leading to it. The remainder of the fund might be invested in the Government securities of Japan and the income be devoted to the maintenance of the school and the compensation of the teachers.

You will at the same time suitably express to his excellency the pleasure we have in thus seeking to carry out in a permanent and conspicuously useful way the material expression of the desire of the people of the United States, through their national law-givers, to recognize the high service rendered to humanity by the inhabitants of Tanegashima; and our gratification at thus being able to add another proof of the lasting esteem in which we hold the people of Japan and the high value we set upon their friendship and that of their Government.

Upon reaching a practical solution of the problem now presented and obtaining satisfactory assurances of the active co-operation of the Japanese Government in receiving and applying the \$5,000 which Congress has placed in the President's hands for the purpose above described, you are authorized to draw in favor of the Japanese Government or the proper officer thereof, upon Messrs. Brown, Shipley & Co., our London bankers, for £1,027.8.8, the equivalent of \$5,000, and to deliver such draft to the Japanese minister for foreign affairs on behalf of the beneficiaries and take his receipt in triplicate therefor.

You may render a special account of this transaction, and you will request the Japanese Government to advise the Government of the United States when the arrangement now contemplated shall be fully completed, in order that the information may be laid before Congress.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 275.]

Mr. Bayard to the President.

DEPARTMENT OF STATE,
Washington, January 22, 1889.

The undersigned has the honor to request the directions of the President regarding the proper method of carrying out the joint resolution of Congress, approved May 24, 1888, "to enable the President of the United States to extend to certain inhabitants of Japan a suitable recognition of their humane treatment of the survivors of the crew of the American bark *Cashmere*."

The resolution referred to reads as follows:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby,

authorized to extend to the inhabitants of the island of Tanegashima, Japan, a suitable recognition of their kind and humane treatment of the survivors of the crew of the American bark *Cashmere*, lost off that coast in the year eighteen hundred and eighty-five, and to convey to the Government and people of Japan an expression of the high appreciation in which the Government and people of the United States hold such humane services.

"SEC. 2. That the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to enable the President to execute the purpose aforesaid."

The circumstances of the rescue of the crew of the *Cashmere* and the narrative of the conspicuous humanity and generosity shown to them by the inhabitants of Tanegashima Island are found in the report of the Committee on Foreign Affairs of the House of Representatives (Report 401, House of Representatives, Fiftieth Congress, first session, accompanying House resolution 95), which was submitted by Mr. Morrow, on the 14th of February, 1888, as follows:

"On the 11th of September, 1885, the American bark *Cashmere*, bound on a voyage from the city of Philadelphia to Hiogo, Japan, encountered a violent typhoon near the coast of Japan. The fury of the gale soon reduced the vessel to a hopeless wreck. The officers and crew numbered fifteen, consisting of the master and his son, first and second mate, carpenter, eight seamen, steward, and cook. The first and second mate perished on the 13th of September while engaged in heroic efforts to save the vessel. A few hours later the master was swept overboard and lost. At this time when the dismantled vessel was apparently unable much longer to resist the violence of the storm, seven of the men managed to get into the only remaining boat and set out in what appeared to be a hopeless effort to reach land.

"The captain's son, the carpenter, and three of the crew were compelled to remain with the floating wreck. After two days of suffering, without food or water, the seven men who took to the boat landed in a famished condition on the little island Tanegashima, inhabited by Japanese fishermen and peasants. These kind-hearted and hospitable people hastened to feed, clothe, and dress the wounds of the unfortunate castaways, and in every possible way administered to their wants. As soon as the latter were able to travel the islanders provided them with transportation to the Japanese city of Kagoshima, where they were also hospitably received and kindly treated for eight days, when they were sent to Kobe, where the United States consul took them in charge and placed them on board a vessel bound to San Francisco.

"In the mean time, the wreck upon which were left the captain's son and four members of the crew, was unexpectedly kept afloat by the buoyancy of its cargo of kerosene stored in cans in the hold of the vessel. For seven days and nights after the departure of the boat the five men remained on the wreck, crowded into a small space under the fore-castle, with only a few raw yams to eat and a little vinegar to drink. Their suffering from hunger and thirst was most intense. The helpless craft finally drifted in sight of land, and the men constructed a raft with which, after much toil and danger they reached shore and found they had landed upon the same little island of Tanegashima, where their comrades in a boat had a few days before been rescued from the perils of the sea.

"The Japanese, unwearied in their kindness, again hastened to the shore to rescue, feed, clothe, and administer to the wants of this second party of unfortunate strangers, which they did with even more kindly generosity and a greater sympathy than before, as the last party were in greater distress than their comrades. After ten days of careful treatment, the second party had sufficiently recovered health and strength to travel and they were also sent to Kobe, from which place they were sent to Yokohama by the American consul, and from the latter port they obtained passage on a vessel to New York. The escape of these poor sailors from the misfortunes that had overtaken them was most miraculous, but the humane and generous treatment they received at the hands of the kind-hearted Japanese was the feature of the story they had to tell when they reached home.

"Our shipwrecked sailors have not always been so fortunate in that part of the world. The Japanese have never failed when occasion required to show their sympathy for people in distress, but this kindly disposition is in marked contrast with the barbarous conduct of many other people on the Asiatic coast. Instances have been reported where our shipwrecked sailors have been subjected to the most cruel and inhuman treatment, and the power of the Government has been invoked to punish such inhumanity.

"It is the boast of our civilization that we seek to cultivate the highest order of fraternal obligations for the relief of distress in times of peril and disaster, whereby we spread abroad a spirit of friendliness and universal brotherhood. The present instance should not be allowed to pass, therefore, without some suitable recognition of the humane conduct of the Japanese towards the survivors of the American bark *Cashmere*.

"The committee, therefore, recommend the passage of the accompanying resolution."

To the end of devising and adopting a suitable and effective recognition by this Government of the humane action of the inhabitants of Tanegashima on the occasion referred to, the consul of the United States at Nagasaki, Japan, was instructed on the 5th June, 1888, to report his own views and the views, also, as far as they might be properly ascertainable, of the Japanese authorities relating to the disbursement of the sum appropriated by Congress.

The undersigned has the honor to lay before the President a copy of the report of the consul, from which it will be seen that he has consulted with the Japanese authorities of the district, and has obtained through them a very carefully considered expression of the views of Watanabe, governor of Kagoshima, within whose jurisdiction Tanegashima is situated, upon the subject of the contemplated employment of the amount appropriated. While suggesting a small personal compensation to certain men, strangers in the island, who were present at the time, and who aided in the rescue of the crew of the *Cashmere*, he recommends that the remainder of the sum appropriated be bestowed upon the inhabitants of the island as a common fund to be used for educational and industrial purposes, the fund or capital being invested in such a way that the interest accruing therefrom shall be sufficient to maintain educational and industrial institutions in perpetuity for the benefit of the islanders.

One of the most conspicuous and gratifying evidences of the moral and intellectual advancement of Japan in our day is seen in the rapid development of education among the inhabitants of that island in the serious endeavors of the Imperial Government to promote popular education in every way.

The geographies show this district to consist of many islands, a large part of them small, not easily or regularly accessible, destitute of facilities for commerce, and inhabited by a laborious community engaged in fishing and in agriculture. These circumstances are naturally an impediment to the enforcement and practical extension of the comprehensive scheme of popular education designed by the Japanese Government; and, as pointed out by the consul in his report, such islands as Tanegashima are necessarily devoid of the school facilities which the more central, populous, and prosperous districts of the Empire enjoy. The proposition, therefore, of employing the money appropriated by Congress in the practical and benevolent way suggested by the governor of Kagoshima will, it is trusted, commend itself to the approval of the President.

The undersigned has recently brought the subject informally to the attention of His Imperial Japanese Majesty's legation at this capital, and has obtained the minister's full concurrence in the suggestions so made, with the recommendation, however, that the entire fund appropriated be devoted to the purposes described, without the diversion of any part thereof to the recompense of individual Japanese subjects. The minister is understood to regard any such personal reward specially bestowed upon non-residents of the island as calculated to make invidious discriminations against the resident islanders, whose services in aid of the crew of the *Cashmere* were equally if not more deserving of remuneration. In this view of the case the undersigned is disposed to acquiesce.

The undersigned has therefore the honor to request the direction of the President with a view, should he deem it proper to do so, of instructing the minister of the United States in Japan to come to an understanding with the Government of His Imperial Japanese Majesty whereby the entire amount appropriated by Congress for the purpose of extending to the inhabitants of the Island of Tanegashima a suitable recognition of their kind and humane treatment as aforesaid, may be delivered to the Japanese Government for the endowment of educational institutions on that island in the manner suggested by Governor Watanabe; and further, in the event of the offer being accepted as tendered, to provide that the sum in question be placed by the President's warrant upon the Treasury at the disposal of the Secretary of State for delivery to the Imperial Japanese Government.

Respectfully submitted:

T. F. BAYARD.

[Inclosure 2 in No. 275.]

Mr. Birch to Mr. Rives.

No. 111.]

UNITED STATES CONSULATE,
Nagasaki, Japan, December 5, 1888.

SIR: In my dispatch to the Department of State No. 101, and dated August 20, 1888, acknowledging the receipt, July 9, 1888, of communication No. 32, and dated June 5, 1888, I expressed the hope that I would be able to write the Department by the next mail a full expression of not only my own views, but those of the Japanese authorities, relative to the proper disbursement of the money appropriated by Con-

gress to enable the President of the United States to extend to the inhabitants of the island of Tanegashima, Japan, a suitable recognition of their kind and humane treatment of the survivors of the crew of the American bark *Cashmere*, lost off the coast of Japan, September 18, 1885.

The delay in forwarding the report has been longer than I anticipated, and in order that the Department may know that it was necessary, I have the honor to submit the following correspondence between this consulate and the Nagasaki Kencho relative to the matter.

No. 757.]

CONSULATE OF THE UNITED STATES,
Nagasaki, July 10, 1888.

Governor YOSHIO KUSAKA, *Kencho*:

SIR: I beg to send inclosed a copy of a joint resolution of Congress appropriating \$5,000 to enable the President of the United States of America to extend to certain inhabitants of Japan a suitable recognition of their humane treatment of the survivors of the American bark *Cashmere*, lost off the coast of Japan on September 18, 1885.

The Department of State desires from me a full expression of my views as to how this money may be laid out to the best advantage. To this end I think it better to have your views as to the best way of disbursing this money, and will consider it a favor if you will write me fully on the matter. The Department of State suggests that a part at least should be presented to the inhabitants, not in actual money, but in some articles suitable to their use.

I am, etc.,

JOHN M. BIRCH,
United States Consul.

No. 77.]

NAGASAKI KENCHO,
July 19, 1888.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 10th instant, inclosing the copy of a joint resolution of Congress appropriating \$5,000 to enable the President of the United States of America to extend to the inhabitants of the island of Tanegashima a suitable recognition of their humane treatment of the survivors of the American bark *Cashmere*, lost off that coast on September 18, 1885.

I beg to state in reply that as I am not in a position to give you my own views on the matter, I have communicated the purport of your letter to the governor of Kagoshima Ken, requesting him to give his views as to the way of disbursing the money to the best advantage, and I would be glad to furnish you with the information as soon as I should receive an answer from the government of that prefecture.

I have, etc.,

Y. KUSAKA,
Governor of Nagasaki Ken.

No. 113.]

GOVERNMENT OFFICE,
Nagasaki, September 29, 1888.

SIR: I have the honor to inform you, in respect to your dispatch of the 10th July last, that after I had communicated to Governor Watanabe of Kagoshima Ken on the 19th July inclosing translations of your letter and its inclosure and asking him to furnish me with his views as to the best way of disbursing the money proposed to be presented to the inhabitants of Tanegashima, I received a letter from Governor Watanabe on the 11th ultimo, but as it was an unsatisfactory answer, I again wrote to him on the 21st ultimo on the subject.

I then telegraphed him on the 24th instant, asking him to furnish you with his views on the matter as early as possible, and have received his telegram on the 25th instant, answering that he is now making necessary inquiries and adding that navigation to the island being inconvenient the required information can not be obtained early.

I would forward you any information as soon as I receive it from Governor Watanabe.

I have, etc.

JIRO NAKAMURA,
Secretary, etc.

No. 126.]

GOVERNMENT OFFICE,
Nagasaki, November 27, 1888.

SIR: In answer to your communication of the 10th July last, I now have the honor to forward to you a copy of a letter I received from Governor Watanabe of Kagoshima

Ken, furnishing me his views as to the disbursement of the money intended by the Government of the United States to be presented to the inhabitants of the Tanegashima Island.

I trust that the letter of Governor Watanabe will explain itself to you.
I have, etc.

Y. KUSAKA,
Governor of Nagasaki Ken.

Letter of Watanabe, Governor of Kagoshima Ken, to the Nagasaki Kencho.

"Three years and upwards have passed away since part of the crew of the wrecked American ship *Cashmere* arrived at Akimura on the island of Tanegashima, November 15, 1885, and on the 20th of the same month others of the crew arrived at Isekimura on the same island, so that it is now a difficult matter to ascertain the real fact concerning the rescue of the unfortunate Americans in consequence of each one interested exaggerating his own supposed merit. It may, however, be taken as certain that there have been eight or nine persons resident in Akimura and four or five persons in Isekimura who have endeavored directly to aid in the rescue of the shipwrecked men, and that indirect assistance has been given by the inhabitants at large. Among those residents who happened to be staying at these *muras* (villages) at that time from other *muras*, *i. e.*, travelers who have merely taken their residence for a short time, there were five men who did all in their power to assist and succor the unfortunate Americans. Of the five men two were schoolmasters and three were merchants.

"Now, it is suggested that the sum of money presented by the Government of the United States of America shall be owned by the inhabitants of Akimura and Isekimura as a common fund, and not separately as individuals, and shall be used for educational and industrial purposes, investing the fund or capital in such a way that the interest accruing therefrom will be sufficient to maintain the two great institutions, education and industry, in perpetuity.

"The above is a mere general view, without entering into details, as it is impossible to say more without studying all the conditions of the island and its inhabitants. Now, the only means to reward the five men aforesaid, who had but a temporary residence in the villages named, but who used their utmost endeavors to save the shipwrecked seamen, is to present to each one a sum of money. As for articles which might be sent from the United States of use to the inhabitants of Akimura and Isekimura, it is suggested that articles which could be used for educational and industrial advancement would be suitable, these matters being in a very primitive condition and at their lowest ebb. The selection of the articles must, however, as a matter of course, depend upon the discretion of the giver."

The idea of using the money appropriated by Congress to endow a school on the island of Tanegashima, advanced by Governor Watanabe, meets with my approbation. It would indeed be a suitable recognition by our Government of the kind and humane treatment of the survivors of the *Cashmere* by the Japanese. The island of Tanegashima is south of the island of Kinshin, being separated from the latter by Van Diemen Strait—has an area of about 100 square miles and a population of about 22,000, consisting of fishermen and farmers. It is distant from Nagasaki about 150 miles and is a part of Kagoshima Ken. The people are poor. The population of the villages Isekimura and Akimura numbers about 300.

In accordance with the present national system of education in Japan, attendance at the elementary schools in which morals, reading, writing, and arithmetic are taught is compulsory upon all children between the ages of six and ten years, and each school district in the Empire must be provided with elementary school accommodation for its children. These schools are supported partly by tuition fees and partly by local taxes. The length of term yearly depends largely upon the wealth and prosperity of the district, as the instruction, not being gratuitous and as there is no permanent school fund in Japan, the population of remote or thinly populated districts or in districts where there has been a failure of the crops can not bear the expense of a long term. If there exists, however, in any district a satisfactory private or endowed elementary school, this is permitted to take the place of the government school, provided it is under the control of the governor of the Ken (department) who is directed in school matters by the regulations of the department of education of the Imperial Government.

The population of Tanegashima is a poor one and remote from the wealthier and more civilized portions of the Empire, and is able only to a small extent to reap the advantages of the present system of education which prevails generally in Japan, and the generosity of our Government could not be exercised in a better direction than in providing for this outlying island a school in which regular instruction will be given not only in the simpler elementary branches above named, but in geography, history, physics, drawing, the English language, agriculture, and commerce. I am

reliably informed that the amount appropriated by Congress would be sufficient to endow such a school. This school, should it be established, would be a memorial institution; it would convey to all the high appreciation in which our Government holds humane services. It would meet the approval, command the respect, and enlist the sympathy and support of the minister of state for education as well as the local government at Kagoshima.

The governor of Kagoshima in his letter suggests that something might be done toward industrial advancement, but I doubt this, and I am not sure that anything could be sent from America suitable for the use of the Japanese. For example, the idea of presenting the Japanese with agricultural implements does not commend itself for the reason that agricultural conditions of America are altogether different from those which exist here. American implements would practically be useless to the Japanese farmer. The same may perhaps not be said as regards specimens of various teaching appliances, as outline maps, globes, etc., or articles connected with education, should the school be established. Text-books other than those printed in Japanese and English would be of no practical benefit. To the five men not permanent residents of Isekimura and Akimura, who aided in the rescue, I would suggest that the sum of \$200, or \$40 to each man, be presented.

I am, etc.,

JOHN M. BIRCH.

Mr. Hubbard to Mr. Bayard.

No. 545.]

LEGATION OF THE UNITED STATES,
Tokio, February 5, 1889. (Received March 1.)

SIR: I have the honor to inform the Department that His Majesty the Emperor removed on the 11th ultimo to the new Imperial palace which has just been completed on the site of the palace burned in 1873.

When the Emperor removed from Kyoto to Tokio in 1868 he took up his residence in the palace formerly occupied by the Tycoon. This palace was burned in May, 1873, and since that time His Majesty has occupied the spacious premises in another part of the city known as the Akasaka Palace.

The new palace proper and the Imperial household department offices are, while distinct in architecture, closely connected by covered passages. The head of the household department, it should be remarked *en passant*, is a cabinet minister.

The palace proper was constructed entirely under the direction of Japanese architects, in Japanese and foreign styles of architecture. The department buildings have been constructed in the foreign style of architecture, and by Japanese architects assisted by foreign architects.

The cost of the palace and the department buildings amounted to 3,967,231.56 yen.

After the completion of the new palace a large number of Japanese and foreign residents were permitted by the Government to visit it, and a number of our countrymen availed themselves of the opportunity.

I have, etc.,

RICHARD B. HUBBARD.

Mr. Hubbard to Mr. Bayard.

No. 547.]

LEGATION OF THE UNITED STATES,
Tokio, February 14, 1889. (Received March 12.)

SIR: I have the honor to transmit official copies of the constitution of Japan, with accompanying papers, consisting of "Imperial speech on the promulgation of the constitution;" "Imperial oath at the sanc-

tuary of the Imperial palace;" "Imperial ordinance concerning the House of Peers;" "Law of the houses;" "The law of finance;" "Law of election for the members of the House of Representatives," and "Appendix of the law of election for the members of the House of Representatives."

Inasmuch as the Department of State will give to this constitution and accompanying papers an earnest and patient examination before forming a final judgment as to their merits, any attempted synopsis or discussion by me is unnecessary in the premises.

On the 11th February, at 10 o'clock a. m., the constitution was promulgated by his majesty the Emperor in the throne-room of the new palace with suitable and most imposing ceremonies. The diplomatic corps attended the ceremony at the express invitation of his majesty, and occupied a place of honor with the princes of the imperial blood immediately to the left of the throne.

The occasion was a most impressive one.

If I may be allowed to express my views, I am convinced that a careful reading of this constitution will enable my Government to reach the same opinion with its representative here, that the substance of this most important instrument, its declaration of rights to be held sacred alike by the Crown and its subjects, and to be hereafter inviolate, not only should have made the day memorable forever in the annals of the Empire, but should be a cause of sincere congratulation from all Western nations.

My observation and experience—personal and official—at this court and among this people since 1885, convinces me that all their progress, of which so much has been written and spoken—a progress in wise and freer government, of which this constitution is the highest and noblest testimonial—is not a short-lived or experimental thing, nor a thin veneering of Western civilization, so to speak, on the still vigorous body of oriental political systems, but rather proof of a solid and permanent triumph over the past of her history which ushers in a new era for Japan among the nations.

The constitution having been promised some years ago to be given in 1889 by the Emperor to his subjects, the 11th of February (the two thousand five hundred and forty-ninth anniversary of the foundation of the Empire) was recently declared the day on which the constitution should be promulgated; and the event, having been for years eagerly awaited, was celebrated with rejoicing by all Japanese subjects from the homes of fishermen and peasants to the palace of the Emperor.

The day was observed as the most important political event in the history of the Empire throughout the entire country with illuminations, bonfires, military and naval salutes, ringing of bells, processions, and decorations of houses and the streets of towns and cities with bunting and evergreens; and to the inspiring sounds of music the people literally "danced for joy."

In an interview with his majesty in the evening of the day of the promulgation of the constitution, he having invited a large company of guests to dine at the palace, I took occasion to tender to him the earnest congratulations of my Government and of its representative on the completion of this glorious day's work.

The Emperor, with evident gratification, replied, expressing his thanks for my words of congratulation, and expressed the hope that the occasion of the promulgation of the constitution which guaranteed in a liberal sense political and religious liberty to his subjects might be an event which would increase the sympathy and friendship which the

Government and people of the United States had so long cherished for Japan.

Propos to this celebration, the greatest political event in the history of the Empire, I herewith have the honor, as a matter of interest to the Department of State, to inclose a leader from the Japan Daily Mail, giving a careful resumé of the main points involved in this revolution of the political system of this Government, which henceforth places the Empire among enlightened constitutional monarchies.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure in No. 547.—From the Japan Daily Mail, Yokohama, Tuesday, February 12, 1889.]

THE CONSTITUTION.

The long looked for constitution was promulgated yesterday amid general rejoicing. His majesty the Emperor, having sworn a solemn oath in the imperial sanctuary to "maintain and secure from decline the ancient form of government," and "never at this time nor in the future to fail to be an example, to his subjects in the observance of the laws hereby established," took his place on the throne, and in the presence of all the highest functionaries of the Empire as well as of chosen representatives of the people, handed to the minister president of state the five laws forming the new system. These laws are "The Constitution of the Empire of Japan;" the "Imperial ordinance concerning the House of Peers;" the "Law of the houses;" the "Law of election of members of the House of Representatives," and the "Law of finance." They comprise in all three hundred and thirty-two articles. Without attempting to enter into details, we shall here endeavor to give our readers a general idea of this important legislative work.

In the first place, the sacred and inviolable nature of the imperial title and the perpetuity of the throne are asserted with the fullest emphasis. His majesty remains as before the source of all law. But his legislative function is henceforth to be exercised with the sanction of the diet. Only in presence of an urgent necessity to maintain public safety or to avert a public calamity can he issue ordinances in lieu of laws, and it is expressly provided that such ordinances must be laid before the diet at its next session, when if not approved by that body they become invalid. While, however, handing over his law-making function to parliament, the Emperor reserves to himself the function of issuing, or causing to be issued, the ordinances necessary for carrying out the laws, or for the maintenance of public peace and order. He also determines the organization of the different branches of the administration, appoints and dismisses all officials, and fixes their salaries. His majesty has further the supreme command of the army and navy; determines their organization and peace standing; has the power of making war, peace, and treaties; confers title of nobility, rank, and other marks of honor, and orders amnesties, pardons, commutations of punishments, and so forth.

In contradistinction to these imperial prerogatives we have the rights of the subject. He is free to change his abode at will; he can not be arrested, detained, tried, or punished except according to law; he can not be deprived of his right of being tried by lawful judges; his house can not be entered or searched without his consent, except in cases provided by law; his letters are inviolably secret within similar limits; his right of property is sacred; he is entitled to freedom of religion, of public meeting, of speech, and of association, but religious freedom must not be exercised in a manner prejudicial to peace or order, or antagonistic to his duties as a subject, neither must freedom of speech and public meeting transgress the limits fixed by law.

Passing from these general propositions as to the prerogatives of the ruler and the rights of the ruled, we come to the parliamentary system. It is bicameral, the house of peers and the house of representatives constituting the imperial diet. The upper house is partly elective, partly hereditary, and partly nominated. The hereditary portion comprises members of the imperial family, princes, and marquises. The elective portion comprises both noblemen and commoners. The noblemen are counts, viscounts, and barons, elected by the members of their respective orders, in numbers not exceeding one-fifth of the numbers of those orders. The commoners are chosen by cities and prefectures—one by each—from among the highest tax-payers, provided that the Emperor afterwards approves the persons thus elected. Finally, the nominated portion of the house comprises persons nominated by his majesty on account of meritorious services to the State, or of erudition. These imperial nominees are life

members, whereas the elected members sit for seven years only, which is also the period of the upper house. It is laid down that the number of imperial nominees together with those elected by cities and prefectures shall never exceed the number of nobles in the house.

The lower house, or house of representatives, consists of three hundred members, elected by ballot in districts fixed by a supplementary law. The qualifications of eligibility are that the candidate shall be of the full age of thirty; that he shall have been paying direct national taxes to an amount of not less than 15 yen annually for a period of at least one year previously to the date of making out the electoral list, and that he shall have been paying income tax for a period of not less than three years. Certain officials are not eligible, neither are officers of the Army or Navy in active service, or temporarily retired from active service. As for the persons upon whom the suffrage is conferred, they must be twenty-five years of age; they must be residing permanently in the district where they vote; they must have been in residence there for at least a year previously to their registration as electors, and they must satisfy the same conditions in respect of taxation as the persons eligible for election. A member sits for four years, which is also the period of the House's life. There is to be one session annually, and its duration is fixed at three months, but in case of necessity this term may be prolonged, or an extraordinary session may be convoked.

In addition to its legislative functions the diet is also to discuss and vote the budget, and any expenditure made in excess of this duly-voted budget must be subsequently approved by the diet. There are, however, certain restrictions in this section. Thus, the expenditure of the Imperial household, as at present fixed, is not to be subject to parliamentary sanction, and any expenditures incurred in the exercise of the powers reserved to the Emperor, or any that "may have arisen by the effect of law" or that "appertain to the legal obligations of the Government," can neither be rejected nor reduced by the diet without the concurrence of the Government. By the term "expenditures incurred in the exercise of the powers reserved to the Emperor" is meant the salaries of all civil and military officers, and the funds required to maintain the army and navy on a peace standing. A considerable portion of the budget is thus virtually removed beyond the control of Parliament. Further when, owing to exceptional circumstances of a domestic or foreign character, the diet can not be convoked, the Government may take all necessary financial measures by means of an Imperial ordinance; and should it happen that the budget has not been voted or brought into actual existence, the Government shall have competence to carry out the budget of the preceding year. Thus, while all financial matters are subjected to parliamentary scrutiny, they are removed from parliamentary control sufficiently to render the Government temporarily independent of a hostile diet.

This expression "Government," as distinguished from the diet, is evidently employed in the German sense of sovereign and cabinet. The Emperor nominates the ministers forming the cabinet—he nominates all officials—and with them constitutes a portion of the body politic that stands above and outside the diet. This, of course, is the theoretical state of affairs existing in all constitutional monarchies. The unwritten but practically acknowledged responsibility of the British cabinet to Parliament may be developed in Japan, as it was gradually developed with us, but there is no recognition of it in the new Japanese system.

A section is devoted to the judicature also. Its most interesting point is that the judges are to be appointed by law and removable by law only.

Such is the general outline of the constitution. Its provisions can not be amended unless a project in that sense is submitted to the diet by Imperial order. We may add that each member of the lower house, and each elected or nominated member of the upper, is to receive an annual allowance of 800 yen, together with traveling expenses.

Mr. Hubbard to Mr. Bayard.

No. 548.]

LEGATION OF THE UNITED STATES,
Tokio, February 14, 1888. (Received March 12.)

SIR: I have the honor to inform the Department of the assassination of the Japanese minister of education, Viscount Mori Arinori, which occurred at his residence early on the morning of February 11.

So far as can be ascertained the assassination had no political significance whatever, and was committed by a Shintoist religious fanatic, without aid or instigation from any accomplice, for the purpose of avenging some real or imagined slight or indignity to a Shinto temple,

which the assassin claimed the late minister once committed in entering the temple without removing his hat and shoes. The assassin was at once killed by an attendant of the minister.

The minister lived about twenty-four hours after receiving the wound.

The assassination was especially deplorable coming, as it did, on a day when all of Japan had put on holiday attire and was rejoicing over the constitution which was to be promulgated that day.

Viscount Mori was born in 1841, and had served his country in many honorable capacities, having been at one time the diplomatic representative of Japan at Washington; afterwards becoming vice-minister for foreign affairs, and later envoy and minister to England and to China, respectively.

Under his administration of the department of education Japan has made wonderful strides in educational advancement.

I inclose a clipping from the Japan Mail, giving an account of the assassination, which is believed to be in the main correct.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure in No. 548.—Extract from the Japan Mail.]

Assassination of Viscount Mori.

It is with the most sincere regret that we have to announce the fatal termination of the injury received on the morning of the 11th by his excellency the minister of state for education. It appears that the weapon used by the assassin was an ordinary Japanese kitchen-knife, the flat triangular blade of which had been sharpened to a state of great keenness. Unfortunately the blow was delivered so as to cut an artery, and, owing probably to the fact that all Tokio had begun to keep festival, medical aid was not procured until three hours had elapsed. By that time the Viscount had fainted from loss of blood, and at 5 o'clock on Tuesday morning he passed away. The irony of fate could scarcely be shown more cruelly than in the death of such a man by such an instrument. The particulars of the sad affair are now known. The murderer, a youth of about twenty-five, went to Viscount Mori's house early in the morning, and asked for an interview with the minister. He was received by his excellency's private secretary, but at first declined to state his business through a third party, alleging that it demanded the utmost secrecy. Ultimately, however, he reluctantly consented to explain that he had come to warn the minister against an assault which certain discontented students of the university contemplated making upon him while he was en route for the palace. The secretary carried this message to Viscount Mori, but the minister treated it with some disdain, and told the secretary that he had better question the informant more fully. While the secretary was obeying this instruction the Viscount himself came down stairs dressed in full uniform, and as he was about to pass the door of the room in which the secretary and the youth were conversing, the former said, "This, your excellency, is the man of whom I have just been speaking to you." The professed informant then advanced, and had begun to repeat his story when suddenly grasping the Viscount, and drawing a kitchen-knife which he had concealed in his clothes, he plunged it in the minister's abdomen. Concerning what immediately ensued there is, as may well be supposed, some confusion. Whether the man in attempting to make his way from the house seemed to threaten fresh violence, or whether he showed a disposition to follow up his murderous assault, it is at all events certain that one of the minister's guards, who though standing in the vestibule was unable to prevent the fatal deed, immediately cut the assassin down. Under any circumstances this was regrettable, but it would have been more so had there been any suspicion that the assailant had accomplices. Such, however, was not the case. From a manifesto found on his person, and corroborated by subsequent inquiries, the fact is placed beyond doubt that he was absolutely alone in his attempt and that its sole motive was a fanatical desire to wreak vengeance on the Viscount for an act of sacrilege which it appears that the latter did really, whether ignorantly or inadvertently, commit by entering the principal shrine at Ise without removing his boots. By a zealot like Nishino Bunjiro—for that seems to have been the man's

name—such a proceeding on the part of a prominent minister of state may have been interpreted in the sense of a serious peril to the future of Shintoism in Japan. At all events he was content to sacrifice his own life in order to vindicate the majesty of the gods he revered. What an example of the curiously linked chain from which human destinies hang! That one of the ablest statesmen and most brilliant scholars in Japan should be struck down in the very prime of life by a kitchen-knife, and for no better reason than because he had failed to remove his foot-gear when entering a revered sanctuary! And yet there are critics who profess to believe that the religious sentiment is non-existent in Japan. We shall not at the present moment attempt to speak in detail of the deceased minister's career. His death, felt all the more keenly in contrast with the national rejoicing at the promulgation of the constitution, has thrown Tokio into mourning. That the assassin was virtually a lunatic there can be little doubt, though the time he chose for the execution of his fell design seems to show either a subtle purpose to give the tragedy greater emphasis, or a clever idea that among the crowds and confusion of the national festival he might find exceptional facilities for escape.

Mr. Blaine to Mr. Hubbard.

No. 288.]

DEPARTMENT OF STATE,
Washington, March 13, 1889.

SIR: I have received your dispatch No. 548 of the 14th ultimo, in relation to the assassination of his excellency, Viscount Arinori Mori, the Japanese minister of education, by a religious fanatic.

This Department received with regret this intelligence from the minister of Japan at this capital, in February last, and observed to Mr. Mutsu, in reply, that the circumstance of such a tragical occurrence having had no other prompting than a diseased mind and being wholly devoid of personal or political motive, deprives the incident of any significance.

You will convey to the minister for foreign affairs a suitable expression of this Government's condolence at the death of so eminent a statesman, whose services as the diplomatic representative of Japan at this capital from 1871 to 1873 are recalled with gratification.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Hubbard.

No. 291.]

DEPARTMENT OF STATE,
Washington, March 15, 1889.

SIR: Your interesting dispatch No. 547 of the 14th ultimo, in relation to the promulgation of the new Japanese constitution on the 11th of February last, has been received and the accompanying papers have been filed as part of the history of this memorable event.

The people of the New World, who have ever testified a lively interest in the welfare and progress of Japan, can not but view in this formal adoption of a scheme of constitutional government a bright augury for the future of a country and a people bound to them by so many ties of continued friendship and intimate intercourse. That this measure will secure the liberties and promote the happiness of the Japanese people and tend to secure for their empire the autonomous position which rightfully belongs to it in the concourse of nations can not be doubted.

I am, etc.,

JAMES G. BLAINE.

Mr. Swift to Mr. Blaine.

No. 8.]

LEGATION OF THE UNITED STATES,
Tokio, May 25, 1889. (Received June 19.)

SIR: Referring to the correspondence which has taken place between my predecessor at this post and the Department of State in regard to the reward to the inhabitants of the island of Tanegashima for relief of crew of the American bark *Cashmere*, I have the honor to inform the Department that I am now waiting on the Japanese Government to intimate its final intention to receive and disburse the amount appropriated, with a view of carrying out the will of the United States Government; and that as soon as the Japanese Government intimate their readiness to receive the amount I will draw on the Government bankers, Messrs. Brown, Shipley & Co., London, for the amount \$5,000 (£1,027 8s. 8d. at \$4.8665).

In this connection I have the honor to invite the attention of the Department—in order that if the Department deems it necessary the amount may be changed to my credit with the Government bankers—to the fact that the above fund has been made payable to my predecessor.

I have, etc.,

JOHN F. SWIFT.

Mr. Swift to Mr. Blaine.

No. 32.]

LEGATION OF THE UNITED STATES,
Tokio, July 23, 1889. (Received August 14.)

SIR: Referring to the correspondence which has heretofore taken place between the Department and this legation in relation to the appropriation by Congress to reward the inhabitants of the island of Tanegashima, Japan, for rescuing the crew of the wrecked American bark *Cashmere*, I have now the honor to inclose a copy of a note from the Japanese minister for foreign affairs, signifying the decision of his Government as to the disposition of the fund appropriated. It will be observed that on account of the distance which separates the two villages interested, it has been deemed impracticable to establish one school for the common benefit of both; but it has been decided that the fund be equally divided and two distinct educational funds thus formed, one for each of the two villages, the money to be invested in Japanese consolidated bonds.

As the arrangement thus proposed by the local authorities and sanctioned by the Imperial Government would carry out the will of Congress in the premises, I have forwarded to the minister for foreign affairs my draft on Messrs. Brown, Shipley & Co., London, for £1,027 8s. 8d., being the full amount appropriated for the purpose, viz, \$5,000, at \$4.8665.

I have the honor to inclose a copy of my note to the minister for foreign affairs transmitting the draft, as well as a copy of the draft, and will forward the receipts as soon as received.

I have, etc.,

JOHN F. SWIFT.

[Inclosure 1 in No. 32—Translation.]

Count Okuma to Mr. Swift.

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokio, the 22d day, the 7th month, the 22d year of Meiji, July 22, 1889.

SIR: In reference to the proper employment of the fund which your excellency's predecessor received from the United States Government with an instruction to grant the same to the inhabitants of Tanegashima, Kagoshima prefecture, in recognition of their kind and humane treatment of the survivors of the crew of the American bark *Cashmere*, lost off the coast of that island in the year 1885, I had the honor to state to your predecessor in my note No. 11, of the 25th of March last, that I would convey to him a definite reply after the matter shall have been referred to the local authorities for their full consideration.

I am now in receipt of a communication from the government of Kagoshima prefecture, as set forth in the inclosed translation, and I feel persuaded that the proposed arrangement is entirely suited to the local conditions and will not fail to promote the permanent interests of the locality concerned. I therefore beg to request that if you have no objection to the proposed arrangement you will take the necessary steps to transfer the fund to this department.

I avail, etc.,

COUNT OKUMA SHIGANOBU.

[Inclosure 2 in No. 32—Translation.]

Governor Watanabe to Count Okuma.

The 5th day of the 7th month, the 22d year of Meiji (July 5, 1889.)

SIR: In reference to your excellency's instructions respecting the proper employment of the fund awarded by the Government of the United States to the inhabitants of Tanegashima, Kagoshima prefecture, I already had the honor to acquaint your excellency in my report No. 184 of the last month with the action I had taken in the matter. Having subsequently received a report from the Guncho having jurisdiction over the district, I am now able to submit my views on the subject.

After having carefully considered the conditions of the locality, I have arrived at the conclusion that it would be practically impossible to carry out the scheme to establish a school at a place conveniently accessible to the children of the two interested villages Isekimura and Akimura. These villages are distant about three Japanese miles, the road leading from one to the other is excessively bad, and another village which has no interest in the fund lies between them. Under the circumstances I beg leave to submit, that the fund in question should be equally divided between the two villages, that the amount so divided should be placed under the control of the chief officer of each village as a permanent educational fund, by investing it in the government consolidated bonds, and that only the interest thereof should be used for the purpose of employing a good teacher, in view of gradually improving the educational system of the localities. This arrangement will, I confidently believe, prove satisfactory in securing the high appreciation of the friendly spirit of the people of the United States and in strengthening the friendly relations which happily exist between the two countries.

I beg leave to add that it is intended to provide a memorial or tablet in the school of each village, inscribing thereon the circumstances under which the fund has been awarded by the Government of the United States.

I have, etc.,

WANATABE SENSIN.

[Inclosure 3 in No. 32.]

Mr. Swift to Count Okuma.

LEGATION OF THE UNITED STATES,
Tokio, July 23, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, in reference to the proper employment of the fund appropriated by the Congress of the United States as a reward to the inhabitants of the Island of Tanegashima, Japan, for relief of crew of the American bark *Cashmere*,

Your excellency informs me that you are persuaded that the arrangement proposed by the local authorities of the island, that the fund appropriated should be equally divided between the two villages, and the sum so divided be placed under the control of the chief officer of each village as a permanent educational fund, is entirely suited to the conditions and will not fail to promote the permanent interests of the localities concerned.

I have therefore the honor, in compliance with your excellency's request, and with a view to carrying out the will of the Government of the United States, to inclose my draft on Messrs. Brown, Shipley & Co., bankers for the Department of State, London, for £1,027, 8s. 8d. payable to your excellency's order, being the amount (\$5,000 at 4.8665) appropriated by Congress, and for which I beg you will forward your receipt in triplicate in the usual form for transmission to my Government.

I avail, etc.,

JOHN F. SWIFT.

Mr. Swift to Mr. Blaine.

[Extract.]

No. 56.]

LEGATION OF THE UNITED STATES,
Tokio, October 21, 1889. (Received November 13.)

SIR: I regret to find it my duty to inform you that an attempt was made at this capital, on the 18th instant, to murder Count Okuma, His Imperial Majesty's minister for foreign affairs.

The full result of the attempt to take the life of this distinguished Japanese statesman remains in doubt. In fact the injuries inflicted upon him are of so serious a nature as to keep his recovery in a state of uncertainty for some days to come, though I am glad to be able to say that there is good reason to hope for a favorable outcome, at least so far as can be foreseen at this early stage. The circumstances of the affair, as nearly as they can be gathered from a number of conflicting reports, are as follows:

On the afternoon of the day above named, about five minutes past 4 o'clock, Count Okuma was in the act of returning from the Imperial Palace to his official residence, which is in the same inclosure with the foreign office and reached through the same principal gate. His carriage was closed but with the window for the moment open, that is, the sash was down. The count occupied the inside of the vehicle alone. He had been attending a cabinet meeting in the Emperor's presence. The street upon which the foreign office fronts, runs north and south; the premises looking upon it from the west. He was approaching his home from the north, which is the direction of the Palace, and when near the principal gate it seems the driver upon the box observed a suspicious looking man following the carriage and quickened his pace to avoid him. Just as the carriage was on the turn to enter the gate this suspicious individual, who was dressed in foreign or European clothes, and who proved to be a Japanese named Kurushima Tsuneki, aged twenty-seven, approached and threw a dynamite bomb through the window. It entered from the left side and exploded with a sound like that of a small cannon, which was heard at a great distance, more than a mile in some instances. It is thought that Count Okuma, who is spare in figure, was seated with his right leg thrown over his left, as it was the right leg which received the force of the explosion, and the principal injuries. Upon hearing the sound of the bursting shell, the driver whipped up his horses, running rapidly up the slight elevation from the gate to the door of Count Okuma's official residence, a distance of about 200 feet. Here the count was taken out of the carriage and laid upon a sofa. He

was conscious. It was found that his right leg was injured in two places, one at the knee and the other near the ankle. The bone was found to be badly crushed in both places. He had several minor injuries about the face and hands. On a consultation of surgeons which was held as soon as possible, it was deemed necessary to amputate the leg above the knee, which operation was successfully performed about 8 o'clock p. m.

Since that time the count has rested easily without fever, and the symptoms have all been of a favorable character. The sailing of the steamer by which this dispatch will be forwarded takes place too soon to enable me to announce to you the pleasing intelligence that the crisis is past and that he is out of danger. Yet there is much reason to hope for such a result. The count is a man of good health and habits and still in the prime of life, placing the chances much in his favor.

The news of the attempted assassination reached me at the "Roku mei-kan," a social club frequented by diplomatic and other gentlemen, some distance from the legation and near to the foreign office. Finding that to send for my carriage would delay me in reaching and formally offering my aid and sympathy to the wounded minister and his countess, and Mr. Dun, our secretary of legation, happening to be at the club with me, we ordered jinrikshas and proceeded at once directly to the count's residence, reaching there about 5 o'clock. We found the prime minister, Count Kuroda, and several other members of the cabinet, as well as some of the diplomatic corps, already arrived upon the same errand and in attendance.

We found that troops had been stationed around the building and precautions taken against emergencies, though so far as I know it was merely a measure of precaution, and in fact not needed.

As for the miscreant Kurushima, the assassin, he did what it seems all Japanese do under similar circumstances; what was entirely to be expected of him, and what renders the problem of Japanese civilization so extremely doubtful and perplexing to all interested in it, that is to say, immediately upon hurling his missile, and without waiting to take note of the result upon his victim, he whipped out a knife brought along for that specific purpose, and cut his own throat, severing the jugular vein, and was dead before anybody had time to think of arresting him. Mr. Denison, of the foreign office, who was in the building and who hurried forth upon hearing the explosion, told me that when he reached the scene he saw the smoke still lingering in the air over the place, and at the same time the body of the perpetrator of the deed lying, apparently quite dead, close by. He is understood to have been a young student; whether he had an accomplice is not as yet known to the public. In fact, the affair is in the hands of the police, who keep their own secrets. It is worthy of remark that it is understood that the assassin is a student of Chinese. By that it is meant that his education is entirely oriental in its effect and tendency, and prosecuted by a study of the Chinese ideographic characters, beginning and ending in oriental and therefore conservative processes and objects, and that he knew nothing of European learning and western ideas, which can only be reached by the study of some one of the European languages, and of course the Roman alphabet. Of the origin, bearing, tendency, and effect of this dastardly crime and other similar acts, I shall avail myself at an early day of making some suggestions and remarks.

I have, etc.,

JOHN F. SWIFT.

Mr. Swift to Mr. Blaine.

No. 65.]

LEGATION OF THE UNITED STATES,
Tokio, November 8, 1889. (Received December 6.)

SIR: I deem it my duty to inform you that another batch of coolie emigrants, numbering 1,030, sailed yesterday for Hawaii under the usual contract to labor on the sugar plantations of that island.

The Japan Mail of this morning discusses the matter and remarks of them—

That they were healthy looking, sturdy folk, evidently pleased at the prospect before them, as indeed they might reasonably be, experience having shown that Hawaii means a few years of steady labor and a good bag full of gold dollars for the Japanese who are fortunate enough to emigrate thither.

This makes the second shipment of 1,000 during the present autumn, I having informed you of the first in a former dispatch.

I have, etc.,

JOHN F. SWIFT.

CORRESPONDENCE WITH THE LEGATION OF JAPAN AT
WASHINGTON.

Mr. Bayard to Mr. Mutsu.

DEPARTMENT OF STATE,
Washington, January 29, 1889.

SIR: In connection with the joint resolution of Congress, approved May 24, 1888, "to enable the President of the United States to extend to certain inhabitants of Japan a suitable recognition of their humane treatment of the survivors of the crew of the American bark *Cashmere*," it gives me pleasure to say that I sought the President's direction as to the best means in his judgment of carrying out the provisions of Congress in the premises.

In a report of the 22d instant, I represented in detail to the President the circumstances connected with the incident in question, including your acceptable suggestion that, instead of diverting any part of the appropriation to recompense individual subjects of Japan, the whole amount be employed for educational and industrial purposes for the benefit of the islanders in general.

The President fully agrees with the suggestions made that the best application which could be made of the donation of this Government would be to use it in furtherance of the educational advantages of the people of the island of Tanegashima. And by his direction an instruction has been addressed to Mr. Richard B. Hubbard, United States minister at Tokio, telling him fully to acquaint His Imperial Majesty's Government with the subject, to the end that steps may be immediately taken for the employment of the fund in the manner indicated. Mr. Hubbard was also instructed suitably to express to His Majesty's Government the pleasure we have in thus seeking to carry out in a permanent and conspicuously useful way the material expression of the desire of the people of the United States through their national law-givers, to recognize the high service rendered to humanity by the inhabitants of Tanegashima, and our gratification at thus being enabled

to add another proof of the lasting esteem in which we hold the people of Japan, and the high value we set upon their friendship and that of their Government.

I am, etc.,

T. F. BAYARD.

Mr. Mutsu to Mr. Bayard.

WASHINGTON, *January 31, 1889.* (Received February 1.)

SIR: I beg to acknowledge the receipt of your note of the 29th instant, in which you inform me that the President has approved the suggestion that the fund for the reward of the inhabitants of Tanegashima for their humane treatment of the survivors of the crew of the American bark *Cashmere* shall be employed for educational purposes in that island; and in which you further advise me that the United States minister at Tokio will be instructed fully to acquaint His Imperial Majesty's Government with the subject, to the end that steps may be immediately taken for the employment of the funds in the manner indicated.

I have already informed my Government of the disposition which would probably be made of this fund, in accordance with the suggestion of the governor of Kagoshima Ken through the United States consul at Nagasaki; and I feel assured that they will highly appreciate this additional evidence of the desire of the United States to strengthen the bonds of friendship and mutual esteem which happily exist between our countries.

I remain, etc.,

M. MUTSU.

Mr. Mutsu to Mr. Bayard.

LEGATION OF JAPAN,
Washington, *February 11, 1889.* (Received February 11.)

SIR: I have just received the following telegram from Count Okuma:

The constitution of the Empire was proclaimed by His Majesty in person this morning amidst great enthusiasm of the people.

I hasten to communicate this important news, feeling assured that you will hear it with interest, and that His Majesty the Emperor and the Government and people of Japan will have, at this important epoch in the history of the Empire, the best wishes of your Government and of the people of the United States.

I am, etc.,

M. MUTSU.

Mr. Bayard to Mr. Mutsu.

DEPARTMENT OF STATE,
Washington, *February 11, 1889.*

SIR: It gave me great pleasure to read in your note, just received, that "the constitution of the Empire was proclaimed by His Majesty in person this morning amidst great enthusiasm of the people."

I tender you my congratulations and assure you that the progress of your country in the methods of constitutional liberty is most gratifying, and I believe it will insure her solid prosperity.

No member of the family of nations will rejoice more over the strength and welfare of Japan than the United States of America.

I am, etc.,

T. F. BAYARD.

Mr. Mutsu to Mr. Bayard.

LEGATION OF JAPAN,

Washington, February 14, 1889. (Received February 14.)

SIR: I am pained to say that I have received a telegram from His Imperial Majesty's minister for foreign affairs announcing the death of his excellency Viscount Arinori Mori, minister of education, in consequence of wounds received at the hands of a religious fanatic. I have no further particulars, except the assurance from Count Okuma that the crime had no connection whatever with politics.

Believe me, etc.,

M. MUTSU.

Mr. Bayard to Mr. Mutsu.

DEPARTMENT OF STATE,

Washington, February 14, 1889.

SIR: I have just received your note of this date conveying the sad intelligence of the death of his excellency Viscount Arinori Mori, minister of education of Japan, by wounds inflicted by a religious fanatic.

That such a tragical occurrence should have had no other prompting than a diseased mind, and be wholly devoid of personal or political motive, deprives the incident of the most dangerous features.

Be pleased to accept an expression of my condolence in the loss of your eminent compatriot, and

Believe me, etc.,

T. F. BAYARD.

Mr. Adee to Mr. Mutsu.

DEPARTMENT OF STATE,

Washington, March 12, 1889.

SIR: Referring to our conversation of this afternoon, I take pleasure in now informing you that provision has been made for paying \$15,000 to your Government, as indemnity for injuries caused to Japanese subjects by explosion of shells from the United States steamer *Omaha*.

Measures will at once be taken to effect this payment at an early day.

I am, etc.,

ALVEY A. ADEE.

Mr. Blaine to Mr. Mutsu.

DEPARTMENT OF STATE,

Washington, March 27, 1889.

SIR: I have the pleasure to inform you, having reference to my note of the 12th instant, that on to-morrow (Thursday), the 28th instant, I will be prepared to deliver to you a check for \$15,000, being the amount appropriated by Congress to be paid to the Japanese Government on account of injuries caused to Japanese subjects by the explosion of shells from the U. S. S. *Omaha*.

I am, etc.

JAMES G. BLAINE.

Mr. Mutsu to Mr. Blaine.

LEGATION OF JAPAN,

Washington, March 27, 1889. (Received March 29).

SIR: I beg to acknowledge the receipt of your note of this date, in which you inform me that to-morrow you will be prepared to deliver to me a check for \$15,000, being the amount appropriated by Congress to be paid to the Japanese Government on account of injuries caused to Japanese subjects by explosion of shells from the United States steamer *Omaha*, and to say that I shall be gratified to receive the same, and to transmit to my Government.

I am, etc.,

M. MUTSU.

RECEIPT FOR THE INDEMNITY.

Know all men that I, the undersigned, Munemitsu Mutsu, envoy extraordinary and minister plenipotentiary of his Imperial Majesty, the Emperor of Japan, to the United States, having been duly and specially empowered thereunto, do hereby acknowledge that I have this day received from the Hon. James G. Blaine, Secretary of State of the United States, in the name and on behalf of the Government of Japan, the sum of \$15,000, which was appropriated by an Act of Congress, approved February 26, 1889, to be paid to the Japanese Government for distribution among the families of Japanese subjects accidentally killed or injured by explosion of shells from the U. S. S. *Omaha* while near the island of Ikesima, on the 4th of March, 1887.

In witness whereof, and full discharge and acquittance of and for the said payment, I have hereunto set my hand and official seal, at the city of Washington, District of Columbia, this 28th day of March, A. D. 1889.

[SEAL.]

M. MUTSU.

Mr. Mutsu to Mr. Blaine.

LEGATION OF JAPAN,

Washington, May 27, 1889. (Received May 28.)

SIR: I have the honor to inform you that I am just in receipt of an instruction from his Imperial Majesty's minister for foreign affairs in acknowledgment of the sum of \$15,000 appropriated by the Congress of the United States on account of the injuries caused to Japanese sub-

jects by the explosion of shells from the U. S. S. *Omaha*, and handed by you to me on the 28th of last month.

In acknowledging the receipt of this sum Count Okuma instructs me to express the gratification with which this action is regarded by his Imperial Majesty's Government, and to say that they value it as another evidence of the spirit of justice and good will which the United States have so often displayed towards Japan.

Accept, etc.,

M. MUTSU.

Mr. Blaine to Mr. Mutsu.

DEPARTMENT OF STATE,
Washington, May 29, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, concerning the appropriation of \$15,000 made by Congress on account of the injuries caused to Japanese subjects by the explosion of shells from the U. S. S. *Omaha*, and delivered to you in April last, and to express the Department's gratification at the communication of the friendly sentiments contained in your note upon receipt of that amount by his Imperial Majesty's Government.

Accept, etc.,

JAMES G. BLAINE.

MEXICO.

Mr. Bayard to Mr. Whitehouse.

[Extract.]

No. 181.]

DEPARTMENT OF STATE,
Washington, D. C., December 7, 1888.

SIR: My instruction No. 8* to General Bragg, of March 15, 1888, presented the claim against the Mexican Government of the widow of Leon McLeod Baldwin, a citizen of the United States, cruelly murdered near Durango. General Bragg's dispatch No. 64,† of June 5 last, reports having read that instruction to Señor Mariscal and having left with him a copy.

Since that date no progress in the matter has been reported by the legation, and this Government is still without response to its earnest representations in behalf of suitable indemnification being made to the widow of the murdered man.

In view of the urgent inquiries recently addressed to the Department by friends of Mrs. Baldwin, it becomes proper to revive this application, and you will express to Señor Mariscal the earnest desire of this Government that a just and friendly determination of the matter be soon reached.

I am, etc.,

T. F. BAYARD.

Mr. Whitehouse to Mr. Bayard.

[Extract.]

No. 218.]

LEGATION OF THE UNITED STATES,
Mexico, December 18, 1888. (Received December 26.)

SIR: In reference to your No. 181 of the 7th instant, requesting a revival of the Baldwin case, I have the honor to state that I called on Señor Mariscal yesterday and directed his attention anew to the matter.

Señor Mariscal said he had not yet received a full report of the case from the local authorities, but would request anew that it be furnished forthwith. Such a statement or report, he continued, was absolutely necessary in order to enable him to judge impartially of the merits of the claim.

I argued that, although I did not pretend that any one held the central Government directly responsible for the crimes committed by the bandits, still the local authorities were unquestionably very lax in affording the desired protection.

* Printed For. Rel. 1888, vol. 2, p. 1144.

† *Ibid.* p. 1202.

Mr. Mariscal admitted that there had possibly been some "neglect," but expressed himself unable to offer a decision until he had carefully weighed the evidence of both sides.

I am, etc.,

H. REMSEN WHITEHOUSE.

Mr. Whitehouse to Mr. Bayard.

LEGATION OF THE UNITED STATES,
Mexico, February 28, 1889. (Received March 8.)

SIR: President Diaz has recently caused to be published in the official journal of the Government a lengthy and detailed résumé of the policy and acts of the Executive during the four years of his late term of office (December 1, 1884, to November 30, 1888).

The reasons which called such and such a measure into force are briefly touched upon by the writer, together with a general sketch of the policy, political, commercial, and progressive, which the President considered as best adapted to the peculiar needs of his countrymen, or for the advancement of national interests.

Much of the information contained therein will, I am confident, be of considerable interest, not only to those of our citizens whose commercial or financial affairs cause them to follow closely the practical advance of Mexico, but also to those who, although having no direct pecuniary ventures to watch over, can not, nevertheless, but be deeply concerned in the progress, intellectual and material, of so close a neighbor, and of a country with whose aims and interests our own are certain to become more and more closely allied.

General Diaz rightly considers the peace which the country has enjoyed for the last years as the principal cause from which springs the progress which Mexico is making.

To this peace must be attributed the extinction of political insurrections, the security which the citizen enjoys both as to his person and his property, the extension of business, the spread of education in all classes, and the awakening of the public spirit which is opening up the many channels of human activity.

Contrasting the improvements already existing with the lofty aspirations of the people, it will be said that hardly the first step has been taken towards social regeneration; but when it is remembered what long periods of armed struggles the Republic has been through, what immense obstacles it has been necessary to destroy in order to set up the principles of civilization, it will be granted there is reason to be proud of the political and social evolution of the country.

The feelings of national dignity as well as the healthy aims of justice are the levels on which the Government has constantly based its actions. Without taking into consideration the degree of strength or weakness of the nations with which it has been necessary to treat, merely the intrinsic value of each case has been relied on.

With such principles in mind (it is stated) the Government refused to alter certain conditions of the penal code, or to consent to consequent indemnities, as happened in the case of an American journalist at Paso del Norte, because it considered that it was not under obligations to yield to such petitions, the reasons for refusal being so justifiable that the Government at Washington did not insist, closing its ears to the exalted passions which endeavored to influence this affair.

The same reasons governed the conduct of the Executive in the proceedings against the authors of the offenses committed on the American side of Nogales and at Paso del Aguila (Eagle Pass).

The United States Government, appreciating the motives of this conduct, withdrew their demand and when the penalty of death was pronounced against the criminals in accordance with our laws, the President of the United States exercised his good offices in behalf of those sentenced, and the Executive by right of its constitutional powers commuted the penalty.

Duly appreciating the importance of rapid and easy intercommunication for the purpose of stimulating industrial and mercantile activity the Government has seized every opportunity to push forward these aims, recognizing railways as an indispensable necessity for the distribution of public wealth; hence the lines between Mexico and the United States.

Foreseeing, nevertheless, that this facility of communication between nations must of necessity carry with it an increase of diplomatic complaints on account of private interests which may be considered injured, it has been sought to find a remedy by framing conventions which have been dictated according to the principles of strict justice, and the lessons of experience.

Among such conventions those most worthy of mention are the treaty for the extradition of criminals with the United States, and the joint action for punishing hostile Indians who commit depredations on the frontier.

The respect of the sovereignty of nations has formed the basis of Mexico's foreign policy.

This explains the conduct of the Government concerning the acts of General Barrios, President of Guatemala, when he attempted to unite by force the five Republics of Central America, declaring himself supreme chief; and also in the case of the coup d'état of General Barillas, President of the same nation, who last year suspended the constitution. The disapprobation of the Executive in the first case was frank and decisive, as it was not possible to lend countenance to so unjustifiable an attack against the rights of nations; in the second case, it was considered advisable to await the expression of opinion of the Guatemalan people, it not being incumbent to prejudge a question which affected solely the private interests of the neighboring country.

Several treaties of friendship, commerce, and navigation have been arranged, some of which have been duly ratified, namely, those with the United Kingdom of Norway and Sweden, with France, with Great Britain, with Ecuador, and with Japan. Postal conventions have been agreed to with the United States and with England. The invitation of the French Government to take part in the exposition about to be opened has been accepted, as well as that of Spain, to celebrate in 1892 the fourth centennial of the discovery of America.

The postal service is one of the institutions which has made most rapid strides among modern nations. The revolutionary movements which opposed the great reforms of 1856 to 1861, did not permit of the introduction of improvements in this branch, and, with the exception of pre-payment, the old Spanish colonial system remained in force. In 1879, however, the Universal Postal Convention, signed the previous year in Paris, and of which Mexico was an adherent, modified considerably our system of exterior correspondence. In 1882 a commission for the study of the organization of the postal service was appointed, and made radical reforms. In 1883 these reforms became law. During 1885 considerable confusion existed in the postal service, and it was found necessary to re-arrange the department according to the model of more advanced nations. At present there are 356 offices and 719 agencies, as against 53 offices and 269 couriers in the old service.

The transport of mails, which formerly cost large sums, is effected now without a subvention in most cases, and with a considerable reduction in others, on account of treaties with steam-ship lines.

In view of the importance of the capital a district service has become necessary. For this special service there are 5 suboffices in the city, 100 boxes in the streets, and 80 bureaus at which stamps can be bought. About 5,000 postal packages circulate daily, with the 5 collections and an equal number of deliveries. Great advantages have accrued, especially to commerce, from the postal convention with the United States, which allows of the interchange of correspondence, printed matter, samples, and parcels. At the same time, thanks to the exact directions contained in the rules of the departments of the interior and public works, the fiscal interests have suffered no evil consequences.

The results of the new system adopted can be appreciated when it is stated that in 1878 a postal circulation of 5,169,894 pieces was considered quite extraordinary, while last year the number exceeded 27,000,000.

After considerable difficulty, owing to the extreme conservatism of the lower classes and their ignorant opposition to any reform, a sanitary board has been established. Besides an inspection of drinks and food, and a general sanitary supervision, a special sanitary code has been prepared, which imposes certain obligations (in conformity with individual liberty) on each citizen.

A microbiological laboratory has been opened. Very shortly there will also be completed a laboratory for the inoculation of hydrophobia, together with an office for disinfection.

The drainage of the Valley of Mexico is closely allied to the sanitary question.

This gigantic work was undertaken during the Spanish reign in order to do away with the continual danger of inundation of the capital; but notwithstanding its immense importance the problem was never solved, and greater or less inundations (depending on the quantity of rain) constantly occur, rendering impossible a satisfactory sanitary condition.

General Diaz has taken a most lively interest in this most serious affair, and has done his best to have the problem solved by competent engineers. With this object Congress, on the 11th of December, 1885, issued a decree which raised to 40 per cent. the former 28, resulting from "octroi," and by which, by the law of the 20th of June, 1885, the municipality was obliged to set aside annually \$400,000 for the drainage of the valley.

Having adopted the plan for the work prepared by the department of Fomento, the work was started with the available means, and later on, in order to push forward the works, contracts were given for the completion of the most urgent parts, especially of the tunnel. Funds for the completion of this gigantic undertaking were, however, wanting. Fortunately, owing to the general state of the country, and the credit which it has been possible to establish abroad, the municipality was able to contract a loan with capitalists in London for £2,000,000 sterling, a sum sufficient in a few years to convert the ancient city of Montezuma into one of the most healthy places in the world.

The Mexican Government realizing the importance not only of punishing crime, but also of endeavoring to regenerate the criminal, and, if possible, to convert him into a useful member of society, has undertaken the construction of model penitentiaries.

Great and undoubted progress has been made in the organization of an efficient police, both metropolitan and rural; the latter being distributed not only in the federal district but throughout the various states of the Republic. This most efficient force has caused opinion abroad to undergo a change and has altered the prejudice against emigration, and bettered all relations abroad.

Great attention has been given to the fostering and establishment of asylums, charitable schools, and various institutions of this class. Schools for the blind, the deaf and dumb have been created or provided for out of the public funds. The adoption of the most recent treatments in therapeutics has caused great benefit to the inmates of the various hospitals. The preparation and free distribution of medicines in the central stores have also given most excellent results. A notable advance has also become apparent, owing to the introduction of modern methods in the municipal schools as well as in those included in some asylums. The improvements most worthy of special mention are those of the Foundling Hospital, the Maternity Hospital, and the House of Correction.

The "Lottery for Public Benefit" is especially counted on by the administration for giving greater impulsion to this branch, and the drawings have been regulated with this object. Amongst other projects based thereon is the construction of a general hospital and of a lunatic asylum on the most approved scientific principles of hygiene.

The crisis through which the National Monte de Piedad (pawn shop) is passing is nearly over, as will be seen by the following: On suspending banking operations in April, 1884, the establishment reported obligations to the sum of \$3,924,639.40, of which the emission of notes in circulation represented the sum of \$2,827,360. On the 30th November, 1884, the debt had been reduced to \$974,815; on the 31st of August, 1886, to \$337,806.20, and on the 31st of October, 1888, to \$306,889.48; from which it results that during the administration of President Diaz an amortization of \$667,925.52 has been accomplished. The amortization of notes during the same period was \$480,000, the circulation being reduced to \$12,500. The failure to cash these tickets (notes) makes it seem probable that by some accident or other they have been destroyed. In any case the loss is insignificant relative to the total emission of \$4,327,360, as it is calculated as a general rule that the amortization of notes not presented for redemption amounts to 5 per cent. of the emission.

Amongst active credits of the establishment which have gone on realizing, and which in many cases during the first months of the crisis were exchanged at par at the rates of the "Monte de Piedad," has been the debt of the Federal Government. This debt which pays regularly, amounted on the 1st of December, 1884, to \$554,847, and to-day is reduced to \$177,375.25.

The establishment had, on account of necessary liquidation, considerably to curtail its operations. Nevertheless, during the last four years it has lent \$4,470,779, or an average monthly loan of \$93,141.

With the object of meeting the wants of the needy classes, a new rule has been put in force, which took effect on the 1st of January, 1887.

By virtue of this the national pawn shop is obliged to hand over to those interested any surplus which may remain after the sale of the objects belonging to them, which sums must be carried on special registers. Since the introduction of this rule up to October, 1888, surpluses have been collected in seventy-eight offices, amounting to \$5,110.67, of which \$783.39 has been handed over to those interested. The remainder, not having been claimed after one year, has, according to the rule prescribed in such cases, been transferred to the fund for public charities.

Various reforms and preparatory studies for modifications, amplifications, or amendments in the several branches of jurisprudence, mercantile, criminal, and federal law, have been under consideration, the results of which appear at no distant date.

Public instruction is recognized by President Diaz's administration as the essentially civilizing element, on which firm base reposes the prosperity of nations. But it is also stated that the work of regeneration in Mexico will not be really cemented until what up to the present time has been done from noble sentiment is done from rational conviction. "The principle of democratic equality," says the President, "which is at the heart of our society, is a positive truth, which only awaits, in order to spread itself fully, the vivifying breath of knowledge."

The Government has fixed its attention on three heads, which it considers all important: To propagate without limit elementary instruction; to give wider scope to secondary and professional instruction, either by the endowment of new chairs or by the creation of new schools, and to improve the existing establishments by introducing into them the reforms made advisable by experience.

The law making primary instruction compulsory in the district and federal territories was an urgent necessity. The Executive has worked hard at the details of this law, believing that on the arrangement of it depended to a great extent the efficient working of so important a measure, and from time to time has dictated various improvements for primary instruction in the territories.

Important reforms have been realized on various points, among others the establishment of infant schools in which the Frœbel method has been introduced, giving the teaching an essentially educational character. The subjects of study have been increased in primary education, procuring easy and rapid acquirement of knowledge of useful matters with the greatest economy in time and labor. School furniture has been changed for the newest designs, and the school buildings, which are Government property, have been re-arranged, gardens and gymnasiums being added as beneficial to the health and physical training of the pupils.

A training-school for those gifted with the requirements for teaching became a necessity as soon as the Government had undertaken this important branch. In consequence the law of December 17, 1885, was passed by Congress providing for the establishment of a normal school of professors. On the 24th of February, 1887, this school was formally opened, the building being amply provided with the requisite furniture and a schedule of studies and regulations having been carefully prepared by competent authorities. The Government being desirous that the benefits of the new training-school should be spread throughout the country, invited the governors of all states to send pupils for this professional training. On the other hand, the education of women claiming no less attention than that of men, the Executive desired to complete the work by converting the secondary girls' school into a normal college of female professors. Being duly authorized by Congress to make this change, the decree is now being carried out.

Due encouragement has been given to scientific and technical education. The conservatory of music, the academy of painting, and the schools of sculpture and architecture offer many examples of the very notable progress in the culture of the arts, for which the nation has special aptitudes, as has been satisfactorily proved.

Owing to the civil wars, which for so many years have placed the whole country in a state of almost incessant confusion, the study and the preservation of the ancient monuments and historical remains has been almost impossible. Of late years, however, the attention of the Government has been drawn in this direction, and much has been accomplished. An inspector has been appointed, the building of the

national museum improved, its various collections added to both those of natural history and archæology. An archæological map of the Republic has been made, and plans and photographs of the palaces of Mitla obtained. Explorations of the ruins of Xochoicalco and the pyramids of Teotihuacan have been undertaken, many interesting discoveries rewarding the explorers of the latter. A wall 360 meters long, 3 meters high, and 1 meter broad has been constructed around the palaces of Mitla for the protection of these gigantic monuments.

To-day the Republic possesses a fine national library, where ancient documents and a large collection of scientific and historical works are at the disposal of the student.

Owing to the almost entire lack of navigable streams, the wretched condition or total absence of roads, and, in parts, the scant population of many districts of the country, railroads were of more than usual importance for the development of the immense natural riches of the Republic.

Unsatisfactory financial conditions, as well in the country as amongst foreign markets, caused a delay in the building of railways in 1885. Nevertheless the works went on, although, on account of the above-stated reasons, somewhat slowly, and in the first months of 1886 the lines, which one year before measured 5,915 kilometers, reached to 6,018 of road in running order.

In April, 1887, the Central and National Companies succeeded in raising the capital necessary for the fulfilment of the obligations of their concessions, and at present both companies have completed their trunk lines to the frontier of the United States.

The 1st of March, 1888, the Mexican International Railroad was opened, which unites the frontier town of Piedras Negras with the Central Railroad at Torréon, thus completing three roads to the north. On the 21st of May of the same year the Central opened to traffic the important branch from Trapatto to Guadalajara, pushing forward also that which from Tampico and Aguas Calientes goes to San Luis Potosi. Meanwhile the railways in the State of Hidalgo and those in Yucatan, as well as the Interoceanic, are rapidly progressing, especially the latter, owing to financial combinations in London.

The total extension of railways at present finished and in running order now reaches 7,940 kilometers.

The wild enthusiasm with which the inhabitants of Guadalajara and San Luis Potosi greeted the arrival of the first trains which placed them in communication with the capital and the outside world testifies to the keen appreciation of this inestimable benefit to commerce and civilization.

In March, 1886, there were more than 5,000 kilometers of telegraph lines completed, with a service of 93 offices. On the 5th of February, 1887, the systems of Mexico and Guatemala were united, and a telegraphic convention between the two Republics was entered into. The Government has reserved the right of using many telegraphic lines in its contracts with the railroads. Lines have been constructed between Ticalango and Ciudad del Carmen, between Puerto Real and Isla Aguada, as well as between the rivers Grijalva and Coatzacoalcos, by means of which instant communication is obtained with the States of Yucatan and Campeche, and the Gulf coast.

Taken altogether, the telegraphic system of the Republic now covers over 31,103 kilometers.

Fully appreciating the importance of colonizing the immense districts to-day almost uninhabited, the Government has entered into contracts

with several companies for this purpose. At the end of 1885 20,000,000 acres had been disposed of, which total was increased in 1886 by 7,000,000 hectares in Chihuahua and Lower California, without counting the various amounts taken up by private individuals in accordance with the law of July, 1863. Commissions of engineers were appointed for the purpose of rectifying demarcations in the States of Chihuahua, Durango, Sonora, Sinaloa, and Puebla.

The following figures will give an idea of the result of these operations. The lands taken up by these companies cover some 33,811,524 hectares, of which 11,036,407 revert to them in compensation for expenses incurred. The ground sold or promised by the Government amounts to 12,642,446 hectares. To this must be added 3,635,388 hectares, representing 1,504 titles issued in accordance with the law of 1863.

Amongst the flourishing colonies thus formed may be noted the Ascension and Piedras Verdes, in Chihuahua, and Rio Colorado, in Sonora. Moreover, both in the above named States, as well as in Sinaloa and Lower California, private companies have organized colonies by means of contracts with the Government. Boleo and Todos Santos have advanced to the extent of opening the ports of that name and of Santa Rosalia. The old colony of Ticaltepec, in Vera Cruz, has also made great progress.

The Geographic Exploration Commission sent to Sonora to rectify and demarcate the districts of the Yaqui and Mayo Rivers concluded their labors and registered tracts of lands for the Indians, to whom titles legalizing their holdings will be issued.

In spite of the almost continual exportation during more than three centuries of precious metals, the mineral riches of the country can hardly be said to be adequately developed. In virtue of constitutional reforms it has been possible to apply efficient legislation to this important industry. A mining code has been carefully prepared, and owing to increasing confidence in the general situation of the Republic companies have been formed abroad and a large amount of capital devoted to this object.

Some idea can be formed of the extraordinary advance of mining interests when it is stated that in the seventeen months from April, 1887, to September, 1888, 2,077 new claims were taken up and 33 stamp mills. Furthermore, by virtue of the law of June 6, 1887, the Executive has entered into more than one hundred contracts for the exploration and development of the mineral zones in the States of Mexico, Puebla, Guerrero, Michoacan, Queretaro, San Luis Potosi, Jalisco, Durango, Coahuila, Sinaloa, Chihuahua, and Lower California. It is calculated that capital to the extent of over \$30,000,000 is at present engaged in the development of mining interests. Vast quantities of ore are exported which the methods adopted in the country do not make it profitable to reduce.

The variety of climate, which allows of the growing of almost all crops, and the fertility of the soil are exceptional advantages which Mexico enjoys. Owing to this, and to the extension of the railways, which facilitate the export of agricultural produce, this branch of industry demands attention. A monthly journal, distributed gratis, is issued by the Government, which contains much useful information and data. Seeds and plants brought from abroad are liberally distributed, and Government agents supply information as to their proper culture. The silk industry has been started by the introduction of the silk worm, and promises to become of great importance. Efficient means for the propagation and preservation of fish have also been undertaken by this

department. The cultivation of the vine has proved successful, and has spread rapidly, especially in the States of Aguas Calientes, Zacatecas, Durango, Chihuahua, and Coahuila. Wines of a sufficiently good quality are now made in these districts.

The construction and preservation of break-waters, docks, and light-houses, as well as all improvements demanded in the ports, has been carefully considered.

Many reforms have been introduced into the mints; amongst others the unification of the type of national money. A central office of engraving, which began turning out notes in January, 1887, was established.

The engagements entered into on the part of the Government in favor of the national bank, the Bank of London, the Hypothecate, and the Monte de Piedad, on the 1st of December, 1884, reached \$10,751,015.95. In order to amortize this sum, according to the respective contracts, as well as the obligations of subventions to railroad companies, and for \$4,533,862.68, the amount due private parties, it was found necessary to engage the customs receipts to such extent that only a $\frac{1}{3}$ per cent. remained—a remainder insufficient to cover the salaries and the expenses of the custom-house. In consequence of these and other obligations the Government found itself almost in the impossibility to meet an estimate of nearly \$26,000,000, without counting the authorizations contained in the same estimate and the expenses voted subsequently, which reached a total of many millions. Thus it was that on the 30th of November, 1884, a part of the civil list and several days' salary to the army was unpaid. This exhausted condition drove the Government to issue paper in order to find the sums necessary to meet the most pressing expenses, sums which were only granted at short exchange and heavy obligations. This necessitated a slight reduction in the salaries of all official employés. In addition a decree was issued on June 22, 1885, to consolidate the floating debt, or that contracted since July 1, 1882, up to 30th June, 1886, and another to convert and consolidate the public debt contracted before that period.

After this period the financial situation began to be slightly alleviated. The decree relative to the liquidation and conversion of the public debt up to the 30th June, 1882, has given excellent results. The direction of said debt, appointed by the decree of January, 1886, has acknowledged up to the 12th of last September \$17,101,837.37, of which sum the treasury has made the respective conversion, delivering to those interested corresponding bonds.

In June, 1886, the financial agency of Mexico in London came to an agreement with the president of the council of foreign bonds and with the president of the committee of Mexican bonds for fixing the mode of payment of the interest of the bonds issued in accordance with the law of 1851, and on other points relative to the conversion of the various credits considered as included in the London debt. This agreement was approved the 15th July, 1886.

In accordance with the policy proclaimed by Mexico twenty years ago, the Executive decided in the law framed for the arrangement of the public credit that titles proceeding from old diplomatic conventions should enter into the common fund of the Mexican debt with the same rate of interest as the bonds of other holders. In December, 1886, an agreement was signed with the representatives of the holders of bonds of extinct English convention, settling that these credits without any diplomatic character belonged to the common fund, realizing on 3 per

cent. instead of the 5 or 6 per cent., which, according to the extinct international conventions, they were quoted at. In pursuance of these several conventions the financial agency up to the 31st May, 1888, acknowledged \$73,507,090.68.

In 1887 certain important European bankers, notably Bleichroeder, of Berlin, proposed financial operations by means of which the redemption of the floating debt was deemed possible, and the proposals, having been duly examined by the council of ministers, were found acceptable. A contract for the issue of a loan of £10,500,000 was agreed upon, and signed by the Government and Bleichroeder on the 24th of last March.

The great opening of traffic in consequence of the various lines of railway now open to the United States has caused a very perceptible increase in the customs. During the last fiscal year the export of national products reached \$49,000,000. The increase of business has also made necessary many modifications and improvements in the administration of customs, which are still being carried out.

The army at present consists of 16 generals of division, 84 brigadier-generals, 1,205 captains, 2,566 officers, and 29,367 privates; very nearly the same figures of December, 1884.

In 1885 the national artillery school and the arsenal were started. In the latter, armament after the latest designs and ammunition for the various arms are made. The military college is one of the most remarkable institutions of the Republic, comparing favorably with the best organizations of its kind. With a view to the formation of a navy, nautical instruction is also included at the military college. The nautical school of Mazatlan is established on board the *Mexico*; that of Campeché is on land. Eighty per cent. of the pupils here taught have entered the merchant service or gone out as pilots.

Surveys, maps, geographical, historical, and botanical explorations have been undertaken by special commissions appointed by and composed of military authorities, and to these, in great part, is due the formation of valuable and extensive collections pertaining to natural history and geology, astronomy and geography.

As stated in the beginning of this report, I have merely sought to glean subjects of general interest, passing over the mass of minute detail both in figures and explanation of certain purely local measures, which the President's document contains.

Trusting the above may prove of some interest to the Department,

I am, etc.,

H. REMSEN WHITEHOUSE.

Mr. Bragg to Mr. Blaine.

No. 280.]

LEGATION OF THE UNITED STATES,
Mexico, March 23, 1889. (Received April 1.)

SIR: I have the honor to inclose a synopsis of what would appear to be a very valuable work on Mexico and Mexican affairs.

As soon as the publication is complete a copy will be forwarded to the Department.

I am, etc.,

EDW. S. BRAGG.

[Inclosure in No. 280.—From Two Republics of March 14, 1880.]

IMPORTANT DATA.

[Extracts from a publication recently compiled in Mexico.]

The "Cuadro Geografico, Estadistico e Historico de los Estados Unidos Mexicanos" having been scrupulously revised by Antonio Garcia Cubas and the latest data obtainable added, it will now, at the wish of the secretary of public works, be printed in French, to be sent to the Paris Exposition. The new book will show the progress made in all branches of the administration, besides giving valuable data in regard to the republic. The various branches which will be included within the book will be the geography of Mexico, its statistics and its history. The first part will treat of the situation of Mexico, its limits, progress, institutions, political divisions, income, and public expenses, real estate, ethnographic and ecclesiastical divisions, principal cities and towns, configuration and physical aspect of the country, mountains, dominant geological formation, hydrographics, climate, and productions, a description of the valley of Mexico, the federal district, and the city of Mexico (ancient and modern).

The second part will comprehend the following material: Towns in general and the States in particular, colonies, industries of the inhabitants, highways, railroads, telegraphs, mails, international steam-ship lines, ports, light-houses, foreign commerce, movement of vessels, public instruction, libraries, museums, associations, observatories, newspapers, agriculture, mining, and coinage.

The third part, or that which is to be a historical review, will embrace in divisions: (1) Archaeology, (2) Immigration, (3) The Conquest, (4) Spanish rule, (5) Independent Mexico. Historical points and the organization of the army and marine will be from the pen of General Sostenes Rocha.

The comparison of statistical data is based on the analogous data found in volume fifth of the "Anales de 1880." The new book will show that the population of the country from 1880 to 1888 has increased 1,487,701, or 185,926 for each year, which corresponds nearly to a 2 per cent. increase.

The federal income as well as the income of the States has greatly increased. In 1880 the federal income was \$21,936,135; in 1888 \$32,126,508, or \$10,190,343 more than in 1880.

In respect to real estate it has been impossible to procure exact data, and the following data is based upon the amount of taxes collected. Above all, the increase noted between the years 1880 and 1888, taking into consideration the numerous new buildings constructed, especially in the city of Mexico, the assessor's books show in 1880 the sum to be \$366,055,052, and in 1888 \$473,519,871, or more than \$107,000,000 increase.

There are no old data on which to base a comparison of the manufacture of fabrics. However, the new factories established in the country, of which two belong to the City of Mexico, show that there has been a notable increase in this branch of industry.

The establishment of railroad lines in Mexico has been a matter of interest to the inhabitants, and since 1837 the idea was entertained of uniting Mexico and Vera Cruz by railroad, but owing to many obstacles it was not until 1849 that a concession was granted and the road commenced. The work of construction, however, went along slowly, and in 1851 the road had only been completed between Vera Cruz and San Juan, and in 1857 from Mexico to Guadalupe. New concessions gave impetus to the work, and on December 31, 1872, the road was inaugurated and on the following day opened for traffic.

The great railroad movement in Mexico dates from the year 1877. In that year companies, stimulated by concessions of \$3,000 a kilometer, multiplied, and in the following year fifteen lines were in exploitation, and at the termination of the year 1888 forty-seven. In 1880 there were 1,055 kilometers of railroad constructed, and in 1888 the number of kilometers of railways in operation amounted to 8,153, showing the increase in eight years to be 7,098 kilometers.

There has been an equal increase in the construction of telegraph lines. In 1850 the first wires in the Republic were put up in the City of Mexico between the National Palace and the School of Mines, by Mr. Juan de la Granja. This line measured 3,000 meters. In 1880 there were 18,910 kilometers in operation, and in 1888, 44,612 kilometers, showing the increase to be between the last dates mentioned 27,702 kilometers. In this data the coast cables are included. The messages sent over the wires in 1880 were 281,697, and in 1888, 671,444, showing an increase in business to be 389,747 messages.

The mail service has also had its increase, both in the pieces of correspondence as well as in the increase of its revenues. This increase is due to the reforms in the tariff and the increase of post-offices. The number of pieces of mail matter transmitted in the Republic in 1880 was 5,788,182; in 1888 it was 27,390,288. The movement in

mail matter for foreign countries in 1880 was 1,266,608 pieces ; in 1888 it was 1,627,146. The products of the post-offices in 1880 amounted to \$605,652; in 1888 to \$805,784; showing an increase of \$200,132. There are in operation in the Republic over 1,000 offices.

Mining, one of the principal branches of national riches, has been on the increase since 1880, and promises great future results.

The coinage effected in the Republic since the establishment of mints up to 1888 reaches the respectable sum of \$3,312,723,266, divided in this form :

Gold	\$112, 671, 000
Silver.....	3, 194, 111, 828
Copper	5, 940, 438
Total.....	3, 312, 723, 266

According to the last report of the secretary of the treasury, for the fiscal year 1886-'87 goods to the value of \$52,252,275 were imported into Mexico on which duties were collected amounting to \$19,845,015. The exports for a corresponding period amounted to \$43,647,717.39. Both the imports and exports show a large increase over the previous fiscal year.

Public instruction is undergoing rapid changes for the better, as is demonstrated in the following figures :

Years.	Schools.	Pupils.
1880.....	8, 536	435, 953
1888.....	10, 726	543, 977
Difference in favor of 1888	2, 190	108, 024

In all the principal schools of the Republic improvements in the system of teaching are being made, and those schools have all the necessary apparatus for explanation.

The new book promises to be very valuable from the fact that it will have collected within its covers data useful in all branches of business.

Mr. Blaine to Mr. Bragg.

[Extract.]

No. 268.]

DEPARTMENT OF STATE,
Washington, May 16, 1889.

SIR: I herewith inclose for your information and files a copy of a note* lately addressed by me to the Mexican minister here, urging upon him the great necessity of his Government adopting a thorough system of sanitary inspection for native and imported cattle.

I am, etc.,

JAMES G. BLAINE.

Mr. Ryan to Mr. Blaine.

No. 8.]

LEGATION OF THE UNITED STATES,
Mexico, June 1, 1889. (Received June 10.)

SIR: Impressed with the importance of the subject of your instruction No. 268, of the 16th ultimo, addressed to Mr. Bragg, I called unofficially on Mr. Mariscal and spoke with him of the importance of the cattle industry of both countries, of efficient regulations for inspection, quarantine, and stamping out of contagious bovine diseases that might be found

* Printed *infra*, p. 636.

to exist among the cattle of both countries. I informed him that many of the States and Territories, as well as the General Government of the United States, had already provided such regulations and desired the co-operation of his Government.

Mr. Mariscal suggested that I should place the matter before Mr. Pacheco, minister of public works, under whose jurisdiction the question belonged. Mr. Pacheco is absent from the capital for some weeks, but I visited the under secretary, accompanied by the Hon. E. G. Ross and Mr. Warner, of New Mexico, members of a committee authorized to confer with the Mexican Government upon the question.

To him I reiterated what I had stated to Mr. Mariscal, and explained to him the fatal and contagious character of pleuro-pneumonia among the cattle of other countries, and called his attention to the fact that if once it got hold on the cattle on the open ranges of Mexico it would be almost impossible to eradicate it.

Should this occur, the cattle industry of his country would sustain irreparable injury, and that a policy of non-intercourse would become imperative. I urged also that it was the opinion of well-informed men in my country that the natural conditions of northern Mexico were exceptionally favorable to cattle-raising, giving promise of becoming vast breeding grounds for supplying American farmers who could profitably feed and fatten them for the markets of our country, thus assuring to Mexico the growth of an industry which must inevitably result in its becoming an element of great national wealth, etc., all of which arguments were re-enforced by elaborate details brought forward by Governor Ross and Mr. Warner.

Mr. Fernandez replied in substance that the Mexican Government would be pleased to receive any information that might be furnished bearing upon the subject, the great importance of which he fully realized.

He stated that the matter was within the joint jurisdiction of the department of public works and that of the interior, and did not think any legislation was necessary to authorize his Government to adopt reasonable sanitary regulations. He added that these departments had for some time past been making the matter a subject of searching investigation, alike through the consuls abroad and its representative at Washington, Mr. Romero; and that the data collected were being compiled with a view to intelligent action. Also that the governors of several States had been requested to furnish information of any sanitary measures authorized by the States, and of any regulations in use for the prevention and eradication of bovine diseases. He was pleased to add that he thought that not only his own department but every department of the Government (fully realizing the importance of the matter) would co-operate in any proper measures for the mutual protection of this important industry.

I am, etc.,

THOMAS RYAN.

Mr. Ryan to Mr. Blaine.

No. 17.]

LEGATION OF THE UNITED STATES,
Mexico, June 10, 1889. (Received June 18.)

SIR: Nothing further having reached this legation concerning the case of Leon McLeod Baldwin, cruelly murdered in Durango in August, 1887, since Mr. Whitehouse, acting under instructions of the Depart-

ment, on December 17 last, again called Mr. Mariscal's attention to the matter, I have deemed it my duty to renew the solicitations for a humane and equitable adjustment of the case.

Mr. Whitehouse in his dispatch, No. 218, of December 17, 1888, stated that Mr. Mariscal asserted that he was not yet in possession of sufficient evidence to form a definite opinion.

It would certainly appear that since that time, nearly six months ago, Mr. Mariscal had had ample time and opportunities to convince himself in the matter.

I am, etc.,

THOMAS RYAN.

[Inclosure in No. 17.]

Mr. Ryan to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, June 10, 1889.

SIR: Several months have expired since Mr. Whitehouse, acting under instructions from the Department of State, drew your excellency's attention (December 17, 1888) anew to the case of Leon McLeod Baldwin, who was murdered in Durango in 1887.

The details of this sad affair are so well known to your excellency that it would be superfluous to enter into them again, but this legation having up to the present received no communication concerning the matter since your excellency's note of June 4, 1888, I deem it my duty again to draw your excellency's attention to this most important case, and respectfully to suggest the desirability for an early adjustment.

It will be looked upon as a singularly graceful and friendly act by my Government should a decision in accordance with the principles of humanity and equity be arrived at by your excellency's Government.

I am confident that when your excellency has carefully considered the exceptional and distressing conditions of the case you will be inclined to agree with the views presented by my Government.

I take, etc.

THOMAS RYAN.

Mr. Ryan to Mr. Blaine.

[Extract.]

No. 27.]

LEGATION OF THE UNITED STATES,
Mexico, June 27, 1889. (Received July 5.)

SIR: I inclose herewith a copy of Mrs. Work's letter to the press relative to the imprisonment of her husband at Ciudad Victoria, Mexico, as also of Mr. Gifford's statement on the subject.

On my application the consul at Ciudad Victoria has furnished me with the presentation to the court of defendant's case by his attorney, and uncertified copies of the evidence which are now being translated in the legation and will be forwarded as soon as possible.

I understand the case is now before the "court of last resort" of the state.

I am, etc.,

THOMAS RYAN.

[Inclosure in No. 27.—From the Two Republics, June 27, 1889.]

THE WORK OUTRAGE.

A statement from Mr. A. W. Gifford, of St. Louis, Missouri, on the subject.

ST. LOUIS, MISSOURI, June 29, 1889.

EDITOR TWO REPUBLICS:

The inclosed special to the Globe-Democrat from San Antonio, Texas, purporting to come from Mrs. Mary C. Work, is an insult and a great injustice to Mexico and her good people.

Personally I don't believe Mrs. Work wrote such a letter, for I detect in it the ear marks of Judge W. H. Brooker, a lawyer of San Antonio, Texas, who doubtless thinks this the best mode of serving Mr. Work and wishes to work up notoriety and sympathy by it.

Mr. Work did kill a man, not a robber as stated, but a Mexican miner under the influence of liquor, who picked a quarrel and drew a knife on him. He was accompanied by two other miners, who might have prevented the trouble by taking their companion away. But ill feeling often found in mining camps, the result of enmity and jealousy from conflicting interests doubtless prevented their interference, and a life had to pay the penalty, for which Mr. Work has been tried and sentenced for four years.

I have understood from the time of the trouble, that he has been dealt with in a liberal and generous manner, and under the circumstances with two witnesses against himself, he certainly should and doubtless does feel thankful, that his sentence is no worse.

The taking of life even in self-defense is a serious matter, and must necessarily be accompanied with trouble and mortification, unless you hold the preponderance of evidence. Knowing all the circumstances and surroundings as I do, I am satisfied Mr. Work has had and will receive justice in the Mexican courts.

At the time of the sad affair, Mr. Work was the superintendent of the Linares Land and Mining Company, of which he was a stockholder, and I was the president, the company owning and working the mines known as "San Mauricio," "El Leon," "La Parena," and "Santa Rita," located in the camp of San José. For the past two years we have had a continuation of petty troubles and annoyances in the camp that has prevented successful development, which I trust will soon be at an end.

A. W. GIFFORD.

Letter of Mrs. Work.

SAN ANTONIO, TEXAS, June 19.

The following has been made public here, and has caused intense excitement among the people, and immediate steps will be taken to establish its truth or falsity:

CITY OF VICTORIA, REPUBLIC OF MEXICO,
State of Tamaulipas June 11, 1889.

To the universal press and the chivalry of America:

I appeal to you for aid after long suffering. We came to San José, in this State, about seven years ago, where my husband, Robert C. Work, was operating some mines. Everything went on well until about the time we were getting our interests in operation, when other parties desired our property. Every device was resorted to to drive us from our property and our new made home, and threats of violence to my husband were often and openly made by parties at the mining camp of San José. About one year ago, while my husband was returning on horseback from Linares, a town about 50 miles distant, with funds to pay off his miners, he was attacked by three robbers in the gulch near our house. In the trouble my husband ran from the would-be murderers, and in plain view of our home; but the three still pursued him, and one of them with a drawn pistol snatched the reins of my husband's horse. At this instant my husband drew his pistol and shot one of the robbers dead. The other two fled. For this act of my husband, done in full view of his little home, wife, and daughter, and wholly in self-defense, he has been put to unmerciful trials, lugged from court to court, and incarcerated in vile and filthy dungeons, and sentenced to prison for four years. The courts trying him refused to hear any evidence in his behalf, but distorted every statement he would make. The courts admitted the evi-

dence of the two accomplices, and upon such base evidence—if evidence it can be called—my husband has been sentenced. The whole procedure was a flagrant outrage on justice, and on the rights of a free-born American. While his life is in peril, his wife and daughter are left to the mercy of the infuriated fiends, for while my husband was under ward and surveillance, these same would-be murderers and robbers, joined by four others of their class, attacked our house at night and set fire to the brush fence surrounding it, and amid their yells and curses heaped upon the despised “Gringos,” myself and daughter, were forced to fly into the mountains for safety. On returning, and while attempting to put out the fire, I was seized and knocked down by these villains, and an attempt at outrage on my person made.

Amid such surroundings I have been almost crazed from fear and exhaustion, while my poor little daughter, now blooming into womanhood, crouches at my feet praying for protection. Is there no help at home for me? On the testimony of such villains that burn the home over the heads of the innocent and defenseless my husband is held in durance, and subject to every species of humiliation and torture. The officers call my husband an English assassin, and say he ought to be shot.

Our own consuls are made to doubt his nationality, while in truth and fact he was born in Kingston on the banks of the Tennessee River, while I am a native Georgian.

While my husband lies here a prisoner and subject to every indignity his wife and daughter are hooted at on the streets, and no officer of the law lends protection. Human filth is smeared on our door at night, and the vilest epithets are hurled at us as “Gringos” (Americans).

We hold out a longing look for relief, but no comforter comes. Are we unworthy the fostering care of our National Government, because we have been wrecked and are penniless and poor? Brave, generous men of the American Union, we look to you for relief; we pray that our Government lends us its protection.

Very respectfully,

MARY E. WORK.

Mr. Ryan to Mr. Blaine.

No. 30.]

LEGATION OF THE UNITED STATES,
Mexico, June 30, 1889. (Received July 9.)

SIR: I have the honor to forward herewith the various papers relating to the case of R. C. Work, as promised in my dispatch, No. 27, of June 27.

Although the evidence and presentation of the case by defendant's attorney and the findings and sentences of the courts, respectively of the first instance and of the first chamber of the supreme court, are not authenticated, they are doubtless true and correct, for the consular agent, Mr. King, states, in his letter transmitting them to the legation, that they are accurate copies of the originals on file.

It is apparent, however, from the findings of the respective courts, that copies of all the evidence have not been transmitted to me. Nevertheless, sufficient appears in the testimony in my possession—the presentation by the defendant's attorney, and the findings and sentences of the respective courts—to show the exact nature of the offense charged against Work, and the issues made by the facts presented at the trials.

If, indeed, there appears any possible warrant for the intervention of the Government in this case, it can not be assumed in advance that the court of last resort or the state, to wit, the second chamber of the supreme court (before which the case is now pending), will deny the defendant justice, provided injustice has been shown him in the former proceedings.

Although I am not in receipt of any special instructions from the Department concerning the matter, at the same time, in view of the public interest which has been enlisted in this case in the United States, I have deemed it proper to address a request to the consular agent at Ciudad Victoria, that, should the defendant be finally adjudged guilty, and

sentenced, I may be put in possession, at the earliest possible moment, of a certified copy of the entire record of the case, *inclusive of all the evidence*, and which I should promptly transmit to the Department for consideration.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 30.—Translation.]

Appointment of Juan Luis Tercero as attorney for Robert C. Work.

FIRST CHAMBER, 1889.

Touching the criminal proceedings in the court of the justice of peace, of the eighth district, against Robert C. Work, charged with homicide.

GUADALUPE MAIRNERO, *Judge*,
JUAN GONZALEZ CALDERON, *Secretary*.

Court of first instance, of the eighth judicial district.

The case against Robert C. Work was finished in this court and goes to you, by appeal, in 16 sheets.

Please advise your chief thereof, and send me the customary receipt for the papers herein inclosed.

Liberty and Constitution.

San Carlos, January 23, 1889.

ANTONIO VELASQUEZ.

To the clerk of the supreme court of justice, of the state, etc., at Ciudad Victoria.

CIUDAD VICTORIA, TAMAULIPAS, *Aulipas*, February 22, 1889.

Advise Lic Juan Luis Tercero of his appointment as attorney for the defense, as selected by the accused, Robert C. Work, and upon his acceptance take the usual legal protest in the case.

Decided thereby the magistrate who subscribes thereto.

I abstract.

LIC. MAIRNERO.

JUAN G. CALDERON, *Sec.*

On the same day and date Juan Luis Tercero being in this clerk's office was so notified and advised and thereupon accepted the appointment, taking the protest to serve faithfully.

JUAN LUIS TERCERO.

CALDERON, *Sec.*

On the same day and date Juan Luis Tercero, attorney, having accepted the defense, the papers in the case were delivered to him, subject to the limitation of the laws.

It so appears.

CALDERON.

[Inclosure 2 in No. 30.—Translation.]

Statement of Juan Luis Tercero, attorney of Robert C. Work, Ciudad Victoria, Tamaulipas, Aulipas, October 9, 1888.

Juan Luis Tercero, attorney of the accused, Robert C. Work, in the case instituted against him for having fired, in self-defense, upon Francisco Cruz, and from which the latter died, do herewith, before you, with due respect, make the following statement in support of his rights, his claims, and his innocence.

I do now affirm that my client should be acquitted of the charge of wilful homicide. It should suffice that doubt was entertained whether Don Roberto acted in legitimate and necessary self-defense in order to acquit him, much more so should such a result follow when there are great probabilities of his absolute innocence.

Point by point I am going to demonstrate it to you with exact data and precise information, and I shall then apply to that data the laws and the principles of right.

Firstly. As to the antecedents of Work. During the course of the entire proceedings no one has ventured to maintain that Work, at any time, committed any crime; on the contrary, evidence to the reverse has been furnished in writing by respectable parties, such as Don Antonio de la Fuente, the prosecuting attorney, Manuel Narvaez, merchant, Silverio Ramirez, farmer, all of whom affirm the excellent reputation for good conduct and uprightness of the aforesaid Mr. Work. (Pages — and —.)

Secondly. As to the antecedents of Cruz: His friends and enemies alike, in nearly every case, who have deposed, have testified that Cruz was addicted to drinking, while evidence has also been furnished as to quarrels and contentions, in the which he had taken part (page —, and to close of the testimony of Felipe Valdez; page —; testimony of Antonio de la Fuente, who, on page — says, "Yes, he had always seen Cruz with a dagger.") The words of Fernando Cruz, the accusing witness and brother of the deceased, in his own handwriting, are also to be noted. He says (page —): "But Mr. Work must have thought something was wrong." The thought (of Work) alluded to by Fernando referred to two words used by Fernando just prior to that sentence, and which were literally to wit: "This Mr. Work, on seeing Francisco Cruz coming towards him with imprudence of the said two neighbors, followed by Antonio Vazquez and Pascual Guevara, who were speaking to him for the purpose of persuading him to do no harm to Mr. Work, but that this man probably must have thought something was wrong." * * * Therefore, according to the testimony of Fernando himself, the brother of the accused, the conduct of Mr. Work may be explainable, for he thought that Francisco Cruz, followed as he was by Vazquez and Guevara, proposed to do him harm.

I ask, can testimony more favorable to Work be found to prove that in wounding one of the three who were following him, he did it in good faith under the presumption that they intended to assassinate him?

A brother of the deceased is the person making this declaration. Do we need aught of more weight, as explanatory of the two principles of right: *In dubiis benigna interpretatio fieri debet in paucis benignior est interpretatio facienda*, in reaching a favorable version of the conduct of Work, than the testimony not of himself but of his very prosecutor?

What, therefore, is a basis for a knowledge of act committed? Is it testimony of Work? Who is it that asserts the contrary to his declaration? They are his impassioned enemies, Vazquez, Guevara, and Grimaldo.

Even while they concur persistently in the matter that the deceased was following Work, they deny, or ignore, or rather affect to ignore the fact that Cruz threatened Work with a weapon. Let us presume, without however conceding it, that these witnesses were wholly without guile saying that it was possible that Cruz did not threaten Work with a pistol and a knife, or at least with a knife, yet the statement of Fernando Cruz, to wit, "That this Mr. Work must have thought something was wrong" should obtain, intimating as it did that Work thought that the rod in Cruz' hand was a knife; this should not be lost sight of. This idea of the very brother of the deceased, thus expressed, operates against the statement of Vazquez, of Grimaldo, and of Guevara as well as any one else who could, any of them, be hardly credited with caring more for the deceased than his own brother Fernando! Down with any other less favorable explanation! And please notice that the document containing that admission by Fernando is all in his own handwriting, and signed by him. Without admitting it to be so, I have considered it as supposable that the adverse statements of the witnesses Vazquez, Grimaldo, and Guevara were easy of belief, for their impeachment is virulent, they have constituted themselves the impassioned revengers of the dead. I quote a passage from their testimony.

In the statement of the prosecuting attorney, Don Antonio de la Fuente (on page —), we find these words: "That while the prisoner was being escorted to the house of Antonio Vazquez * * * Leon Grimaldo assaulted him * * * together with Antonio Vazquez and Pascual Guevara * * * Grimaldo, with obscene words, telling the prosecuting attorney to take the prisoner to the spot where the dead man lay and tie him there." Such are the witnesses who testify against Work, denying that the deceased carried a pistol. We must therefore consider the testimony of Work, as a whole and indivisible, as is called for in conformity with the highest principles of jurisprudence, whose doctrine is well known, and in criminal matters well defined as regards confession. We see what the law prescribes in relation thereto. Some, however, maintain that the confession of the accused should be received as given, and accepted as true in as far as the contrary can not be demonstrated, thus vitiating the confession of those who admit the testimony of ocular evidence and not of circumstantial evidence, for the act itself can not be judged aside from the surrounding and governing circumstances. I have therefore maintained that the only conjecture we could judiciously entertain was contained in the testimony of Work.

It is clear and evident that the witnesses Vasquez, Grimaldo, and Guevara were not

wholly reprehensible, it would yet be necessary to compare their assertions with those of Work, in all points of discrepancy, the prime point being whether Cruz carried arms or did not.

But so important a point should not be affected by the testimony of three witnesses who are so completely unworthy of credit as to take to heart the death of Cruz to such an extent as to ask for the barbarous spectacle of vengeance, tying Work within sight of the corpse. They were incapacitated from giving unbiassed testimony at least, holding such ideas after the shooting. There are also data to the effect that even before the shooting they were engaged with the deceased in a plot against Work. But aside from this, which may rest only upon a suspicion, I insist that incapacity to truly testify in this point did exist in their case; for it is difficult to presume that these persons who felt such sorrow at the fate of poor Cruz should concur that he was armed and that he himself provoked his own untimely end.

It is to be noted that two others, eye-witnesses, Francisco Peña and Francisco Robledo, who are not such bitter adversaries of Work, present the facts more in accordance with the allegations of Work. I quote here literally from one passage (page —), that "Don Francisco Cruz spoke to Don Roberto twice; that on the decline, while Don Roberto was going down the hill, he stopped his horse across the road, with his pistol in his hand, and told Cruz not to come near him, for he would fire a bullet at him; that then Don Roberto kept along on the road, and after going a short distance he again stopped and repeated the same word to Cruz, not to come on, for he would shoot him; that he (Cruz) paid no attention, and went right on towards him; and that then Don Roberto fired at him, Cruz not falling until the second shot." This can be found on page —. Later on he was examined on the point whether Cruz carried or did not carry arms, and he said he saw in his possession no arms whatever, unless it were a whip which he held in his hand.

There are here two things to notice: First, the sort of doubt as to whether he had any other weapon than a whip; and secondly, the supposition that a whip is also a weapon, as in point of fact it is throughout Tamaulipas, among the lower classes, for there the whip is generally composed of a rod of iron, which can inflict at times fatal blows, as is well known among the people of the State.

To this testimony of Peña should be added the deposition of Francisco Robledo (page —), which states that he "saw him (Cruz) going past after Work with a small knife in his hand, which he saw flashing." This shows us that the negative doubt as to whether Cruz carried a knife becomes a positive point of debate; that is to say, some of the witnesses did not see (it is not the same to say did not, as it is to say did not see), while another said: "Yes, I did see." Well, it is a standard doctrine in jurisprudence, which I herewith quote from the Dictionary of Escriche: "In matters of proof in criminal cases, two men similarly biassed are frequently deceived, and often imagine that they see what they really have failed to see; and *vice versa*, they fail to see what they should have seen, especially when their statements are governed and controlled by passion," as in the case of Grimaldo, Vazquez, and Guevara.

I revert to my basal proposition. Of the five witnesses, Vazquez, Grimaldo, and Guevara are clearly incompetent, while Peña and Robledo are not firm and pronounced, touching this point. Did Cruz really have a knife? And, in the confirmation of evidence, as confronted with the deposition of Work, a doubt is left in the mind, the truth is but inchoate; and by all the considerations of equity, of justice, of legality, the benefit of the doubt should revert to Work, and the more so as the brother of the deceased himself tells us that this "Mr. Work probably thought something was wrong;" for he believed himself to be followed not only by Cruz, but by Vazquez, Grimaldo, and Guevara. This view of the circumstances is corroborated when we take into consideration the persistency with which Cruz followed Work for a distance of 99 varas,* especially when it is remembered that Cruz followed him down hill, where he could readily inflict any injury premeditated on his part, and remembering also that Work was just finishing a trip of 13 leagues, after many days of travel, and was in sight of his home, eager to clasp to his arms his beloved wife and daughter. Truly, within the spell of a dream so peaceful and so welcome, it must have been something very dark—threatening in the extreme—something terrible and fatal, which Work saw, or thought he saw, to cause him to take the life of another. It is easy to fancy the heroic at the barricades of battle, but it is hard to imagine such deeds at one's own threshold. To reach one's home after a weary trip of 13 leagues, to seek in that home for rest, to hasten to a well-earned welcome, and then to exchange all for a duel to the death, for a trial involving terrible consequences, for a lasting and unfortunate enmity on the part of an adverse community, and all for a simple insult from an impertinent, unarmed, and inoffensive drunken man is impossible of belief. Something very urgent, supremely and absolutely unavoidable urged Work to take the life of Cruz, to wound him to the

*Vara equals 33 inches.

death. Only in this light is this conduct understood when all the circumstances stated are taken into consideration. Is there any one can positively and undeniably maintain that Cruz did not carry and did not display a knife? Well, then; enough of this doubtful circumstance.

Work should be acquitted. He acted in defense of his life; he acted at least under error, but under the unavoidable idea of imminent peril and of a rapid and serious encounter, wherein Cruz, in conspiracy with Vazquez, Grimaldo, and Guevara, intended to assassinate him. He may afterward, perhaps from the words of the brother of the deceased, have learned that the peril was not so imminent; that it was but a black stick flashing with which he had been threatened; but in a moment of crisis the flash might have seemed a dagger. He afterward saw it was not, but in the moment of danger he believed it was.

These words of Fernando Cruz so spontaneously written by him carry great meaning, especially in view of the unfavorable opinion held of Work by the other Americans at San José. In this court of Ciudad Victoria it is on record that Work gained a suit against Smith, and the court has seen a letter written from a person at Ciudad Linares a year ago, wherein Smith made mortal threats against Work. In Work's testimony it appears that he (Work), on coming to San José, was advised at Linares to take care, for he was threatened with death (see page —).

It is also to be remembered that Leon Grimaldo, a few minutes before the encounter with Cruz, said these meaning words to Work: "I have good poison for you." Perhaps Grimaldo spoke innocently, but could Work have taken a strange and threatening meaning from these words if he had not caught something sinister in the expression of Grimaldo's countenance? Yes, indeed, Grimaldo had the appearance of being of a mild disposition; but the record tells us how he lifted his hat, and with extreme mildness asked nothing more than that Work should be tied, and the barbarous spectacle be afforded of facing him with the dead. Such acts have been defined as mere nonsense by Señor Saldaña, of San Carlos. While an effort has been made, Mr. Judge, to invoke the plea of patriotism in this case, there was no true patriotism displayed, and it is to be presumed that those who were capable of such suggestions, in such an hour, had combined against Work. All this may be said in the defense of this client. Be the premeditation in the minds of the actors what it was before the act was committed, the death of Cruz is unfortunate enough, whether we regard that occurrence as affecting the family of Cruz or the family of Work himself.

The words used by Cruz a few minutes before, when Work was passing the house of Antonio Vazquez, are also worthy of being taken into consideration: "If I come out all right in this ride I shall be happy," it being remembered that Work was expected home from Linares that day. They have afterward tried to explain away the meaning of these words by saying that they referred to a contemplated quarrel of Cruz with Tomás Zapata. It should, however, be remembered that this explanation was furnished by Vazquez and Guevara themselves, when they were giving their testimony touching the passage or appearance of Work in front of Vasquez' house. When Vasquez and Guevara gave their first testimony they desired to make allusion to the connection these words had with Work; this is significant, for these words could mean nothing at that time unless as they related and referred to Work, though they afterward endeavored to qualify their testimony, applying the signification of that expression to Tomás Zapata. I noticed that Cruz said not one word which referred to Zapata, but the rather it would seem to refer to Work (see page —), for from that point, in front of Vasquez' house, Cruz had caught sight of Work, who was coming along the road. In the later depositions (page —) of Vazquez, at San Carlos, he and Guevara did not say one word on an important point, namely, that Work fired the first shot at Vasquez, while in their testimony, given at Ciudad Victoria, Vasquez and Guevara both declared that Work fired at Vasquez. I propose to quote their words under the supposition that the first shot was intended for the witness (Vasquez), though he could well see that when Work raised his arm he stretched toward Cruz (page —). The words of Guevara are these: "That, at the moment of the shooting, witness (Guevara) and Vazquez were approaching" (note, he says were approaching, not did approach); that is to say, "were approaching, but Vazquez was closer, * * * and therefore Don Roberto fired at him." Truly this is very mysterious, and would seem to indicate that Vazquez and Guevara contradict each other in their individual statements of some contemplated assault upon Work in company with Cruz. Either one thing or the other: either Vasquez and Guevara were wholly innocent, or else in point of fact they did contemplate an injury against Work and were in conspiracy with Cruz. If the first view obtains, namely, that they were innocent of evil intent, it is very strange that, in his preliminary declaration, Vazquez should have failed to make mention, even by a single word, of that shot so infamously directed at himself by Work. If the second view is taken, then Work had even greater grounds for self-defense than would be at first blush presumed. As the first idea is inadmissible, because of its wholly singular character, we have to limit ourselves to the second proposition. Let us suppose, of course without conceding the point, that either view is extreme, and

let us admit a middle course, to wit, that Vazquez had not an evil intention, and that, in fact, Work did fire the first shot at Vazquez; we have, then, just what Fernando Cruz said at the first, namely, that Mr. Work probably thought "something was wrong," and therefore fired the first shot, either at Cruz or at Vazquez, and it was easy for him to believe or think something was wrong, for Vazquez had a hatchet in his hand. It is well enough for him to say that he was casually carrying the hatchet in his hand. But try and tell that to a man in Work's critical condition, followed up as he was by Cruz; tell him that Vazquez was carrying that hatchet just by mere accident, and with no intention whatever of injuring Work and protecting Cruz.

All these are considerations of pronounced weight, and will, I trust, have influence with the judge in deciding the degree of danger which surprised Work when he fired on Cruz. Why then should we not credit Work's testimony when the very eye-witnesses themselves appear in the light of aggressors, and when there is so great a discrepancy between their depositions? At least the doubt, in all phases of the case, favors the claim that Work here appears as the perpetrator of a homicide executed in proper self-defense, in the most critical situation of imminent peril of the sacrifice of his life. Therefore, in replying to the charge made, my client stated, as appears throughout the evidence, that he (witness) saw that the time had arrived to kill his antagonist, in legitimate self-defense, which comes within the scope of section 8, article 34, of the penal code and the rules to be observed in relation thereto as governing the degrees of crime, set forth also in section 4 of article 201 of the same code.

Therefore, Mr. Judge, I do not doubt that you will adjudge this case, acquitting my client, when such weighty reasons exist for believing, or at least for inclining to a favorable doubt in benefit of Work, whether he did not positively shoot Cruz under the impulse of imperative urgency in the critical condition wherein he found himself, or innocently imagined himself placed. When in danger of becoming a victim, a foreigner is not entitled to more consideration than a Mexican, but on the other hand he is not entitled to less. It might even be said from a judicial stand-point, and because of tolerant friendship toward a foreigner, the circumstance of his being a foreigner should rather operate in his favor justly and honorably as somewhat of an offset to the biased opinions held toward a foreigner in the mind of witnesses; and which cast of opinions necessarily and inevitably affect the proceedings during the trial, probably without any fault and unwittingly, and without malice aforethought on the part of the witnesses; biased even by the hidden spring of patriotism. There should also be borne in mind the anxieties suffered by my client during the afternoon and night succeeding the sad occurrence of the death of Cruz, the kind treatment received from the mob, the subsequent sufferings he underwent during the course of the trial proceedings, all of which, while perhaps the inevitable and irremediable consequences resultant thereupon should all weigh in the finding of the court. You are a person of honor, Mr. Judge. On that I now depend. It is within, not foreign to, the interests of justice that you acquit my client. I thus rely upon the distinguished rectitude and true patriotism which guide you as well as upon your well-known honor.

JUAN LOUIS TERCERO.

CIUDAD VICTORIA, *October 9, 1888.*

[Inclosure 3 in No. 30.—Translation.]

EVIDENCE.

(1) *Testimony of Francisco Guevara Saldaña.*

Francisco Guevara Saldaña, being present in this court, took the due legal protest, in presence of the prosecuting attorney, to state the truth, to his best ability, in all points upon which he might be questioned. Being interrogated as to his general description, he stated that his name was as above given; that he was forty years of age, a merchant and resident in this place. Being examined on the case of the presumed criminal, Robert C. Work, he said, that on Wednesday, the 29th ultimo, while coming from Linares, and passing through San José, he was summoned by the justice of the peace of that place and by Robert C. Work, who was a prisoner in charge of the aforesaid justice; that on arriving where the parties were, the justice, in the presence of various neighbors who were gathered about the doorway of the house, called on him to give his opinion as to what should be done with the party in custody, for for some time past the people about him had been clamoring that he (Work) be taken to the spot where lay the corpse of the deceased Francisco Cruz, and be tied thereto; that he (witness) seeing the people so excited, and that what they required

of the justice was rather a folly, and that the people intended to kill the prisoner after tying him to the corpse, for he then would be wholly defenseless, stated to the justice that what the people wanted was a custom now obsolete; that the prisoner was now under the safe conduct of the authorities, and that in no case should the justice accede to such a request; that in so doing he would be assuming a serious responsibility; that, on the contrary, he should order the guard to take care of the prisoner, and even use their arms in case the people should insist in their pretensions to seize the prisoner by force, and that the justice could count upon his aid and that of Victorio Jeran, who was with him, as well as two servants who were with him, for they would all remain there in the ranch to assist him in necessary event; that then the deponent left the place to go down to the house of Mr. Frank T. Spar, whither he was soon followed by the justice; that on arrival there he (the justice) indicated that they should go and see the corpse, as they then did; that on reaching the place where the mourners were gathered with other persons, the latter insisted in begging that they be allowed to lift the body, but as the justice feared to assume any responsibility, that he (the deponent) being in doubt as to whether the authorities had been advised, agreed that the body should be lifted and carried into the house, and that he would assume the responsibility; that, as can be considered, this decision was arrived at by the deponent in order to quiet the people, and also because he believed the authorities could make the *post mortem* examination just as well in the house as at the spot where the deceased fell, for the latter was quite dead, and his slayer had confessed. The deponent further testified that upon his arrival at the house the justice told him and Jeran that some of the neighbors had vilely insulted him, which could be readily noticed, due to the commotion among the people, and further, that right before them he surprised Leon Grimaldo by his bad conduct. Touching the matter of the conflagration he saw nothing, but he understood, from a general rumor, that they had fired the shrub-hedge round the dwelling in which the Work family was living, and that he only knew that the family left the house on Wednesday night, for he saw them in the house of the justice on Thursday morning. Witness alleged that the foregoing was the truth, and did ratify and affirm the same, under the protest taken to speak the truth, signing the same with me, the subscribing mayor and witnesses.

BÉRNABE LÓPEZ.

FRANCO. GUEVARA Y SALDAÑA.

DÁMAZO OLIVARES.

AA. VICENTE CALLEJAS.

MARCELLINO PUENTE.

Forthwith and with the intent of ratifying the testimony which Francisco Guevara Saldaña had given in the presence of the prosecuting attorney, and after having had the same read over to him, and having reiterated the legal protest, deponent added that the foregoing testimony was such as he had already rendered, and that he had nothing to add or to take away therefrom; that therefore he affirmed and ratified the same with me, the undersigned, mayor and witnesses.

BÉRNABE LÓPEZ.

FRANCO. GUEVARA Y SALDAÑA.

DÁMAZO OLIVARES.

VICENTE CALLEJAS.

MARCELLINO PUENTE.

(2) *Testimony of Victorio Jeran.*

On the same day and date Victorio Jeran, being present in this court, took the due legal protest in presence of the prosecuting attorney to state the truth, to the best of his ability, in all points upon which he might be questioned. Being asked for the general description, he stated that his name was as above given; that he was fifty-seven years of age; married; a merchant and resident in this town.

Being asked, he said: As in reply to the question touching the case of the presumably guilty party, Robert C. Work, that coming from Linares to this place, and while passing through San José on the 29th of February, about 4 o'clock in the afternoon, on arriving in front of the house of the justice of the peace, the latter called him and Francisco Guevara Saldaña, and asked them what they had better do; that the brother of the deceased, accompanied by various people, wanted to get the prisoner and take him to the place where the body lay, in order to tie him there; that the deponent and his companions spoke to the brother of the deceased, telling him that the prisoner was in the hands of the authorities, and that what they wanted could not be allowed; that they had better go and take care of the corpse; and that he did not hear what words were exchanged by the brother of the deceased and the prisoner, but that he saw him give him an abraze* of satisfaction and start off for the

*A Mexican hug.

place where the body lay; that they remained there a long time to see whether it could be arranged at the same time to carry the body into the house of the brother of the dead man; that he and Saldaña, at the instance of the justice, went and told the mourners that they could carry the corpse to the house, which was forthwith done; and that, at the request of the justice, they remained at San José until the following morning for fear the people would make another attempt at the prisoner; and that in the morning they all started over to this place. Deponent further testified that he knew nothing of the burned hedge adjoining the house of Roberto, but about 1 o'clock in the morning the justice and some other people told him that during the night the hedge had been fired; that he (deponent) does not remember the names of the persons who went over to put out the fire; that he was also told by them that after having put out the fire, they saw a person close by the place where it originated. Deponent further adds that the foregoing is the truth, affirming and ratifying the same with me, the mayor, etc.

BÉRNABE LÓPEZ.
VICTORIO JERAN.
DÁMAZO OLIVARES.
ANTONIO ALVAREZ.
MARCELLINO PUENTE.

(3) *Testimony of Francisco Peña.*

On the same day and date Francisco Peña, being duly summoned, and having taken the due legal protest, in presence of the prosecuting attorney, to state the truth to the best of his ability in all points, and being questioned as to his general description, replied that he was as above named; that he was thirty years of age, unmarried, a journeyman laborer by trade, and living in San Miguel.

Being examined under the summons served on him on the 8th instant at the request of the prisoner, he said that while in the house of Leon Grimaldo, I went out and while crossing the stone path of the house I heard the steps of a horse, and turning round I saw it was Don Roberto who was on his horse and going along the road toward his house; that the said person, seeing me from that distance, or about 30 paces, saluted me, "Adios! adios!"* and kept right on down the road. I went to the house of Antonio Vazquez. While approaching the house I saw the said Vazquez jump over the hedge of his plot with a hatchet in his hand with which he was cutting wood. Seeing that the aforesaid Vazquez was hurrying to get outside the hedge I also made haste and saw that he was following close after Fernando Cruz, calling to him to let him catch up with him, a distance of about 25 paces from me; and then I heard Francisco Cruz speak to Don Roberto twice. There being at that point a dip in the road, while going down the hill Don Roberto stopped his horse across the road and, with his pistol in his hand, said to Cruz not to come near him for he would give him a bullet; that then Don Roberto went along the road; after going a short distance he again stopped and repeated the same words to Cruz, telling him not to come close to him for he would shoot him; that Cruz paid no attention and went right on towards Work, who fired at him, Cruz not falling till the second shot. Deponent added that the foregoing is all that he has to say touching the matter. After his testimony had been read to him he declared it to be identical with what he had stated, affirming and ratifying the same with me, the undersigned mayor, prosecuting attorney, and witnesses.

We attest:

BÉRNABE LOPEZ.
SILVERIO RAMIREZ.
FRANCISCO PEÑA.
VICENTE CALLEJAS.
MARCELLINO PUENTE.

(4) *Testimony of Antonio de la Fuente.*

On the same day and date Antonio de la Fuente, being duly summoned, and having taken the due legal protest, in the presence of the representative of the prosecuting attorney, to state the truth to his best ability and knowledge, however questioned, in reply as to his general description, he stated that he was as above-named; that he was fifty-three years of age; a married man; a farmer by profession, and residing in San José.

Being examined in accordance with the interrogatory presented by the prisoner on the 8th of the current month, he said: It was true that Robert C. Work went to him to request protection for himself and his family; and that he then sent for Francisco

*Adieu! Adieu!

Cruz and presented to him the complaint of Don Roberto ; that Cruz replied that he had arranged matters with Don Francisco S. Spares, and that so far as he was concerned he had nothing more to arrange with Mr. Work, that while he (deponent) was going along to the house of Robert C. Work to convey to him a summons from the court he was hailed by Mr. S. Spares, who asked him whether he was going to Work's house; that the deponent replied that he was; that he had an order to deliver to him as already referred to; that then Mr. S. Spares begged him to take a note to Mr. Work; that the deponent consented; that after receiving the note deponent went on to carry out the delivery of the summons, after which he handed to Mr. Work the message of Mr. Spares which was written in pencil. Deponent averred this to be all he could state on this point. Having had this testimony read to him he affirmed and ratified, etc.

BÉRNABE LÓPEZ.
DÁMAZO OLIVARES.
ANTONIO DE LA FUENTE.
MARCELLINO PUENTE.
VICENTE CALLEJAS.

(5) *Testimony of Antonio Maydon.*

On the same day and date Antonio Maydon, being duly summoned, and having taken the legal protest, in the presence of the prosecuting attorney, to state the truth touching what he might know, and whereof he might be questioned, replied as to his general description to be as above named, fifty-six years of age, married, a farm laborer and living in Marmolejas.

Being examined according to the tenor of the interrogatory presented on the 8th instant by the prisoner, Work, he said that he himself accompanied Mr. Work to the court of first instance of this municipality, which court was then in charge of the alcalde,* first substitute, Manuel de la Fuente, to whom he expressed his complaint, showing him the card of challenge or threat which the American, Fran'co S. Spares had sent him, together with a translation thereof made by Fran'co Porfirio Rocha; that the alcalde paid no attention to the complaint; that Mr. Work seeing the way in which his complaint was disregarded took up the two documents and put them in his pocket-book and the two came out of the court-room.

In reply to the second question he can state, as an eye-witness, that in 1888, while in the house of Julio Castillo, a young man named Frederick came in with a note in Spanish from his employer, Simon G. Smith, the note saying that the Americans, Louis W. Hastings, Frank S. Spares, John William, and Simon G. Smith, who signed the petition, had requested the expulsion of Work from the mining district of San José, and that, in order to give greater force to their petition, they proposed to secure the signatures of all the neighbors in the district. Deponent added that the foregoing was all he could state with regard to the matter. His testimony being read to him, he declared it to be identical with what he had said, and he affirmed and ratified the same, signing with me, the alcalde,† the prosecuting attorney, and the witnesses.

We attest:

BÉRNABE LÓPEZ.
DÁMAZO OLIVARES.
ANTONIO MAYDON.
VICENTE CALLEJAS.
MARCELLINO PUENTE.

(6) *Testimony of Marcellino Hernandez.*

Forthwith, on the same day and date, Marcellino Hernandez, being duly summoned, and having taken the due legal protest, in the presence of the prosecuting attorney, to speak the truth in respect to all that he might know and regarding which he might be questioned, stated, as far as regards his general description, that he was as above named, forty-four years of age, married, a laborer, and living in San José.

Being examined as to the points set forth in the interrogatory proposed by Work, he replied: That it was true that in the past year—the month he forgets—Francisco Cruz went to his house, about 12 o'clock at night, in a drunken condition, with a pistol in his hand; that the deponent had a cup of coffee made for him; that Cruz entered the house and began with insults and hard expressions, and struck a box with the pistol he was carrying. The deponent further averred that, not wishing to submit to any more annoyances, he complained to the justice and to the first judge, Felipe Valdez, who happened to be in that town. Being asked whether Cruz fired at him two shots, he replied that Cruz did fire two shots, but not in his house nor at him;

* Alcalde can mean judge.

† Alcalde can also mean mayor.

that it occurred at the stream. Being asked whether Cruz had made out to lose the pistol when the authorities demanded it from him, and that, finally, when the authorities had urged him, he had delivered up the weapon, he replied that he did not know whether Cruz had pretended to lose the pistol or that he had afterwards delivered it up. Deponent further added that the foregoing is all that he can state touching the particulars as propounded by Work. This testimony being read to him he stated that it was correct throughout; and he affirmed and ratified the same, but did not sign, as he could not write. This I, the alcalde, did for him, in company with the prosecuting attorney and witnesses.

We attest:

BÉRNABE LÓPEZ.
SILVERIO RAMÍREZ.
DÁMAZO OLIVARES.
VICENTE CALLEJAS.
MARCELLINO PUENTE.

(7) *Testimony of Antonio Alvarez.*

On the same day and date Antonio Alvarez, being duly summoned, took the due legal protest in the presence of the prosecuting attorney, to state the truth to his best knowledge and belief as far as questioned. Replying as to his general description, he said he was as above named; fifty-eight years of age; widower; a clerk by profession, and living in this place.

Being examined under the interrogatory propounded by the prisoner Work he replied: Firstly, that while engaged in his work as clerk of the first court, Mr. Robert C. Work presented himself with a letter written in pencil to the first judge (substitute); the paper purporting, according to the translation of Francisco Portirio Rocha, to be a threat made against Mr. Robert C. Work by Mr. Frank S. Spares. Secondly, the deponent testified that while in San José in 1885, and living in the house of his uncle, Andrés de la Paz, his compadre,* Carlos Delgado, came there with a paper addressed to Mr. Paz, and with a request that I should read it to him to see whether he would consent to signing it. That Delgado asked the deponent what he thought of that paper; that after I had read it for the purpose of informing Señor Paz as to its contents, I told Señor Delgado that the paper was as good as nothing; he asked why, and I replied that every document without date was necessarily null and void, on the one hand; and on the other hand, addressing myself to Señor Delgado, the deponent further added that if Señor Work was really trespassing on the rights of mines belonging to Mr. Archibald and his partners, that was no reason why Mr. Work should be deprived of all connection with the mines and be driven from the camps of San José; that Delgado answered that the document was drawn up by an American lawyer, and the other Americans had all signed it, but that he himself was unable to prove the charges made against Don Roberto. The deponent said: "Well, if you can not prove the charge the rest of the people will say the same;" that it little matters to us whether one American has more than another; that what we would like to see would be that four or five of the wealthiest should come and throw down their money and give us all a chance to get money ourselves without so much trouble and sacrifice; the said paper was, so far, only signed by Antonio Vazquez. The deponent having inquired why the Americans had not first signed, Señor Delgado said they would after the signatures of all the other neighbors had been secured.

Deponent stated in conclusion, and having heard his testimony read, that the same was true and correct throughout, affirming and ratifying it in accordance with the protest he had taken, and signing the same in presence of myself, the judge, prosecuting attorney, and witnesses.

We attest:

BÉRNABE LÓPEZ.
DÁMAZO OLIVARES.
ANTONIO ALVAREZ.
VICENTE CALLEJAS.
MARCELLINO PUENTE.

(8) *Testimony of Francisco Robledo.*

On this same date, Francisco Robledo, being duly summoned, and under the legal protest taken in the presence of the prosecuting attorney to state the truth, to his best knowledge, in as far as he might be questioned, replied, as to his general description, that he was as above named, twenty-three years of age, unmarried, a servant, born at Real de Guadalajara in San Luis Potosí, and living for one year past at San José.

* Compadre, "Godfather."

Being examined in accordance with the summons served upon him, by request of *Hiocente de la Paz*, on his testimony, he stated that he was loading up a mule on the side of the road in front of the house of the prisoner, *Roberto*, about 400 paces away; that he heard voices down below in the gulch; that he (deponent) jumped up on a log to see who was talking down there; that he then saw the prisoner, with his pistol in his hand; that he (Work) shot at Cruz twice; and the deponent then saw Cruz fall to the ground; that the deponent then ran towards the house of his master, *Roberto*, before reaching which he (deponent) met the other servant who had started to find witness; that upon reaching the house Mr. Work said: "I have had the bad fortune to kill *Francisco Cruz*. Run to the house of the justice and advise him." That he (deponent) gave the advice, and on his return shortly after *Fernando Cruz* appeared there at the house with a carbine just as I was engaged in giving feed to *Don Roberto's* horse. *Fernando* said: "Look here, friend, bring that horse here;" that deponent refused, saying he could not do so; that just then the justice arrived and entered the house; I do not know what he said in there to *Don Roberto*; that shortly after the justice came out of the house and said he wanted to go where the body lay; directing *Pilar Sanchez* and *Abundio Aleman*, with *Felipe Vega*, to effect the arrest of *Don Roberto*; that when the prisoner had started for the house of the justice, on the roadway *Fernando Cruz* and *Leon Grimaldo* came up and asked that the prisoner be taken where the body lay; the justice replied that it did not suit him to take him there; that, about 5 o'clock in the afternoon, while the deponent was at the house of the justice, together with the prisoner, there appeared *Gabriel Ibarra*, *Antonio Vazquez*, *Tomás Barragan* and *Romulo Rodriguez*, insisting for a second time that the prisoner should be carried to the place where the corpse was exposed; but the justice repeated that he could not consent thereto, nor could he allow them to bother the prisoner, or to over-run his house; that just then *Victorio Jerán* and *Francisco Guevara Saldaña* were passing; *Don Roberto* asked deponent to call those two men, requesting that they be kind enough to come where he was, which they did. Being asked whether, while on the road with the prisoner to the house of the justice, *Fernando Cruz* and *Leon Grimaldo* came up with or without weapons, he replied: that he could not see whether they carried any arms. Being asked whether *Gabriel Ibarra*, *Antonio Vazquez*, *Tomás Barragan*, and *Romulo Rodriguez* were armed when they came to the house of the justice, he replied they were not. Deponent affirmed and ratified the foregoing testimony as taken under this protest to state the truth; not signing the same, being unable to write; his name being signed for him.

We attest:

BÉRNABE LÓPEZ,
DÁMAZO OLIVARES,
MARCELINO PUENTE,
VICENTE CALLEJAS.

(9) *Testimony of Francisco Rocha.*

On the same day *Francisco Rocha* being present in the court, being duly summoned and having taken the due legal protest in presence of the prosecuting attorney to state the truth to his best knowledge, in reply to all questions addressed to him replied, as to his general description, that he was as hereinbefore named, a married man, fifty-three years of age, a teacher in the first grade school, and living in this place.

Being asked whether it was true that he had read a paper of Mr. Work's, whether he could recall its contents, etc., he replied: That on the 17th of February last the aforesaid Work with the first judge (substitute) had asked him to put into English, from Spanish, a paper written with pencil, which was literally as follows:

"SAN JOSÉ, February 17.

"MR. ROBERT C. WORK:

"If this notice is some of your business, summoning me to San Carlos, I will now tell you clearly that it will be a bad business for you; for I have often told you that if you enter into a quarrel with me, in any manner, I will get square with you outside of the court-room.

"FRANK SPARE."

Deponent further states that, in the translation, he wrote the word "negocio"* in large letters, for it was so in the original note; that after making the translation deponent went with Work and with *Antonio Maydon* to the court; that when there Work called the attention of the first (substitute) judge to the fact that that was a mortal threat, and equivalent to a challenge; and that he thus called to it the attention of the authorities, in order to save himself from future responsibility for consequences, should he be attacked. Mr. *Maydon*, added the deponent, said also that

* *Negocio*: "Business."

these people might think Work was a coward, but they were mistaken; that he was a man who could place all the six bullets of his revolver into any; but that he was an honest man, hard working, a man of family, and would not go to such an extreme unless it were positively necessary. Deponent then withdrew from the court-room, Maydon and Work remaining there. He was afterwards informed by them that the judge did not take any steps in the matter. Deponent adds that all that transpired then in the court-room was witnessed by Mr. Bérnabe López,* also by Antonio Alvarez, inspector of the courts, and by Marcelino Puente, clerk of court of second instance. The foregoing he claims to be all that he has to say in the matter. His testimony being read to him, he affirmed and ratified the same, as under his protest, signing the same with me, the undersigned, judge, prosecuting attorney, and attending witnesses.

We attest:

BÉRNABE LÓPEZ.
DÁMAZO OLIVARES.
F. P. ROCHA.
VICENTE CALLEJAS.
MARCELINO PUENTE.

(10) *Testimony of Marcelino Puente.*

On the same day and date, Marcelino Puente being present in this court under summons, and having taken the due legal protest in presence of the prosecuting attorney to state the truth to his best knowledge, in so far as he might be questioned; and being interrogated as to his general knowledge, replied: That he was as above named, thirty-five years of age, a married man, a clerk, and living in this town. Being questioned, he replied that he saw and heard Mr. Work present to the first (substitute) judge a paper, written with pencil, saying that he did hear Francisco Rocha tell the judge that the paper contained a threat made by Frank S. Spare against Robert C. Work; and that the deponent noticed that the judge paid no attention to the plea. Deponent, in conclusion, stated that the foregoing is his true and correct statement; and after it was read to him he ratified and confirmed it, as under the protest taken, signing the same with the undersigned judge, the prosecuting attorney, and attendant witnesses.

We attest:

BÉRNABE LÓPEZ.
MARCELINO PUENTE.
DÁMAZO OLIVARES.
VICENTE CALLEJAS.
PRÓSPERO RAMÍREZ.

(11) *Testimony of Antonio de la Fuente.*

At the town of San Carlos, on the 10th day of the month of March, 1888, before me, Mr. Telésforo Valdez, first judge of this town, and attending witnesses, under the law appeared Antonio de la Fuente, prosecuting attorney of the mining town of San José, in this district, under due summons, taking a solemn legal protest to the effect that he would state the truth to the best of his knowledge. Being interrogated as to the points set forth by Mr. Robert C. Work in his former writing, he first stated his general description: That he was as above named, fifty-three years of age, a married man, a farmer, born in this place, and living for eight years at the rancho of San José. Being asked as to the first point, he said that so far as the general description of Robert C. Work was concerned, he had known him for seven years, etc.

Being questioned touching the second point, he said: That since he has known Work he has always known him to be always engaged in mining business at that place.

Being interrogated as to the third point, he said that since he has known Work he has never known him to be vicious, or badly employed, or quarrelsome, vagabond, nor a bad citizen, nor much less to be a nuisance to society; but on the contrary, he has known him to be a worker in the business of mines, a good man, and without vices.

His testimony being read to him he declared it to be a true and correct transcript thereof, and affirmed and ratified the same, as under his protest, signing the same with the judge and attending witnesses.

We attest:

TELÉSFORO VALDEZ.
ANTONIO DE LA FUENTE.
DÁMAZO OLIVARES.
ANTONIO ALVAREZ.
MARCELLINO PUENTE.

* Bérnabe López was the judge.

(11) *Testimony of Manuel Narvaez.*

On the same day and date, Manuel Narvaez being present as a witness, summoned duly, was recognized by the court, and in the presence Dámazo Olivares, first solicitor, took the due legal protest to state the truth in all points to his best knowledge and belief, in as far as he might be questioned, touching the points set forth in the prior interrogatory of Robert C. Work. Being questioned as to his general description, he stated that he was as above named, thirty-seven years of age, unmarried by civil state, a merchant, born in and residing at this place.

Being asked, first, he replied that he knew him by sight, etc.

Being asked, second, he replied that the said party had all the time been engaged in mining.

Being asked, third, he said that during all the time he has known Work he, deponent, never knew of him as being quarrelsome, vicious, idle, nor that he was an evil citizen or a nuisance to society.

His testimony having been read to him, he confirmed it throughout as being correct and true, affirming and ratifying the same, under his protest to state the truth, and signing the same, with me the judge, with the subscribing witnesses.

We attest :

TELÉSFORO VALDEZ.
MANUEL NARVAEZ.
DÁMAZO OLIVARES.
ANTONIO ALVAREZ.
MARCELLINO PUENTE.

(12) *Testimony of Silverio Ramirez.*

On the same day and date, Silverio Ramirez, whom I certify to know, in presence of the prosecuting attorney took the due legal protest to state the truth in as far as he knew the circumstances, and so far as he were questioned in relation thereto, as under the interrogatory propounded by Robert C. Work in his prior statement. Being questioned as to his general description, he said he was as above named: fifty years of age; married; a farm laborer; born and living in this place.

Being asked, first, he replied that he had known Mr. Robert C. Work about five years, etc., etc.,

Being asked as to the second point, he replied that he had lived, during the time he had known him, in the mining district of San José in this district, and had been engaged in mining.

Touching the third point he said that during the time that he had known him he had never known him to be quarrelsome, nor had he displayed any vice, nor bad conduct; nor, much less, was he in any wise a nuisance to society.

This, his foregoing testimony, having been read to him, he confirmed it as a true and correct presentation of his evidence, affirming and ratifying the same, under his legal protest taken before; and did sign the same with me, the undersigned judge and the prosecuting attorney, and the witnesses present, etc.

We attest :

FELIPE VALDEZ.
DÁMAZO OLIVARSE.
MARCELLINO PUENTE.
ANTONIO ALVAREZ.

(13) *Testimony of Francisco Robledo.*

On the 19th of the present month, Francisco Robledo, a witness presented in behalf of the accused Robert C. Work, took the due legal protest, in presence of the president of the city council, as provided in preceding documents; and his testimony, taken on the 12th of last July, was amplified at the request of the accused. Being asked to state with more precision the distance he stood off when Francisco Cruz assaulted Robert C. Work, he replied that, on the day of the occurrence, about 1 o'clock in the afternoon, he (deponent) was on the hill, cutting and loading wood on a donkey; that he saw very clearly when Don Roberto fired the two shots at Francisco Cruz, who was following very close after him; that the place of the shooting was distant from where he stood, could not have exceeded 100 paces, but he is unable to say very affirmatively; the above would be the distance, a little more or less.

With the foregoing he (deponent) affirmed and ratified his written testimony as read to him; not signing, as he could not write.

We attest :

ANTONIO FLORES.
MANUEL GONZALEZ.
ANTONIO VALDEZ.
JOHN SOTILL.

[Inclosure 4 in No. 30.—Translation.]

(1) *Testimony of Antonio Vazquez.*

Antonio Vazquez being present, in compliance with the preceding order, took the solemn protest to furnish his testimony, and in response to his general description, stated that he was as above named, twenty-nine years of age, married, a farmer by trade, born in this district, and living at San José.

Being asked where he was on the 29th day of February, wherein he was engaged on that day, and what he knew touching the encounter between Robert C. Work and Francisco Cruz, he said: That he was in his house which was before property of Mr. Frank S. Spares, gathering wood, when Francisco Cruz, accompanied by Pascual Guevara, came in, and called to the deponent to come over to the fence and take a drink from a bottle of mescal wine which he had in his hand (Cruz?); that the deponent excused himself, saying that he was suffering from a headache; that Cruz then said that I (deponent) did not wish to drink with him because I did not want to be his friend; to which I replied that in order to prove that I was his friend I would give him out of my pocket; that Cruz then said that if he was successful in that day's ride, he would be happy; that just then Don Roberto was seen coming on horseback from Linares; that Francisco Cruz then left the fence where he had been talking to the deponent, and asked Don Roberto for a peseta* in order to hacer las horas; † that Don Roberto replied that he did not have any; that Cruz added that he must have one; that Don Roberto then urged his horse to walk; that Don Roberto then drew his pistol and said to Cruz to get away and not to stand in front of him; that deponent who was behind Don Roberto spoke to Cruz telling him to come back, and Don Roberto told him (deponent) to take Cruz away; that deponent then jumped the fence to catch Cruz; but did not reach him (Cruz) until Don Roberto had fired two shots at him and he lay on the ground; that immediately the deponent went off to advise the justice of the peace and the relatives of the deceased.

Being asked to state what arms Francisco Cruz carried when he came up to him (deponent), he replied that he did not see any arms upon him, nothing save a whip.

Being asked whether Pascual Guevara was armed, and whether he accompanied Cruz up to the place of the occurrence, he replied that Pascual had no weapons on his person, and that he (Guevara) remained along-side the deponent until the latter jumped the fence to catch Cruz and then Pascual followed him up to the place where they found the corpse lying, a distance of about 20 paces.

Being asked what if any offensive words passed between the two men, he answered that there were none.

Being asked what else he knew touching the matter, he replied, that when the justice went to the house of Don Roberto to effect his arrest he was accompanied by four armed men; that these he left at the place where the body lay, going up to the house alone; that when at the house he sent for the men whom he had left with the corpse in order to escort the prisoner to his house (house of the justice); that after the party had reached the house of the justice he (deponent) was sent for to take care of the corpse; that he met Tomás Barragan, Gabriel Ibarra, Fernando Cruz, Rómulo Rodriguez and Tiburcio Huertas, whose names he can recall among others, who went up to the house of the justice to ask him to have the prisoner taken where the corpse lay and remain there while advice be sent to the authorities.

Being asked whether he had aught else to add, he replied that he had not, and that the foregoing testimony, as read over to him, was true and correct in all particulars, affirming and ratifying it and signing the same with me, the judge, and attending witnesses.

We attest:

BÉRNABE LÓPEZ.
ANTONIO VAZQUEZ.
MARCELLINO PUENTE.

(2) *Testimony of Pascual Guevara.*

Pascual Guevara, a witness cited in compliance with the foregoing summons, took the solemn protest to state the truth, to his best knowledge, in as far as he might be questioned; and, being asked for his general description, replied that he was as above named; twenty-one years of age, unmarried, a farm laborer, born at Jimenez, and living for the past six years at San José.

Being asked to state where he was on the 29th day of February last, in what he was engaged on that day, and in whose company he was, he replied, that on that day he was in his house up till about 8 o'clock in the morning, when Francisco Cruz came in and asked him to take a turn or two with him in the ranche, and they after-

* Peseta; 25 cents.

† Hacer las horas: Local idiom: Take a drink,

wards went towards a small garden that Cruz had; that when they got in front of the house of Antonio Vazquez, he (Cruz) wanted to get him to drink with him; that Vazquez refused, saying he did not want to take any thing; that Cruz then said if he was successful in that day's ride, he would be happy; that they were there a little while and saw Don Roberto coming on horseback from Linares; that when they reached the place where they were Cruz left the fence, saying: "Wait a moment here for me, I want to speak to Don Roberto;" that he (Cruz) called out to Don Roberto that he wanted a word with him, at the same time advancing towards the horse's bridle; that Don Roberto spurred his horse on to get home; that Cruz then asked him for a peseta to go and get a drink; that Don Roberto paid him no attention, but kept spurring on his horse. Cruz following him up with the same request; the deponent again called out to Cruz to come back, but Cruz only answered to wait for him a little while, that he wanted to speak to Don Roberto; that while starting down a decline, Cruz hurried to catch up with Don Roberto; that the latter stopped his horse across the road and fired a shot at Cruz which wounded him; he then fired again, whereupon Cruz fell to the ground, and Don Roberto went on to his house.

Being asked what arms Francisco Cruz carried and what offensive words he had spoken, he (deponent) said he saw no arms only a whip, which he himself had lent to Cruz, who was going to saddle a horse and come to this town with some things; that witness went and advised Fernando Cruz that his brother was dead; furthermore deponent did not hear any offensive words.

Being asked whether he had aught else to state, he said he knew nothing more than he had stated concerning what had occurred. His testimony being read to him, he averred it to be identical to what he had just expounded, affirming and ratifying the same, but not signing, as he could not write, which was done for him by the judge and attending witnesses.

We attest:

BÉRNABE LÓPEZ.
ANTONIO ALVAREZ.
MARCELLINO PUENTE.

(3) *Testimony of Antonio de la Fuente.*

Antonio de la Fuente being present (justice and prosecuting attorney at San José).

I certify that I am acquainted with him. Deponent took the solemn protest to state the truth to his best knowledge, or understanding, touching the circumstances which occurred on the 29th of the past month, between Robert C. Work and Francisco Cruz. Deponent further stated that he is in charge of the interests of justice in this district; that about 1 o'clock on the afternoon of the 29th ultimo, Gerónimo Ibarra, son of Gabriel Ibarra, came and advised him that Don Roberto had killed Francisco Cruz; that forthwith, accompanied by the citizens Pilar Sanchez, Felipe Vega, Abundio Aleman, and Inocente de la Paz, he started over to make the necessary *post mortem* examination; that he went on alone to the house of Don Roberto to see him; that he (Don Roberto) received him; that the wife and daughter of Don Roberto were crying; that the deponent advised Work that he had come to place him under arrest; that Don Roberto said he surrendered and was at his orders, handing him over forthwith a .44-caliber pistol—a six-shooter; that Don Roberto manifested fear of assassination. So he (deponent) sent for the four men whom he had left behind to escort Work to his (deponent's) house; that notice was at once sent into the court of second instance, from which court immediate instructions arrived to take up the corpse and to bring thither Mr. Work under secure guard; that while bringing the prisoner along, and when we reached a place in front of the house of Antonio Vazquez, he was attacked by Leon Grimaldo and Antonio Vazquez, the father of Francisco Cruz, Fernando of the same name, Pascual Guevara, and a lot of women, among them the wife of the deceased; Grimaldo saying to deponent that the prisoner be taken where the corpse lay, and tied there; that deponent paid no attention to the people and finally reached the house; that at sunset the same crowd returned to deponent's house, accompanied by Tomás Vazquez, Roguilo Rodriguez and Gabriel Ibarra, who led the crowd, a lot of boys also joining them; that I did not note who were in the crowd, for there seemed great excitement to get at the prisoner, for what purpose I did not at first understand.

Being asked what arms he saw these people carry and the language they used when they came into the house, he replied that he did not see what arms they carried; that the crowd asked him if he was not a patriotic man; that whether I (witness) could see the blood of a Mexican shed by a Gringo* Cabron†; that Gabriel (Ibarra) further said that if he had committed a like crime and they went to arrest him, he (deponent) would be the first to fall by his (Ibarra's) bullet; that deponent at once ran the people out of his house; that when leaving, Gabriel said to Work: "Pray to God that you may not be set at liberty, for I will kill you."

* Gringo: American (offensively applied).

† Cabron: man who allows his wife to be seduced.

Being asked whether he had anything else to add, he replied that he had nothing more to say than to request that the authorities should proceed against those who were guilty in the premises.

His testimony being read to him he confirmed the same as above given, affirming and ratifying it and signing it with me, the undersigned judge and witnesses.

We attest:

BÉRNABE LOPÉZ,
ANTONIO DE LA FUENTE,
ANTONIO ALVAREZ,
MARCELLINO PUENTE.

CROSS-EXAMINATION.

On the same date the witnesses, Antonio Vazquez and Pascual Guevara being present in this court for the purpose of comparing a discrepancy in their depositions, to wit: while Vazquez says that Cruz did not advance on to Work nor much hang on his (horse's) neck, Guevara states the contrary, that is to say, that he (Cruz) went up to Work, gave him his hand, and, with his hat in his hand, asked him for a peseta; Guevara not remembering to have plainly seen Cruz hang on the horse's neck, doubtless because he was on the other side of the hillside or fence, and could not see everything well, while Vazquez was right at Cruz' side and near Work. The discrepancy having been thus explained this document was signed, etc.

JOSÉ QUINTANILLA.
ANTONIO VAZQUEZ.
ANTONIO VALDEZ,
JESUS MARIA ALFARO.

CROSS-EXAMINATION.

On the same day and date the previously mentioned witnesses, Pascual Guevara and Antonio Vazquez and the accused, Robert Work, being present, for the purpose of conducting a comparison of evidence to clear up the discrepancies between their evidence, and under the requisite legal formula, the dissimilarity in testimony was called to their attention, to wit:

First. That the deceased, Cruz, carried no weapons save a whip.

Second. That it is not true that he drew Work's pistol from its holster.

Third. That the road is all right, and there are no obstacles for travel.

Fourth. That Work was not detained by Cruz.

Fifth. That all that Cruz said to Work was that that he give him a peseta; not that he would kill if he did not do so.

Sixth. That Work, they say, said he fired the two shots at Cruz, while the accused makes a statement wholly different, *i. e.*: First, that Cruz had a pistol in one hand and a knife in the other; second, that when Cruz hung on the neck of Work's horse he (Cruz) drew out Work's pistol from its holster, but put it back when Work interfered; third, that on account of the steepness of the road he went the faster down the hill, and therefore shot at Cruz; fourth, that on the road he was detained by two men, one of whom had his hat drawn over his eyes; fifth, that Cruz called out to them that he would pay them well if they killed him; sixth, that he fired not one shot, but both shots at Cruz.

The foregoing discrepancies were presented to the witnesses, and after a prolonged talk, during which the witnesses (Vazquez and Guevara), point by point, made observations on the above, each one confirmed and ratified their prior testimony; Vazquez and Guevara stating with regard to the sixth point that they were not sure whether the horse went on because he got frightened, and whether really Work did stop him. During this discussion both the witnesses endeavored in detail to confirm their prior testimony.

Work claimed that Vazquez could not have clearly seen what transpired, as the stone fence was high.

This ended these proceedings; those present, who could, signing,

JOSÉ QUINTANILLA,
ANTONIO VAZQUEZ,
ANTONIO VALDEZ,
J. M. ALFARO.

(4) *Testimony of Antonio de la Fuente.*

SAN CÁRLOS, July 17, 1888.

Antonio de la Fuente, being present in the court under summons for the purpose of amplifying his testimony, took the due legal protest to state the truth, and did so in presence of the justice; after having repeated his general description, he said: That

he was, as above named, fifty-three years of age, a laborer, and residing in this place, San José.

Being examined under the court order of May 2, of this year, he replied: That on the occasion that Don Roberto went to him to request protection he did not particularly notice that he and the others had had any dispute, but that he did notice that Cruz carried a dagger, but not a pistol, unless when he (deponent) took it off and gave it (the dagger) to the judge, Valdez. That the foregoing is all that he has to say touching these particulars, and he affirmed and ratified the same, signing with me, the judge, etc.

We attest:

BÉRNABE LÓPEZ.
ANTONIO DE LA FUENTE.
VICENTE GALLEGOS.
SILVERIO RAMÍREZ.
MARCELLINO PUENTE.

(5) *Sentence of Judge Velazquez.*

SAN CÁRLOS, *January 26, 1889.*

Having seen these criminal proceedings begun in the court of second instance of this place, and continued by the court of first instance of the first judicial district, which referred the case to me in compliance with the third article of the law of September 24, of last year; proceedings begun and had against Robert C. Work, fifty years of age, married, a miner, native of the United States of America, and living in this place at the camp (mining) of San José, under charge of homicide perpetrated by him with a fire-arm in the person Francisco Cruz, at 1 o'clock on the afternoon of February 29, of last year (1888); also the documents bearing upon the degree of responsibility weighing upon the accused; the confession of charges; the presentation for the defense made by the attorney appointed by the prisoner; the summons for sentence, etc.

It appears, first: That on the 29th day of February, of last year, Mr. Robert C. Work was placed in prison, he having been the perpetrator of the aforesaid homicide, having remained nine days in the jail and eleven days in the house of Sr. Francisco Guevara Saldaña, with permission to go out to the streets to attend to his private business affairs: that he was afterwards fourteen days imprisoned in the capital of the State under the same conditions.

It appears, second: That, according to the depositions of the witnesses and of the accused himself, it was he who, with the weapon, which has appeared in evidence, inflicted a wound upon Francisco Cruz, from which the latter immediately expired; the said depositions forming full and complete evidence so far against the defendant.

It appears, third: That it is proven that on the 29th of February, of last year, Francisco Cruz was walking along in a state of intoxication at the time that Sr. Work was arriving from Linares at San José; that he, Cruz, followed Work asking him for a peseta, and thus followed him towards the house of the accused; that in the road there was a decline with a gully about 3 varas and $\frac{1}{2}$ wide.

It appears, fourth: That as the defendant says in his testimony, on arriving at San José two men assaulted him; that one of these men was Francisco Cruz, and the other he did not know, for he had his hat down over his eyes; that Cruz had a pistol in one hand and in the other a dagger; while Francisco Robledo, the only witness who says anything about it, says that the deceased had in his hand a small rod that flashed, and was found afterwards in the hand of the deceased; that the said arms, according to Work, as well as the pistol which he said was carried by Cruz, could have been taken away when the corpse was left alone with the relatives.

It appears, fifth: That Work insists that Cruz threw himself on to him, took his pistol from his (Work's) person, which he recovered later on; that continuing along the road Cruz followed him, and as he advanced on him a second time he fired first at his feet to stop him; that as this did not stop him he fired again, the shot that killed him.

It appears, sixth: That the evidence discloses that Cruz had a pistol; but the witnesses who were at the place where the corpse lay deny that he had any arm whatsoever, nothing save a whip.

It appears, seventh: That the father of the deceased does not figure in the prosecution, and forgave the injury, as is seen in the evidence.

Therefore, considering, first: That the existence of crime constituting homicide as perpetrated in the person of Francisco Cruz is sufficiently proven with the judicial examination and the *post-mortem* examination of the medical experts, Rafael Gómez, McElroy, and Progedis R. Balboa, as well as the testimony of the witnesses.

Considering, second: That the considerations with which the prisoner seeks to excuse himself are not to be taken into consideration for even though he committed the act in the highway, neither the fact of an assault is proven nor that Cruz attacked him, nor that the necessity had arisen to deprive Cruz of his life; for the

circumstance of the tired condition of the horse does not favor Work; even in that condition the horse could travel faster than a man on foot, especially when the man who was following him was drunk.

Considering, third: That it is not to be believed that Cruz disarmed Work, who was on horseback, while the condition of Cruz, as alleged, with a pistol in one hand and a dagger in the other, scarcely admitted of his being able to disarm the prisoner; this assertion is not sufficiently proven.

Considering, fourth: That while it does appear in evidence that Cruz did have a pistol with which he had some time before created a disturbance, it has not been proved that he carried it at the time he was wounded; not even the witness Robledo so stating, though he claims to have seen a small something flashing, while the rest of the witnesses claim that he carried a whip in his belt. That although the distinguished counsel for the defense regards the whip as an arm because some considered the rod of iron as such, it has not been proven that the one carried by Cruz was of that kind, nor much less that he used it.

Considering, fifth: That it has not been proven that Cruz was an enemy, as the prisoner averred, but rather, on the contrary, that he was an honorable man, with the sole defect of a love for liquor, and that even a few moments before the event he said to some persons, "If I succeed in this trip I shall be happy," such an assertion was scarcely ground for taking his life, for this did not constitute a direct threat against Señor Work; nor can it be included what was further said by Work, that Cruz said he would pay them to kill him (Work), something which the accused has not proven.

Considering, sixth: That as according to the fiat of the medical experts, Rafael Gómez, McElroy, and Progedis R. Balboa, the wound was such as to endanger the life of the offended party.

Considering, seventh: That as civil responsibility is not declared in this case, there being no plaintiff, the father of Francisco Cruz having refused to appear in that capacity against Work, and having pardoned the injury, the accused may not be held to the payment of damages occasioned by his act.

Considering, eighth: That the following extenuating circumstances concur in benefit of the defendant: The first, second, and fourth of first class, first and second of the second class, and ninth of the fourth class, and that there is no aggravating circumstance, connected with the case; in virtue whereof the penalty should be reduced from the mean to the minimum, and the defendant be likewise cautioned against any relapse whatsoever.

In view of the foregoing considerations, and in accordance with article 4 and sections 1, 2, and 4 of article 36, articles 39, 40 (sections 1 and 2), 42 (section 9), and articles 68, 71, 218, 529, and 308 of the penal code, I should and do hereby adjudge and sentence as follows:

First. That Robert C. Work is hereby condemned to imprisonment of three years and four months, dating from to-day, subject to a period of one-fourth extra imprisonment* in the event of his bad conduct.

Second. He is likewise to suffer the loss of the pistol with which he committed the offense.

Third. He is absolved from civil responsibility.

Fourth. He is to be cautioned against a relapse into the same crime.

Fifth. Let him be so notified, and let the sentence of this court be referred to the superior tribunal for revision.

I thus adjudge, sentence, and sign, etc., as judge (supply) of the court of first instance of the eighth judicial district, with the attending witnesses.

We attest:

ANTONIO VELAZQUEZ.
J. M. CHAREZ.
RAFAEL ESCOBEDO.

NOTICE.

On the same day Robert C. Work and Señor Francisco Rocha, his attorney, being present in the court, at 9 a. m., were advised of the foregoing sentence. They acknowledged the advice and, with due respect, appealed from the decision of this court to that of the superior tribunal.

The defendant was forthwith advised of the personnel of the chambers of the supreme court † and replied that he was willing to go before either of the magistrates of said supreme court competent to take the case, as he had no motive whatsoever for questioning either; and he added that he appointed as attorney for his defense in the second instance the same Juan Luis Tercero.‡

We attest:

LIC. VELAZQUEZ.
R. C. WORK.
J. M. CHAREZ.
J. P. ROCHA.

*Ten months.

† Supreme court of State of Tamaulipas.

‡ Tercero was his lawyer in the first instance.

(6) *Cross-examination of Antonio Vazquez.*

On the 16th of the same day (month) Antonio Vazquez appeared in court, under summons, and took the due legal protest to state the truth. Being asked as to his general description he repeated the same as previously given. His testimony, heretofore furnished, was then read over to him, and was by him affirmed and ratified with the following corrections: A few moments before Francisco Cruz spoke with the deponent, offering him a drink, the said Cruz had had a dispute and quarrel with Tomás Zapata; and to this was it that he referred when he said, "If I succeed in today's trip I shall be happy."

That in his testimony given at San Carlos he did not give the name Tiburcio Huerta. That the petition to have the criminal taken to the corpse was only presented by parents of Cruz and not by all who went there.

Being asked to relate precisely the events referred to in his former testimony, he stated that Francisco Cruz had no arms of any kind whatsoever, and only a whip in one hand; that he (Pascual Guevara) carried no arms whatever; that when Cruz asked Work for a peseta Guevara remained close to the deponent; that Cruz was behind Work about 10 paces when he fired at him (Cruz); and that this occurred as they were descending the road, in a gully, when he started down faster on account of his intoxicated condition; that at the moment of the shooting the deponent and Work were about 10 or 12 paces apart.

Being asked concerning the condition of the road at the point he replied that it is a highway or wagon road, and that there is not the slightest obstacle in the way to interfere with travel.

Being asked whether Cruz went up to Work and caught his horse's bridle and drew out Work's pistol, which Work took back from him, he replied: That Cruz could not come up close to Work, not closer than the distance already indicated; and that it is not certain that he took out the pistol and that Work took it away from him.

Being asked what the distance was from San José to the spot where the shooting occurred he replied that it was between the houses; that is, it was between the house of the defendant and that of Leon Grimaldo.

Being asked touching the character of Cruz, he replied that it was good; that he has always known him to be an honorable and hard-working man.

Being asked if when Work fired at Cruz he was moving along or had stood still, he replied that he (Work) stopped his horse across the road and fired with the understanding that the first shot was intended for the deponent, for he saw very clearly when he stretched his arm and saw where Cruz was standing.

This testimony was read to him and he affirmed and ratified the same, signing, etc. We attest:

LIC QUINATANILLA.
ANTONIO VAZQUEZ.
ANTONIO VALDEZ.
JESUS MA. ALFARO.

Note of the Legation of the United States.

The Department of State and of the office of foreign affairs, under date of March 23 last, states to this Government as follows:

"In a note of date of yesterday the United States minister in this capital says to me: I have the honor to present to your excellency the complaint of Mr. Robert C. Work, an American citizen, who is in jail at San Carlos, in the State of Tamaulipas, under charge of homicide. Mr. Work states that the man he shot was a robber and that he acted in self-defense; the said robber having attacked him in open daylight a few miles from his residence. On returning thither on February 29 last, Mr. Work surrendered voluntarily to the judicial authorities and claimed their protection from an excited mob which set fire to a portion of his property and threatened the lives of himself and his family. According to my information Mr. Work is a respectable man, engaged in mining operations as secretary and general manager of the Linares Land and Mining Company, whose property is located some 15 miles northwest of San Carlos.

"Mr. Work believes his life to be in great danger, and that his large interests are in peril, owing to the unfriendly feeling of the inhabitants and the indifference of the local authorities.

"I beg your excellency's immediate attention to the case, feeling assured that you will issue such instructions to the authorities of Tamaulipas as will lead to the protection of Mr. Work and his family, as well as his speedy trial for the offense with which he is charged.

"All of which I have the honor to transmit to you, requesting that you will be pleased to furnish me a report upon the matter; and I recommend to you, by advice

of the President, that you see that Work receives a fair trial under law, and under all guaranties granted, etc. I renew to you my esteem and consideration."

The foregoing I transcribe to you for your information, requesting that you will, at your earliest convenience, supply this (State) Government with a detailed report touching the case instituted against Work, stating the offense with which he is charged and all the other circumstances of the case.

Liberty and Constitution.

Victoria, April 2, 1888.

R. CUELLAR.
MARTIN de I. SANCHEZ.

[Inclosure 5 in No. 30.—Translation.]

Appeal by Juan Luis Tercero, attorney for Robert C. Work, to the first chamber of the supreme court, March 5, 1889.

Juan Luis Tercero, attorney for defense of Mr. Robert C. Work, in the second as in the first instance, in the case instituted against him for the homicide perpetrated in the person of Francisco Cruz, in the mining town of San José, before you, with due respect, do present the various grievances embodied in the sentence as passed on my client by the court of first instance.

Mr. Magistrate of the First Chamber, etc. :

I shall be very brief and very precise in my statements.

The capital grievance is that the judge did not take the trouble to read the evidence for the defense as set forth in the court of first instance, or at least, that he failed to read it with care. I strove in the time of defense to have everything substantiated, to use nothing but facts based on corroborated evidence and strictly logical deductions therefrom. But the judge ignores all; he took no notice of the elements of this defense, the pure grain thereof, so to speak, and if he made any allusion whatever thereto, it was to pick out the strongest point, such as the reference to the whip or stick of which I made mention in the tenth paragraph of my statement of defense.

It is evident throughout that the judge of first instance proposed to ignore all the arguments of defense; that is to say, not to hear the accused in his own defense; and that he proposed to conquer, not convince him, something wholly opposed to the nature of justice, which admits only of convincing by the force of reasoning, the only way to conciliate conflicting opinions.

I have only to beg the magistrate to be pleased to read my statement of defense in the first instance, now that the Judge did not read it, taking care to note these points.

First. In the sentence of appeal it is affirmed that the eye-witnesses of the matter, Grimaldo, Vazquez, and Guevara are competent, while the fact is they are decidedly incompetent. Suffice to read the quotations from the evidence embodied in my statement.

Second. In that sentence appears the false statement that Work said that Cruz carried the pistol and knife in his hands at the beginning of the trouble. This is not so. It was at the end of the shooting that Mr. Work said he (Cruz) carried the same in his hands; that is to say, before that he carried the weapon in his belt.

Third. The judge took no notice of the words of Fernando Cruz, which he employed to explain the intention of Work in shooting Francisco, although they possess great weight in an understanding of the fatal encounter. See Art. 201, section iv, of the penal code.

Fourth. Likewise the judge paid no attention to the argument touching the "indivisibility of confession in criminal matters;" the judge using witnesses who should have been discarded, sets aside the indivisible evidence of the accused, which should have been preferred, instead of building thereon the burden of proof to which the law should have been applied.

Fifth. Finally, the sentence of the court of first instance, as far as relates to the study of the evidence is so lightly framed and considered, that we find therein assertion such as that Cruz did not have bad antecedents aside from his habits of intoxication. If the judge had read my statement in defense with care he would have there seen citations of evidence going to prove that Cruz was a quarrelsome man, and therefore to be dreaded.

Everything, Mr. Magistrate, in the handling of this process, goes to induce the belief that this process should have been regarded as one of legitimate infliction of wounds in proper self-defense; if you please, perhaps not wholly irreprehensible—but in the light of the relative antecedents of the deceased and of Work; the atmosphere of malicious influence surrounding Work at San José, his ignorance of the Spanish, and the

persistence with which Cruz followed up Work, he (Work) had reason to believe that the time for absolute and supreme action had arrived.

The defense does not, therefore, exaggerate the gravity of its conclusions, when it sustains, as it did sustain in the court of first instance, that the penal procedure set forth in section* 4, article 201 (paragraph 2), is the procedure truly applicable in the case.

I have great confidence, Mr. Magistrate, that you will understand me, and will appreciate the study of this case which I have so conscientiously labored out for my client. You can estimate the care with which I have striven to avoid therein anything like hyperbole, and have tried to make the whole line of defense substantial and precise. My client, perhaps, may be blameless enough not even to be guilty of a minor offense, but I have not so regarded him. I firmly believe him to have acted in legitimate self-defense. Of that I have not the slightest doubt; and, if anything, I might allow that there had been a slight excess of caution in the defense, very slight in the case of a foreigner living among those who dislike him, and even among these some of his own countrymen like Smith y Spares. Please, Mr. Magistrate, take notice that Smith is a Jew; yes, a Jew, and that he lost in a lawsuit gained from him by Work in this same First Chamber.

The foregoing will suffice, Mr. Magistrate. I respectfully pray from you all the kindness allowable under the law toward my client. I pray that the term of his sentence may be regarded as having been amply covered by the past sufferings of himself and this honorable family so well educated, educated and affectionate.

CIUDAD VICTORIA, March 5, 1889.

JUAN LUIS TERCERO.

[Inclosure 6 in No. 30.—Translation.]

Sentence by Judge G. Mainero, of the First Chamber of the Supreme Court of Tamaulipas in the case of R. C. Work, taken to him on appeal.

CIUDAD VICTORIA,
Tamaulipas, May 15, 1889.

Having taken under advisement the case (which was begun by the second justice of the peace at San Carlos, taken up by the court of first instance of the first district, and continued until sentence was passed by the court of the eighth district) against Robert C. Work, fifty-three years of age, married, a miner by profession, native of the United States of America, a resident of San Carlos, and domiciled in the mining camp of San José, charged with the crime of homicide, perpetrated in the person of Francisco Cruz;

Having taken into consideration the evidence contained in the summary as compared with the cross-examination, and the confession of charges made by the defendant;

Having investigated the sentence of the lower tribunal,† assigning Work to a penalty of three years and four months imprisonment, to date from the date of the sentence, the 26th January, of the current year (1889); and from which sentence the defendant appealed;

Having taken under advisement, likewise, the statement of grievances set forth by his attorney in the said instance, and also the opinion of the attorney-general that it is advisable that Work suffer capital punishment; as well as all else contained in the evidence and the record; and

It appearing, first, that on the 29th day of February of last year, while defendant was returning on horseback from Linares, on reaching the first of the houses at the camp of San José, Cruz, who was intoxicated, came out to meet him, asking him for a peseta; that Work refused it, and went on his road towards his house, telling the two eye-witnesses to call Cruz back; that Cruz, nevertheless, followed up Work, according to the testimony of three of the witnesses with a whip in his hand, but, according to Work's statement, with a pistol in one hand and a knife in the other.

* Art. 201, Sec. 4, P. 2, Penal Code: In order to determine whether the excess in defense is undue or otherwise, not only the act itself should be taken into consideration, but likewise the degree of excitement or sudden dread on the part of the person thus assaulted; the hour, the conditions, the place of the assault; the age, the sex, the physical constitution, and the other circumstances surrounding the assaulted and the assaulting party; the number of those conducting the attack, and of those engaged in the defense; also the arms employed alike in attack and defense.

† Sentence by Judge Velazquez, judge of district court, eighth district, Tamaulipas, 1-26-'89.

Another witness asserts that Cruz carried in his hand a small knife when he followed up the defendant.

It appears, second, that when Work, as thus described, followed by Cruz reached a decline in the road, which dipped at that point, he stopped his horse and intimated to his pursuer that he should cease from following him, for in contrary event he (Work) would use his pistol, which he had already seized. Work continued riding along, still pursued by Cruz; that the horse shied at a block of wood lying in the road, and turned back; whereupon the rider (Work) after advising his pursuer, for the second time, not to follow him, fired upon him (Cruz) from the result of which Cruz died shortly afterwards. All the witnesses and the accused agree that Cruz was drunk.

It appears, third: That the eye-witnesses Grimaldo, Guevara, and Vazquez, who were eye-witnesses, according to the statement of Work himself as well as the other witnesses summoned by the defendant, assert that Cruz only had in his hand a whip; that he did not assault Work with a whip, nor that he did not say the words that he was charged with killing him (Work); that all he said was that he wanted a peseta, and that he kept following him up with the obstinacy peculiar to the drunken, Vazquez and Guevara having been unable to detain him, as Work requested when Cruz persisted in pursuing him.

It appears, fourth: That the witness Francisco Peña, summoned by the accused, stated that after having seen Don Roberto at the time he reached the camp, while he was passing the house of Leon Grimaldo, witness went to the house of Antonio Vazquez, and just as he was about to reach the patio * of the house he saw Vazquez jump the fence with a hatchet in his hand (with which he had been cutting wood); that he then hurried up, and saw Vazquez going behind Francisco Cruz, speaking to him and asking him to come back; he heard Cruz speak twice to Don Roberto; that there was a dip in the road, and when he started down he (Don Roberto) checked his horse across the road, and with his pistol in his hand told Cruz not to come nearer for he would give him a bullet; that Work then went on a little further and again stopped; he then repeated the words he had spoken to Cruz; that the latter paid no heed, but continued to follow him up; that Don Roberto then fired the first shot, and a second, Cruz falling after the second shot. This witness in a prior deposition, specially taken by the court, replied that he saw on Cruz no arms save a whip, which he carried in his hand.

It appears, fifth: That the witness Francisco Robledo, summoned by Work, said he was loading a donkey with wood on the hill-side facing Work's house, about 400 paces away; that he heard voices in the gully below; that he jumped upon a log and saw the prisoner with the pistol in his hand; that he fired twice at Cruz, whom he saw then fall; that he ran to the house of his master, Work; that before reaching it he met a servant who was going to call him; that on reaching the house his master said to him, "I have had the bad luck to kill Francisco Cruz; run to the sheriff's house and tell him, so he can take charge of me;" which order deponent at once carried out. In a prior deposition this same witness stated that he saw the occurrence plainly, being at the outside 100 paces away, engaged in the work hereinbefore specified and described; that he was able to see that Cruz carried a small knife in the hand, which he saw flashing; that he then saw Work fire a shot at Cruz; that he then ran towards them, and when he reached the horse's flanks Work fired a second time, deponent seeing that Cruz fell near the horse. He added that while going to give notice to the sheriff, in compliance with Work's order, he saw that Cruz was still on the ground with the little knife under his hand that was thrown on the ground.

It appears, sixth: That the medical expert, Dr. Gomez McElroy, rendered his report in consonance with the opinion of the other experts, and in view of the other correlative circumstances, as follows:

"The evidence shows that Work was in front and Cruz behind; that Cruz started towards Work in the encounter, while Work retreated; that the attack of Work on Cruz was at a short distance, not exceeding 10 varas, for the alcalde (mayor) of San Carlos avers that in the reconnaissance he made of the ground he measured 18 varas from the spot where Cruz fell to the log of wood, and Work asserts in this deposition that his horse shied at that log of wood and jumped back; that as Cruz probably fell almost instantly, he must have taken very few steps to allow of his body being found at the distance certified by the mayor of San Carlos, taking into consideration the fact that Work's horse could not have shied right on the log, but at some slight distance from it; and that the horse of Work must have gone back some varas in his frightened condition, as I have said, and perhaps somewhat excited too by the nervous agitation of Work, who was handling the reins excitedly. That Work and Cruz, as they stood relatively to each other, exposed their right side, this being evidenced clearly by the direction taken by the aforesaid bullet, as outlined by the examining surgeons, for Cruz must of necessity have been facing Work, with his right side exposed

* Open court of house.

to admit of the course taken by the bullet, right to left; that Work being on horseback and Cruz on foot, it can be easily understood that the bullet could not take a horizontal slant, but the slant it did take, to wit, from above, below; that in view of the position in which Cruz was when he received the bullet, and the direction followed by the same, as described by the medical experts, which description confirms the position of Cruz hereinbefore detailed, it appears: that Francisco Cruz received a wound from a fire-arm, the bullet entering the intercostal space above the fifth rib in the left side, and issuing (or attempting to) from the lower part of the left loin; that though the experts fail to designate the point of entrance of the bullet, it is clearly evident that it was the hole right over the nipple of the right breast, while they themselves state that they felt the bullet at the left side. The exact direction taken by the bullet, continues the expert, is as follows: From above, below, right to left front towards rear. In this course, and in the successive organs pierced, it appears that the large veins of the heart and perhaps the heart itself were wounded, both the lungs, the diaphragm, some important abdominal viscera—all of these wounds being serious and dangerous; that the cutting of the veins to the heart necessarily at once produced an abundant hemorrhage; that this sudden hemorrhage was the cause of death, and to it was due the instantaneous character of the death; that the wound inflicted upon Cruz was of the kind that causes immediate death, and is classified in article 529 of the Penal Code extant in this State.*

The medical expert, Dr. Balboa, likewise commissioned, substantially corroborates the opinion of his fellow expert, and, at the close of his report, remarks: "I am of the opinion, according to the direction taken by the bullet, that it affected, if not the heart itself, at least the arteries; also the pleura, the lungs themselves, and perhaps some important abdominal viscera; that the piercing of the arteries induced an abundant interior hemorrhage, and causing instant death; these wounds being of the class covered by the provisions of article 529 of our Penal Code, or, in other words, wounds fatal of themselves."

It appears, seventh: That Work maintained in his examination and constantly in the course of all the proceedings that Cruz was a man given to heavy drinking; that he was of a quarrelsome disposition, the servant of an American who was an enemy of his; that he (Work) had before that time had a dispute with Cruz; that Cruz when summoned before the authorities said that as Work had arranged the disputed matter with Cruz' master, as in fact seemed at that time to be the case, every thing was all right now, and Work had nothing to fear from him (Cruz). That the American, Spares, the employer of Cruz, and a declared enemy of Work, had recently threatened him (defendant) in writing, sending him a challenge by conduct of the prosecuting attorney; that, due to deep dislikes entertained against him (Work) by Spares and by the other Americans mining in that camp since 1885, efforts had been made to have him expelled, and a circular to that effect had been started, which had been signed by several, among them Vazquez, the eye-witness of the occurrence; that this was not the sole cause on his part (Work) for discrediting that witness as well as Grimaldo and Guevara, who after the shooting joined with a wild mob in the request that the justice might allow them to tie the prisoner to the corpse until the authorities should arrive and should order the burial of the corpse; that on the night of the shooting the same mob tried to set fire to his house, burning up the fence; that on account of the foregoing in evidence, and because he had been advised by trustworthy persons that attempts would be made on his life, and because, finally, Cruz being drunk on that day had said to Vazquez, "If I am successful in this venture I shall be happy," defendant insists in his assertion that Cruz had the intention of killing him, as in fact he shouted out to him when he was following him up; and that, therefore, in making use of his pistol as he did against Cruz he acted in legitimate self defense.

It appears, eighth: That the witnesses, all of them of age, have all given very good accounts touching the prior conduct of the defendant, stating him to be a man of pacific disposition and of honest and hard-working habits.

It appears, ninth: That the attorney-general in his finding expresses himself as follows: "The judge of first instance of the first judicial district, without stopping to consider that as a mere executor of the letters requisitorial emanating from the eighth district court he had no jurisdictional powers in the matter covered by the said letters, either in favor of Work or in his contra, did overstep his powers or faculties in issuing this order of June 12 last, and did, beyond doubt, trespass upon the sphere of duty and attributes of the executive, entering into details with which he had about as much to do as the appointment of a chief of public guards. But as it would be manifestly unjust to pass upon this conduct without giving him a hearing, it becomes necessary for the said judge to bring forward his report substantiating his procedure, and that within the period designated by this court.

*Article 529. Wounds endangering the life of the party offended are punishable on that ground alone with five years' imprisonment.

"A like decision should be rendered in the case of the judge of the first instance of the eighth district touching a point of serious character referred to at the commencement, namely, the liberty enjoyed in this capital by the defendant Work, who, despite the fact that order for his arrest was issued; that he was *de facto* arrested; that he was sentenced to 3 years and 4 months of imprisonment; and that, though receipts are shown in the court for his delivery at the jail in San Carlos, he was still free. This point is of importance, as the American minister has formulated demands in this case; while the fact that not for a long time past has such a case of leniency been known, and a case where so much of tolerant kindness been displayed by the authorities towards a convicted criminal. It is shameful that a person sentenced to prison should be in absolute liberty in the very place wherein the highest judicial powers of the State exercise their functions; and in this regard the attorney-general considers the prestige of the administration of justice in Tamalipas as at stake." And the attorney-general concludes: "Third, let substantiated statements be obtained from the judges of the first instances alike in the first and the eighth districts; fourth, that, in the light of such information, and in view of the evidence in the case, let investigation be made of the responsibility which said judges are liable to have incurred, so that the respective penalties may be assigned."

It appears, tenth: That the defendant has been imprisoned since the 3d of March, 1888, to the 30th of April of the same year, when he was released on bail; also from January 17, 1889, when he was again committed at San Carlos to the 28th of that same month, when the case was referred to the court; also from the 7th of this May, when he was re-arrested by the order of this chamber to date, a total period of imprisonment of two months and sixteen days; and

Considering, first: That the fact that Work inflicted the wound is abundantly substantiated, having been authenticated by the judicial investigation, the autopsy, the confession of the accused himself, and the testimony of eye-witnesses;

Considering, second: That the exculpatory exceptions advanced by the criminal and his attorney are embraced within the scope of articles 34 (sections 8 and 10) of the Penal Code,* for which cause it is of vital importance, after an examination of the evidence on record, to determine up to what extent legitimately and rightfully the provisions of those two sections can be appealed to in passing upon this case.

Considering, third: That to constitute legitimate self-defense as referred to in section 8, it is necessary that the accused repel an actual assault, imminent and violent; and it is further required that the accuser need not prove (nor does it so appear in evidence) that the party assaulted foresaw the assault or could easily have avoided it by the use of other legal measures.† Now, aside from the statement of the defendant, there is no evidence going to show that Cruz was wounded by Work, the latter repelling an actual, imminent, and violent attack from the former, unless it be the sole testimony of the witness Robledo, of which mention will be made later on. And it appears on the face of the evidence that Work could easily have escaped an assault, as he was on horseback and his pursuer was drunk and on foot; that likewise there was no rational motive for the means employed by him in his defense.‡ The presumption, more or less well founded, that a man may have that another entertains hostile views towards himself, does not warrant him for taking that assault verified and forthwith making use of his weapons. To admit the contrary would be not only in violation of the tenor of this article§ we are considering, but would also open wide door to impunity in the commission of most serious crimes.

Considering, fourth, that the statement of the witness Robledo, consisting of an affirmation that he saw Cruz walking fast after Work with a small knife in his hand, and that after the first shot Cruz ran quickly up to Work and received the second shot fired by the defendant, when he (Cruz) had almost reached the horse, and that he then fell to the ground, should not be received in evidence for many reasons.

* Article 34 of the Penal Code: The circumstances which vitiate criminal responsibility for the infraction of laws (penal) are: * * *

Sec. 8. To act in defense of one's person, honor, or property, or of the person, honor, or property of another, repelling an actual assault, imminent, violent, and without cause; provided, however, the accuser can prove that any of the following circumstances intervened. * * *

Sec. 10. The violation (of a law) under the impulse of moral force, if that force combines to produce a well-founded and irresistible apprehension of imminent and serious danger to the person of the trespasser on the law.

† Caption I of section 8, article 34 of Penal Code: [Intervening circumstances—see p. 14] foot-note.

Caption II. That the party assaulted foresaw the assault and could easily have avoided it by the use of other legal measures.

‡ [Intervening circumstances, see p. 14, section 8, article 34] Caption III *i. e.*, That is, that there was no rational motive for the means employed in the defense.

§ Article 34 of Penal Code.

In the first place, the witness said not a word in his preliminary examination about the important circumstance of Cruz carrying a knife; secondly, he has stated several discrepancies in the course of his declaration. For instance, in his prior testimony he said he saw Cruz and Work at a distance of 400 paces, while in his last deposition he stated that at the time of the occurrence he was 100 paces away; and, above all, that he appears as a witness for Work after having been able to consult with Work at Victoria, Robledo being a servant of Work. As bearing out the erroneous character of the testimony of that witness, this chamber will bring in the deposition not of the witnesses Grimaldo, Vazquez, and Guevara, who are rejected by Work, but the testimony of the witness Francisco Peña, a witness presented by the defendant himself, and who is wholly competent, and he agrees with the others in their statement that they only saw a whip in Cruz' hand, it being finally notable that none of the numerous witnesses who have testified in this case, and who saw the body of Cruz before it was taken up from the public highway, affirm that they saw in the hand of the deceased the *small knife* mentioned alone by Robledo.

Considering, fifth, that in order to invoke the exception mentioned, in benefit of the defendant, set forth in section 10 of article 34, of the penal code, it is expressly required, as the said section specifies, that the law has been violated under the impulse (on the part of the responsible party) of a moral force which produces a *well-founded and irresistible* apprehension of imminent and serious danger to the person of the trespasser on the law. And according to the evidence in the case, hereinbefore referred to, the fear previously entertained by Work on account of the antecedents he alleges, even if well founded, as he claims, is by no means acceptable as irresistible apprehension, under the law, or, in other words, as a fear to which a guarded man should yield, for Cruz was not armed and Work was, for Cruz was drunk and Work was in his right mind, and because mounted, as he was, Work had in every way the advantage over Cruz, not only to avoid the quarrel but even to provoke it, and even if a quarrel ensued he could have come out best.

Considering, sixth, that this chamber has ever sustained the most lenient procedure as outlined by publicists touching the classified confession of individuals, that procedure can not be applied in this present case, as the defense would intimate, for even discarding the confession as made by Work, there still remains sufficient evidence in the case to declare him guilty of the offense under consideration. It would therefore be absurd to apply that doctrine in that case, especially in view of the provision of article 9* of the penal code, whose tenor is so clear; for, with or without the testimony of Work, there is abundant evidence on record that Work violated the penal law, it being consequently presumable that he acted with fraud.

Considering, seventh, that as there was no autopsy of the corpse the provisions of article 544† of the penal code are applicable to this case, so as not to regard it as a case of homicide, in the infliction of penalty, though, in fact, death did ensue soon after the infliction of the wound, a decision constantly maintained by this chamber in like instances save such exceptional cases as that of Ramon Segura, in which it can be said that the autopsy is rendered unnecessary by the nature of the wound itself, when it is proven that the latter, beyond the slightest doubt, resulted in the destruction or mutilation of any organ necessary to life. In this case it is to be taken into consideration also that commissioned experts did not even see the wounds, and were obliged to depend upon the statements of non-professionals; also, that though the experts state that an internal hemorrhage must have taken place, a direct and immediate cause of death, they conclude their report, saying the case falls within the scope of the provisions of article 529‡ of the penal code, the article always applied by this chamber in similar cases, there being no other applicable when under law those provisions of the code applicable to homicide do not prevail.

Considering, eighth, that under Art. 517§ of the penal code the consideration of

*ART. 9. Whenever it is proven to an accused party that he violated a penal law it shall be presumed he acted with fraud, unless the contrary be proved, or unless the law requires fraudulent intent to constitute offense.

†ART. 544 of penal code: For the imposition of a penalty a wound shall not be considered as fatal save where either of the three following circumstances obtains:

I. When the wound in and of itself and directly occasions death, or when death results from some other cause, this cause having developed from the wound or from some necessary or immediate effect thereof.

II. When death ensues within sixty days counting from the date of the wound.

III. When, upon making the autopsy of the corpse, two experts do declare that the wound was fatal, and to the end confining themselves to the provisions contained in this and the two subsequent articles.

‡ Quoted *supra*.

§ Art. 517. It is understood that one of the parties engaged in dispute has the advantage over the other—

I. Whenever one is superior to the other in physical strength, and the latter be unarmed.

advantage does not weigh in the three first-mentioned cases if the one possessing said advantage should be acting in legitimate self-defense, nor does it weigh in the fourth case, if he who happens to be armed or on foot is the party assaulted and should also run peril by neglecting that advantage.

Work having employed an arm undoubtedly superior to that carried by Cruz, even admitting the latter carried a knife, he, it must be admitted, acted under advantage; and the mean* term of the penalty in such event, as set forth in article 539 of the penal code, which is five years, should be increased in this case one-third, *i. e.*, twenty months more, making an aggregate of eighty months.

Considering, ninth, that there operates in favor of the accused, with absolute certainty, the first of the extenuating circumstances of the first class; and in his contra the seventh of the aggravating circumstances of the first class; while, if conceding that the accused is also favored with the fifth of the extenuating circumstances of the fourth class, this chamber bears in mind, not only the general idea that the benefit of the doubt should ever be accorded to the criminal, but also bears in mind the uniformly good antecedents of Work, and that he was a pacific man; also that it is very reasonable to presume, very probable and likely that when he used his arms against Cruz, he acted under fear, more reasonable than to presume that in brutal ferocity he committed an odious crime, so at variance with his pacific disposition. This conjecture is all the more plausible if it is considered, as it should be, in the light of the evidence, that Work was surrounded by the animosity in general of his own countrymen engaged in the same profession with himself; also that he had had occasion to lodge complaint against Cruz, who was a servant of one of his bitterest enemies, all of whom lived in that camp.

Considering, tenth, that in view of the time consumed by the proceedings, and the fact that Work was at liberty a good portion of that time, the date fixed by the lower court for the commencement of the term of imprisonment is to remain the same in accord with the spirit and the letter of articles 192 and 193 of the penal code.†

In virtue of the considerations hereinbefore stated, and in view of the legal provisions hereinbefore, and the 71st,‡ 218th § and 231st || articles of the penal code, and the 7th of the decree of adoption, be it resolved:

First. The sentence of the lower tribunal shall be altered, and Robert C. Work shall be condemned to a penalty of imprisonment of four years five months and ten days, on the public works, to date from January 26, of the current year.

Second. The pistol shall be confiscated and the amount realized from its sale shall be devoted to the improvement of the jail at San Carlos.

Third. Let the prisoner be admonished not to relapse in the offense.

II. Whenever either is superior to the other in the arms he carries or in his greater skill in their use, or in the numbers who may accompany him.

III. Whenever one employs any means to weaken his adversary's defense.

IV. Whenever one is fallen, or unconscious, or disabled, and the other be armed or on foot.

* Mean term signifies the period of penalty set to any offense; the minimum is reached by deducting a third; and maximum by increasing one-third.

† Art. 192. Penal Code. If the time consumed by the proceedings should exceed the period fixed by the law for the termination of the case, the judges may, if they regard it as just, impute the excess to the period of penalty assigned in the sentence, when that punishment is equivalent to the sufferings endured, or when it exceeds the grade of suffering endured by the accused during the trial proceedings.

Art. 193. If the sufferings of the prisoner during the proceedings be different and be minor to those imposed by the penalty, the judge may make a rebate in his sentence equivalent to half the excess.

‡ Art. 71 of the Penal Code. Every penalty of ordinary imprisonment or detention in an establishment of penal correction, for a period of two years or more, shall imply the possible imposition of a period of imprisonment or detention equivalent to one-fourth more of time, and it shall so be set forth in the sentence.

§ Art. 218. Every sentence of condemnation shall provide that the criminal shall be cautioned against a relapse into the offense for which he is sentenced; and he shall forthwith be advised of the penalties assigned to him. Like caution shall be administered unto him when he is set at liberty upon the termination of his period of sentence. In both cases a formal document shall be drawn up, to be signed by the prisoner, if he can write.

|| Art. 231. If there exist in the premises only extenuating circumstances, the penalty may be reduced from the mean to the minimum; and if there are aggravating circumstances, the penalty may be increased from the mean to the maximum.

When aggravating circumstances, combined with extenuating features prevail, the penalty assigned under the law shall be reduced or increased according to the weight of the former or the latter circumstances, computed according to the scale set forth in article 37. [Penal Code.]

Fourth. Let the interested parties be notified, and should they not appeal, let the prisoner be committed to the custody of the executive authorities, in due form, and the papers in the case, with the record of this sentence be referred back to the court from which they originated; due record of the same, with the opinion of the attorney-general to be made in the archives of the court, including the matter of the responsibility of the judges of the first and eighth districts, and the decision reached in the case.

Signed by the magistrate in this case referred to him on appeal.

I attest :

LIC. G. MAINERO, *Judge.*
JUAN G. CALDERON, *Secretary.*

[Inclosure 8 in No. 30.—From the Two Republics, July 2, 1889.]

Governor Prieto answers the Work letter.

VICTORIA, MEXICO, June 23.

Dr. ORNELAS,
Consul at San Antonio :

Robert Work, tried for murder, was sentenced by the district court at San Carlos to three years and four months imprisonment. He appealed and the first audience of the supreme court of the State condemned him to four years. He begged the admission of a second appeal, which was granted and is now pending the decision of the court, which will soon be obtained. The greater part of the time he has been enjoying liberty under bond, notwithstanding that in Tamaulipas this benefit is very much restricted. At this present time, pleading sickness, he is at home. There is therefore not only a lack of truth in the publication but of gratitude.

A. PRIETO,
Governor of Tamaulipas.

Mr. Wharton to Mr. Ryan.

No. 27.]

DEPARTMENT OF STATE,
Washington, July 8, 1889.

SIR: I herewith inclose a copy of a letter from his excellency the governor of Texas, of the 24th ultimo, and one from Mr. J. A. Ware, of the 20th ultimo, transmitting affidavits in favor of the claim of Shadrack White, deputy sheriff of Maverick County, Texas. Mr. White, while in the discharge of his official duties, was fired upon and severely wounded by a party of Mexican soldiers, who under a false pretense of crossing the river to purchase horses, were in the act of kidnapping a deserter from the Mexican army named Atanacio Luis. Mr. White claims damages in the sum of \$50,000.

The circumstances in connection with this affair occurred March 3, 1888, and in an instruction to your immediate predecessor of March 22, 1888, No. 15, you will find the previous narration of the facts. In that instruction you will observe that it was expressed with reference to Mr. White, that "a suitable indemnity should be awarded the deputy sheriff, who was wounded in the discharge of his duty." This new evidence is sent as supplementary to that instruction, and you will after familiarizing yourself with the previous history of the claim, suitably present it to the Mexican Government.

I am, etc.,

WM. F. WHARTON.

[Inclosure 1 in No. 27.]

Mr. Ware to Mr. Blaine.

EAGLE PASS, MAVERICK COUNTY, TEXAS,

June 20, 1889.

SIR: In behalf of Shadrack White, a citizen of Maverick County, Texas, and late deputy sheriff of said county, I invoke the aid of the United States Government through your Department for the recovery of \$50,000, retributive compensation and castigatory damage for injuries, insults, and outrages inflicted upon him March 3, A. D. 1888, in the town of Eagle Pass, Texas, by an organized detachment of Mexican soldiers, under the command of their officer, all the details and circumstances of which are fully set out in the accompanying affidavits of respectable and credible witnesses, respectable citizens of Eagle Pass, Texas, and Piedras Negras, Mexico. This detachment, as shown by the testimony, had crossed the Rio Grande under permit extended by Dillon, inspector of customs, at the request of Captain Muños, commandant of the Mexican forces at Piedras Negras, under a false pretext, but really to perpetrate an act in defiance of the law, in contempt of the sovereignty and in violation of the right of sanctuary, and the injuries sustained by White were in discharge of his duty, attempt to suppress the outrage and arrest the offenders, and it is respectfully submitted that insult and outraged feelings are as much a subject of compensation in damages as the permanent injuries to his body received by the sufferer.

I also respectfully submit that this is as much a subject of demand and exaction of retributive compensation, as had one of their cruisers entered a defenseless American port and bombarded the town and destroyed its business houses and dwellings and slain its inhabitants, though not expressly ordered so to do by its Government.

We submit this claim to your action with the abiding confidence that your Department will give it early attention, and by the result assure our much suffering people that our Government is not insensible to a wrong perpetrated, or that it is in their power to redress, and teach our neighbors that they can not perpetrate them with impunity.

Respectfully, your obedient servant,

JAMES A. WARE.

[Inclosure 2 in No. 27.]

*Affidavit of Atanacio Luis.*THE STATE OF TEXAS, *County of Maverick:*

On this day personally appeared before the undersigned authority Atanacio Luis, who being duly sworn deposes and says: My name is Atanacio Luis; I am a citizen of Mexico, but am at present living in Eagle Pass, Maverick County, Texas. On Sunday morning, February 26, A. D. 1888, I was a soldier of the Mexican army, stationed at Piedras Negras, Mexico. I had been a soldier in the Mexican army for about ten months. About noon on the day last aforesaid I deserted said army, and came across the Rio Grande River to the town of Eagle Pass, Texas. The clothes that I was wearing that day belonged to the Mexican Government. When I reached the Mexican bank of the river, I stripped them off and came across the river naked, and brought nothing with me. I took nothing from the barracks except the clothes on my back, which I left on the Mexican bank. On reaching this side of the river some persons kindly gave me some clothing, and on the following Tuesday I went to work for Frank Fox, in the town of Eagle Pass, Texas. On the Saturday of March 3, A. D. 1888, I was working for Fox in said town, where they are now erecting a new freight depot between the present freight depot and the passenger depot. At about 11 a. m. on said 3d day of March, A. D. 1888, Miguel Cabrero, a lieutenant of the Mexican army, Poliaorpe Garcia, a sergeant of the Mexican army, José Maria Castellano, a corporal of the Mexican army, and Pedro Ochoa, a private soldier of said army, all from Piedras Negras, Mexico, and of the same company from which I had deserted on the said 26th day of February, A. D. 1888, and all to me well known, having known them all for about ten months, rode up to where I was at work as aforesaid.

They were all on horseback and came up at the same time, two of them coming up on my right hand and two on my left hand. When they rode up, they at once began to abuse me, and they beat me with their six-shooters, and to escape them I ran under the building upon which I was at work; the sergeant and corporal then got off their horses, and crawled under after me and dragged me out, still beating me with their six-shooters, and told me that they were going to take me to the other side

or the river, and ordered me to mount up behind said Pedro Ochoa. Then the corporal said to Pedro Ochoa to hand him his rope which he had on his saddle, and one end of which was fastened to the pommel of Ochoa's saddle. The sergeant and corporal then tried to tie the other end of the rope around my waist, but I resisted all I could, and called to other men who were at work near the place to assist me, but as the soldiers had pistols in their hands, none of the men would come; during all this time they were beating me with their pistols, and the corporal pricked me several times with a knife, and the lieutenant told him several times to cut off my ears. I struggled and resisted, and the corporal asked the lieutenant if he should shoot me, but the lieutenant told him no. About that time Shad White came up and asked them what they were doing, and told them to leave me alone. The lieutenant asked him who he was that he should command them, and he told them that he was an officer and would have to arrest them, but lieutenant and Ochoa covered him with their revolvers, and after exchanging a few words with them Shad White left. I did not then know who Shad White was, but I have since seen him, and recognized him as the man who came up as aforesaid. After White left, the corporal asked the lieutenant if they should put me up behind Ochoa, but the lieutenant told them that they had better leave me. They then all remounted and rode off, leaving me almost insensible and covered with blood. I have never seen them since. I am about twenty-one years old, and have never committed an offense in Mexico, and was not charged with any when I left that I know of, and do not know of any reason why the said soldiers of the Mexican army were trying to make me return to Mexico, except that I had deserted from the Mexican army. The name of the captain of the company from which I deserted is Francisco Muños.

ATANACIO LUIS.

THE STATE OF TEXAS, *County of Maverick* :

I, Dan W. Nicholson, county attorney of Maverick County, Texas, hereby certify that the foregoing is a substantial copy of the declaration of Atanacio Luis, which was subscribed and sworn to by him before F. V. Blesse, notary public of Maverick County, Texas, in regard to the attempt on the part of soldiers of the Mexican army to kidnap him, the said Atanacio Luis on March 3, 1888. Witness my hand officially at Eagle Pass, Texas, this 22d day of March, A. D. 1888.

DAN W. NICHOLSON,
County Attorney, Maverick County.

[Inclosure 3 in No. 27.]

Affidavit of Frank H. Dillon.

STATE OF TEXAS, *County of Maverick* :

I, Frank H. Dillon, a resident of the town of Eagle Pass, State of Texas, being duly sworn on my said oath, do depose and say that I am an inspector of customs at the port of Eagle Pass, and on the morning of the 3d day of March, 1888, I was on duty at the ferry across the Rio Grande, between Eagle Pass, Texas, and Piedras Negras, in the Republic of Mexico. About 11 a. m., Capt. Francisco Muños, of the Mexican army, whom I had been informed was the commandant of the post and the forces of the Mexican army stationed in Piedras Negras, and as such commandant applied to me for permission for four of his soldiers to pass on horseback to this side for the purpose of looking at some horses in Eagle Pass which they wished to buy. I gave him the permission and he then waved his hand to the four men who were at this time standing on the Mexican bank of the river, signaling and shouting for them to come on. The four men then crossed to this side on horseback in the ferry-boat, and as they were passing the guard-house I heard one of them ask a bystander the road to Las Moras. Upon hearing this I told them to stop, as the captain had permission only for them to cross to Eagle Pass and return to Piedras Negras in an hour; and I told them they would have to get a permit from the collector of customs before proceeding any farther. One of the four men, whom I know as Lieutenant Cabrera, then said he would consult the captain about the matter. He then rode down to the skiffs and talked to Captain Muños for about five minutes. The lieutenant then returned to the guard-house, where the other three men were waiting, and said to me, "It is the captain's orders that we shall not start till to-morrow, but if you will permit us, we will ride up to the custom-house now and get out the necessary permit, so that we can start in the morning. We shall return inside of half an hour." I gave him the permission to go to the custom-house, and the lieutenant, accompanied by the three men, rode off in that direction. I then saw Captain Muños get into a skiff and go back to the other side. All of the above-mentioned men were dressed in plain citi-

zens' clothes; the lieutenant was mounted upon a fine sorrel horse; the other three men rode two bay horses and a dun. A very short time, not over half an hour afterward, I saw the lieutenant and two of these men running their horses back over the river at the ford which is at the foot of Main street. After the lieutenant reached the edge of the water on the Mexican bank of the river I saw him wheel his horse and fire three or four shots with a pistol back at the people on this side. When I first accosted the men at the guard-house they referred me to the lieutenant who was in charge, and upon my telling the lieutenant that he would have to get a permit, he referred the matter to the captain, whom he consulted about it.

FRANK H. DILLON.

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex officio* notary public, this the 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 4 in No. 27.]

Affidavit of Juan Gonzales.

STATE OF TEXAS, *County of Maverick:*

I, Juan Gonzales, being duly sworn on my oath, depose and say that I am a resident of Piedras Negras, Mexico, and am employed at the landing of the ferries between Eagle Pass and Piedras Negras as collector of fares on American side. On Saturday, the 3d day of March, 1888, I was so occupied, and saw Captain Muños and his detachment of four men pass to this side of the river and heard the conversation between Mr. Dillon and Lieutenant Cabrera, as detailed by Mr. Dillon, and saw Lieutenant Cabrera go to the river bank and recall Captain Muños from the Mexican side of the river and consult him before going up into the town with his detachment, and immediately after the interview started for the town. When they first crossed the river the sergeant asked for the road to Las Moras (Fort Clark). The party was composed of Captain Muños, of the Mexican army, Lieutenant Cabrera, a sergeant, and two soldiers; I personally knew the captain, lieutenant, and sergeant. I did not hear the conversation between the captain and lieutenant nor the instructions given him.

JUAN (his x mark) GONZALES.

Witness:

FRANK H. DILLON.

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex officio* notary public, this the 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 5 in No. 27.]

Affidavit of Philip Steward.

THE STATE OF TEXAS, *County of Maverick:*

I, Philip Steward, a resident citizen of Maverick County, Texas, being duly sworn, on my oath declare and say that on the 3d day of March, A. D. 1888, about 11 a. m., I was in the vicinity of the railroad freight depot at Eagle Pass, Texas, where a new railroad building is being erected; I saw two Mexicans approaching on horseback in a run, and in a minute I heard one call to the other in Spanish, "He is under there," pointing to the platform of the new depot; "bring him out." I went to the front then and saw a Mexican sitting under the platform, and one of the two men crawling under with a pistol in his hand to bring him out. He seized the man who had taken refuge there and who was resisting his efforts to bring him out, and the assailant commenced beating him over the head. I called to Mr. Farrow; he did not hear me; and I went to his room near by and told him what was occurring and returned; two other Mexicans on horseback were there and had dragged the Mexican out, and were beating him with their pistols and were endeavoring to force him to their horses and endeavoring to tie him; in this they failed and beat him unmercifully and kicked him. While this was going on Mr. Shad White, the deputy sheriff, came up. The lieutenant, who seemed to be charge, asked Mr. White "what he wanted there," in Spanish,

and presented his pistol at him. White told him he was in arrest. He replied he did not respect him and did not come there to be arrested. White did not seem to be armed and turned away and went off towards town. Immediately afterwards William R. Cooke, the sheriff, drove up in a buggy. Mr. Cooke said something to them which I did not hear, and Cooke drove off to the depot, and I went off to endeavor to procure a gun to assist the sheriff. The parties mounted their horses and rode off towards the river. I had seen the lieutenant before; the only military garb he wore on this occasion was a military vest.

PHIL. STEWARD.

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex officio* notary public, this the 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 6 in No. 27.]

Affidavit of Ferdinand Rouby.

THE STATE OF TEXAS, *County of Maverick:*

I, Ferdinand Rouby, being duly sworn, on my oath depose and say that I am an employé of the railroad at the Eagle Pass, Texas; that about 11 a. m. of March 3d, 1888, while at the depot in Eagle Pass, Texas, I saw the four Mexicans on horseback at the new building with six-shooters in their hands; they were holding a Mexican laborer, in the building. I was told by George Farrow to jump in a buggy standing there and go for the sheriff. I found Cooke, the sheriff, at the court-house, a few hundred yards distant, and returned with him immediately to the scene of the trouble. When we reached the party, on our return, one of the party was beating the man over the head with a six-shooter; the man was begging for help and endeavoring to seize the buggy. The lieutenant, mounted on a large sorrel horse, wearing a broad Mexican hat, seemed to be in command; with his six-shooter in his hand, asked Sheriff Cooke what we wanted there. Cooke ordered me to drive the office to see if we could get arms. We could not procure any arms at the office, and I went to Colonel Gibbs for a pistol, and as I returned saw the Mexicans riding away towards the river. These Mexicans were all Mexican soldiers.

FERDINAND ROUBY.

Sworn to and subscribed before me, a justice of the peace, in and for Maverick County, and *ex officio* notary public, this the 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 7 in No. 27.]

Affidavit of George W. Farrow.

THE STATE OF TEXAS, *County of Maverick:*

I, George Farrow, being duly sworn, on my oath depose and say, that I am a resident of Eagle Pass, Texas, and that my occupation is with the railroad at the depot at Eagle Pass. On the morning of Saturday, March 3, A. D. 1888, I was at the depot, and in the freight depot, when information was brought me about 11 a. m. that four men were beating a man at the new building being erected at the depot, and I proceeded at once to the place indicated. I saw four men, two on horseback and two on foot, their horses near by; all had pistols in their hands. The two on foot had hold of a Mexican man and were beating over the head with their six-shooters and jumping on him with their feet. The man was unarmed, helpless, and unresisting, and calling aloud for help and trying to get away. The four men were endeavoring to get a rope around him to tie him. The party appeared to be under the command of a thick-set, dark-looking Mexican, mounted on a fine sorrel horse, wearing a Mexican, dark-colored hat, and giving orders; and once I heard him tell the men to let him go and he would shoot him. The party were all Mexicans. While this was going on, I sent Fernando Rouby in a buggy to the court-house for the sheriff. While he was gone, Shad White, the deputy sheriff, rode up to them and raised his hand and ordered them to desist, announcing that he was a peace officer. The lieutenant and the other mounted man immediately presented their pistols at Shad White and told him they did not come here to be arrested, and they would take that man or die—or words to that effect—and ordered him to leave. Shad White went off, and about

the time Cooke, the sheriff, came up in the buggy and the prisoner seized the buggy and begged for protection. Cooke jumped out of the buggy, ran to me, about 15 paces off, and asked me for arms. I told him he could procure them at the depot and he and I and others ran to the passenger depot to get arms. We only procured one shot-gun, and as we emerged from the house the Mexicans sprang on their horses and fled for the river. Cooke, the sheriff, sprang on Mr. Mecke's horse and galloped to his house to procure a gun.

GEO. W. FARROW.

Sworn and subscribed before me, a justice of the peace in and for Maverick County, and *ex officio* notary public, this the 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 8 in No. 27.]

Affidavit of W. N. Cooke.

THE STATE OF TEXAS, *County of Maverick:*

W. N. Cooke, being duly sworn before the undersigned authority, deposes and says: My name is William N. Cooke; I am a resident citizen of Maverick County, State of Texas, and am sheriff and tax collector for said county, and have held and performed the duties of said office for about eighteen months. On the 3d day of March, A. D. 1888, I was at my office in the town of Eagle Pass when some parties told me that I was needed down at the depot in the town of Eagle Pass. I immediately called for my deputy and getting in a buggy drove to the depot. Before reaching the depot I saw my deputy, Shad White, who had preceded me, ride up to where some Mexican men were; they seemed to be fighting or doing something of the kind. Two of the Mexican men were mounted and two on the ground. The two Mexican men on the ground were beating another Mexican and appeared to be trying to tie him with a rope. The two men on horseback immediately drew their pistols on Shad White, and I, being unarmed, drove by them and proceeded on to the passenger depot to secure arms, and when I returned Shad White was gone, and the four Mexican men all mounted were riding off. I immediately got on a horse which I found near by, and going by my house and securing a Winchester rifle, followed closely after the retreating Mexicans, who were riding towards the river Rio Grande. Before catching up with them and before reaching the river, I noticed my deputy, Shad White, riding ahead of me. My deputy overtook the Mexican men at the intersection of Main street and the street running parallel with the river and about 50 yards therefrom. At this point a fight took place between my deputy and the Mexican men, he killing one horse and making other shots, but because of my position I was unable to see with what effect. I then coming up within shooting range shot at the Mexican whose horse had been killed and who was running toward the river. I then dismounted and followed the Mexicans to the river, firing at the three on horseback and the one on foot; when I reached the river bank the three on horseback had reached the opposite bank and the one on foot was swimming towards the other side. I several times called to my deputy, Shad White, to call on the Mexican men to halt, which they did not do. I have seen the Mexican man who the four Mexicans were beating at the depot since the 3d day of March and recognized him as the same Mexican who was afterwards treated by Dr. Lane for wounds received at the hands of the said Mexicans. The four said Mexicans were dressed as Mexican citizens, but I recognized their horses as belonging to the Mexican army stationed at Piedras Negras, Mexico.

W. N. COOKE.

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex officio* notary public, March 23, 1888.

[SEAL.]

GEO. B. DUNN.

[Inclosure 9 in No. 27.]

Affidavit of Shadrack White.

THE STATE OF TEXAS, *County of Maverick:*

I, Shadrack White, commonly called and known as "Shad White," a resident citizen of Maverick County, Texas, being duly sworn, on my said oath depose and say, that on the 3d day of March, A. D. 1888, I was deputy sheriff of said county and

William N. Cooke was sheriff. That about 11 a. m. of said day I was in front of the Maverick Hotel, on the main street of Eagle Pass, the county seat of Maverick County, when I was notified by Fernando Dolch that "there was some parties from the other side of the river [meaning from Mexico] at the freight depot endeavoring to carry a man to the other side, and were beating him up mightily." The freight depot was at the eastern terminus of Main street and about 400 yards from the Maverick Hotel. To the west, Main street terminated at the Rio Grande River, distant from the hotel 650 yards. The court-house is on Main street, 250 yards west of the depot. I had not seen the parties pass up Main street from the river to the depot, and was afterwards informed that after crossing the river and conversing with Captain Muñoz, their commander, at the custom-house station at the river, they had divided, two approaching the depot by Garrison street, the next street parallel with Main street on the south, and the other two passing up Ford street the next street parallel with Main street on the north, and on emerging from these streets, at their eastern terminus, had reunited at the new building at the depot, at the terminus of Main street, where the deserter, Atanacio Luis, was at work, showing the design of the expedition. I immediately mounted Dolch's horse and galloped to the new freight depot. When I reached there I discovered four Mexicans, two mounted and two dismounted. At the distance of 100 yards before reaching the spot I had seen one of the mounted men, who I afterwards learned was Lieutenant Miguel Cabrera, of the Mexican army, strike some one in the crowd a violent blow with his pistol. At that distance I could not see upon whom the blow was inflicted. They were about 15 feet from the northwest corner of the new building. On reaching the spot I saw one of the dismounted men in front of Atanacio Luis [whom I did not then know], who was seated on the ground holding his hands, and the other behind him with a rope trying to tie him. The two mounted men were standing by giving orders. On reaching the spot the prisoner was struggling and calling loudly for help. I called to them, "Hold up, what are you doing?" This in Spanish, which I understand and speak well. As I spoke they paused, and the lieutenant turned and pointed his pistol at me and asked "What the hell I wanted there?" I told him "I was an officer and would have to arrest them all." He made some reply which I can not now recall, and I told him that "if they wished to take that man they would have to take him by law." The lieutenant replied, "Chingado la ley" [equivalent to "damn the law"]; "they intended to take that man or die right there." I told them it was not necessary for any one to die, and turned off and rode back to the jail and procured my Winchester rifle, jail and court-house being in the same inclosure, and started back on foot. At about half way I was signaled that the parties had started back in the direction of Ford street. I turned back toward the court-house, met Fernando Dolch and obtained his horse again, and I ran down Main street to intercept them, knowing they could not cross the river at the foot of Ford street, nor anywhere above there. When I reached the corner one square east of Commercial street, I saw one of them come into Main street from Commercial street from the direction of Ford street and turn down Main street toward the river and disappear over the brow of the hill at the corner of Main and Commercial. This was the same man who had seemed to be in command at the depot, who had challenged me at the depot, was mounted on a large sorrel horse, and I afterwards learned to be Lieutenant Cabrera. I pursued him to the corner of Ryan street under the hill, he pursuing his flight to the river. On reaching that spot he was about 35 yards ahead of me and about 60 yards from the river. I called to him once or twice to halt. Without checking his speed he threw himself back in his saddle, threw his pistol back and fired at me. I returned the fire from my carbine. My attention was at that moment attracted to my right, and the other three were within a very short distance of me on Ryan street coming at full speed, riding in single file with 8 or 10 feet intervals. I whirled to front them, and think I called to them to halt. Of this I am not certain, as matters were too urgent for exchange of courtesies. My gun was not loaded, but I presented and snapped it at the leader; he fired and missed. I rapidly threw a cartridge in my gun, and as he passed me I fired and dropped his horse. The second man fired at me as he passed me, and shot me through the right hand, depriving me of its full use for life. I shot at him after he passed me 6 or 8 yards. I was not then paying much attention to those still on horse-back, as the man whose horse was killed had gotten up and was firing at me from a distance of a few feet. He ran back by me, firing as he went. The third man in passing me fired and wounded me in left wrist, not severely, but setting fire to my clothing and badly powder-burning my flesh; both wounds were badly powder-burned. I then pursued the dismounted man, who succeeded in eluding me among the hovels and making his escape to the river, and as I have learned since was killed in crossing by others who had come to my assistance. From my injuries I had lost control of my horse, and had to throw down my gun and throw myself from him and could take no farther steps for their arrest. I recognized these four men as the same men I had seen maltreating Atanacio Luis at the depot a few moments before. In addition, I wish to state that Main street in Eagle Pass is the principal thoroughfare

in the town, and that both Ford and Garrison streets are comparatively retired and unthronged, and that during my entire interview with the Mexican officer and his soldiers at the depot while they were so brutally maltreating Luis, the Mexican, both the lieutenant and his mounted subordinate kept me covered by their cocked pistols.

SHADRACK WHITE.

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex officio* notary public, this 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 10 in No. 27.]

Affidavit of Walter Whittle.

THE STATE OF TEXAS, *County of Maverick :*

I, Walter Whittle, a resident citizen of Maverick County, Texas, and by present occupation a live-stock agent, being duly sworn, on my said oath depose and say, that on the 3d day of March, 1888, I was standing at Joseph's store, at the intersection of Commercial street and Main street, in Eagle Pass, Texas, when I saw four Mexicans approaching very rapidly in a gallop to the corner along Commercial street, one mounted on a sorrel horse, one on a dun, the man on the sorrel riding in front. On reaching the corner they turned down the hill towards the river; they passed so rapidly that I could not examine them critically, but as they turned down the hill I could see that they carried six-shooters in their hands. By the time they reached the foot of the hill I perceived Shad White, the deputy sheriff of Maverick County, to me well known, approaching along Main street from the direction of the courthouse and railroad depot on horseback and carrying a Winchester rifle, proceeding down the hill in the direction taken by the Mexicans. The circumstance had attracted the attention of the whole population in sight or hearing, and aroused suddenly a great deal of excitement. As White rapidly passed I called to him, "Look out, Shad, there are four of them!" I ran to the brink of the hill. When I reached where I could see all that was going on below the hill, the lieutenant on the sorrel horse was proceeding directly to the river, and the three men had turned to the right at the first corner below the hill, and had run along that street parallel with the river. White passed that corner a short distance calling to the lieutenant "to stop." At the second or third call the lieutenant, without halting or changing his course, threw his arm behind and fired his pistol at White. White returned the shot with his Winchester. At the time of the firing White and the lieutenant were about 40 yards apart. About this time the three soldiers, not having been able to reach the river by the route they had taken, returned to the main street, and at the corner encountered White within a few yards of where he had been when exchanging shots with the lieutenant, who had in the meantime reached the river. White endeavored to halt the men, calling upon them to stop. The man on the dun horse being in advance, when close up to White fired at White with his six-shooter. White returned the shot, killing the horse, which fell under him. The man sprang to his feet and fired again at White and fled back in the direction from which he was coming, passing very close to White. The other two passed by White, fleeing in the direction taken by the lieutenant, firing at White as they passed him. I could not see which shots took effect on him, but from where I was, and the closeness of the parties, expected to find that all had taken effect. White pursued the dismounted man until he eluded him among the houses and reached the river. I went down to where White was. He had dropped his gun and thrown himself from his horse, being no longer able to manage him. The horse was taken charge of by Herman Klemann, and I accompanied White to the drug store, and his wounds were there dressed by Dr. A. H. Evans. He was slightly wounded in the wrist of the left hand, flesh powder-burned, and the sleeve was burning when I reached him. He was also severely wounded in the right hand and wrist, and this wound was also badly powder-burned. I could not see whether any of the Mexicans were hurt, as they went off. As far as I could judge this all occurred about 11 or 11.30 a. m.; have no exact note of the time.

WALTER WHITTLE.

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex-officio* notary public, this the 23d day of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN,
Justice of the Peace.

[Inclosure 11 in No. 27.]

*Affidavit of S. S. Bedal.*THE STATE OF TEXAS, *County of Maverick:*

I, S. S. Bedal, a resident citizen of Maverick County, Texas, being duly sworn, on my said oath depose and say, that I am a physician and surgeon by profession, and have been for several years in active practice of my profession in Eagle Pass, Texas.

On Saturday, March 3, A. D. 1888, I was called professionally to visit Shad White, deputy sheriff of Maverick County, at his house in Eagle Pass, about noon. I found him suffering from a gun-shot wound of the right hand, inflicted by a missile of small caliber. Wound of entrance was the inner side of the middle finger just below the knuckle joint, passing through the finger just beneath the first phalange, and through the ring finger beneath the first phalange and entered the metacarpal articulation of the little finger, fracturing the metacarpal bone, and finding exit on the outer aspect of the hand. The wound was badly powder-burned. The flexor tendons of the middle and ring finger were severed. In my opinion the wound will result in permanent disability; that is, the utility of the hand will be impaired in strength and movement. The wound had been temporarily dressed when I first saw it.

The lower left arm was blistered and powder-burned severely, probably by a firearm at very close range. From this there will be no permanent disability.

S. S. BEDAL, *M. D.*

Sworn to and subscribed before me, a justice of the peace in and for Maverick County, and *ex-officio* notary public, this the 23d of March, A. D. 1888.

[SEAL.]

GEO. B. DUNN.

[Inclosure 12 in No. 27.]

*Affidavit of A. H. Evans.*THE STATE OF TEXAS, *County of Maverick:*

I, A. H. Evans, a resident physician of Eagle Pass, Texas, being duly sworn, on my said oath depose and say, that on the 3d day of March, A. D., 1888, I was at the drug store of E. H. Cooper, at the corner of Commercial and Main streets, when, about 11.30 a. m., Shad White, accompanied by Walter Whittle and about 14 or 15 others, came in to me for treatment. Upon examination I found that he had received a gun-shot wound of right hand, the ball passing through the flesh on palmer surface of second finger about middle of third phalange [proximo], passing through ring finger in same way, but nearer the metacarpal phalangeal articulation, and passing in in a straight direction, striking the metacarpal-phalangeal of articulation little finger, dislocating said articulation and breaking the metacarpal bone of little finger just behind the head of said metacarpal bone, and said ball making its exit at said point. The hand was badly powder-burned. The above gun-shot wound will permanently cripple and deprive him of good use of his hand. The left hand was slightly wounded, and also powder-burned.

A. H. EVANS, *M. D.*

Sworn to and subscribed before me this the 22d day of March, A. D., 1888.

[SEAL.]

GEO. B. DUNN,

Justice of the peace in und for Maverick County and ex-officio notary public.

[Inclosure 13 in No. 27.]

*Affidavit of R. N. Lane.*THE STATE OF TEXAS, *County of Maverick:*

I, R. N. Lane, a resident citizen of the town of Eagle Pass, Maverick County, Texas, being duly sworn, on my said oath depose and say, that I am a physician and surgeon in active practice; that on March 3d, 1888, as such, I was called to dress the wounds of one Atanacio Luis, a Mexican laborer in the employ of Frank Fox; he was brought to my office by the sheriff between 11 a. m. and 12 m. I found upon his head five contused wounds inflicted by some blunt or heavy instrument; they cut through the surface of the scalp and down to the bone; three of the wounds were 1½ to 2 inches long; the other two were equally deep but not so long, all of these wounds requiring

to be sutured; he had evidently lost a great deal of blood and was quite faint, and did faint while I was dressing his wounds; his condition was such as to seriously suggest to me great danger of inflammation of the brain from concussion.

R. N. LANE, M. D.

Sworn and subscribed to before me this 3d day of April, A. D. 1888.

[SEAL.]

F. V. BLESSE,
Notary Public.

[Inclosure 14 in No. 27.]

Mr. Ross to Mr. Blaine.

EXECUTIVE OFFICE, STATE OF TEXAS,
Austin, June 24, 1889.

MR. SECRETARY: I have the honor to inclose herewith affidavits,* etc., in support of claim of Shadrack White, for damages against the Republic of Mexico.

Some correspondence has already passed between myself and your predecessor on this subject, a minute of which you will doubtless find in the archives of your office. I am, respectfully,

L. S. ROSS,
Governor of Texas.

Mr. Wharton to Mr. Ryan.

No. 30.]

DEPARTMENT OF STATE,
Washington, July 12, 1889.

SIR: Referring to instruction No. 244 of 19th January, 1888, I transmit a copy of a further statement in the matter of the Howard C. Walker claim against Mexico, as there set forth.

If no reply has yet been returned to the presentation of the claim then made, you will again call the attention of the Mexican Government to the facts in the case, and ask for a statement of its conclusions in the matter.

I am, etc.,

WM. F. WHARTON.

[Inclosure in No. 30.]

Mr. Walker to Mr. Blaine.

MEXICO, *June 24, 1889.*

SIR: Published in a volume on foreign relations, for the year 1884, you will find the report of my case, to which I respectfully beg to call your attention.

Two years ago I visited the city of Washington and employed the firm of Morris & Hamilton to present my papers to the State Department and formulate a claim for false imprisonment against the Mexican Government. This was done by these gentlemen and Mr. Bayard sent all the papers here to our minister, who communicated his instructions from Washington to Señor Mariscal, Mexican minister on foreign relations, who, up to this date, had not seen fit to make any reply, and will not unless pressed to do so by your Department.

Mr. Bayard wrote me (and his letter is among my papers left with the Department) that my case was well known to the Department, and that as soon as I was cleared by the Mexican courts, and not until then, he would take up my case. I was cleared by all the courts and accorded by them the right to collect damages, yet nothing whatever was done by Mr. Bayard, and I now appeal to you, as the representative of my rights as an American citizen, to look into my case and if you find that I have just cause for reclamation, to see that my rights are respected. If I have not, I am willing to withdraw my case, but in the opinion of many leading lawyers, with

*For inclosures see *supra*, p. 592-600

whom I have discussed my case, it is one of the most just and aggravated ones ever submitted to your Department.

For a number of years it has been a common saying here that Americans practically have no rights which the Mexican Government will respect, and my experience thus far bears out the truth of this remark. If this is the case, I desire to know it, if not, I respectfully insist on having such protection of my rights and person as my Government extends to its citizens abroad.

In order that you may have some personal knowledge of me, I beg to refer you to the Hon. Samuel B. Churchill, of Louisville, Kentucky, Senator Beck, of the same State, Mr. Van Rensselaer Cruger (corner Church and Fulton streets, New York), Mr. A. G. Bradstreet, banker (35 Pine street, New York), Hon. Alexander Badlam, San Francisco, Cal., and Capt. Joseph D. Hoff, U. S. consul at Vera Cruz, who can give you any information you desire about me personally.

Very respectfully, yours,

HOWARD C. WALKER.

Mr. Wharton to Mr. Ryan.

No. 36.]

DEPARTMENT OF STATE,
Washington July 18, 1889.

SIR: I have to acknowledge the receipt of your No. 30 of June 30 last, and the papers therewith, relating the case of R. C. Work, an American citizen residing at San Carlos, Mexico, who has been convicted of the murder in 1888 of Francisco Cruz, and sentenced to imprisonment for a period exceeding four years, and stating that the matter is now pending before the court of last resort in the state on appeal.

Commending your diligence in the preparation of the statement, I have to say that the case will be held under consideration.

I am, etc.,

WM. F. WHARTON.

Mr. Ryan to Mr. Blaine.

No. 47.]

LEGATION OF THE UNITED STATES,
Mexico, July 20, 1889. (Received July 29.)

SIR: In connection with my No. 30, of the 30th ultimo, relative to the case of R. C. Work, Tamaulipas, I have the honor to inclose copy of a letter from Mrs. Work, which explains itself.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 47.]

Mrs. Work to Mr. Ryan.

CIUDAD, VICTORIA, July 6, 1889.

SIR: I am in receipt of yours of 29th June, giving me great hope that in the near future there is a prospect for a just and speedy trial.

He has never asked more than a just, speedy, and impartial trial, and the parties who maltreated my daughter and self on 29th February, 1888, should be dealt with to the fullest extent of the law.

I have the honor to be,

Mrs. MARY E. WORK.

Mr. Ryan to Mr. Blaine.

No. 48.]

LEGATION OF THE UNITED STATES,
Mexico, July 22, 1889. (Received August 1.)

SIR: Pursuant to your instruction No. 30, of 12th instant, I have the honor to advise you that I this day addressed to Mr. Mariscal a note upon the subject of the claim of Howard C. Walker against the Mexican Government for wrongful imprisonment and cruel treatment at Minatitlan, State of Vera Cruz, copy of said note being herewith inclosed.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 48.]

Mr. Ryan to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, July 22, 1889.

SIR: Under instructions from my Government, I have respectfully to draw your excellency's attention again to the claim of Mr. Howard C. Walker, a citizen of the United States, against the Mexican Government, for wrongful imprisonment and cruel treatment by the Mexican officials at Minatitlan, State of Vera Cruz, for a period of nearly four years.

It appears that under specific instructions from the United States Government Mr. Thomas B. Connery, United States chargé d'affaires *ad interim*, in a note addressed to your excellency, bearing date 13th of February, 1888, presented a very full, clear, and concise statement of facts relating to the subject, and praying your excellency for a subsequent conference to treat on the reparation to be given.

On the following day your excellency was kind enough to address Mr. Connery a note acknowledging the receipt of his communication, and courteously assuring him that you would examine his said note and its inclosures, and duly reply thereto.

In view of the fact that as yet your excellency has not made such reply, although nearly eighteen months have elapsed since the date of your excellency's note, my Government sends me specific instructions again to call the attention of your excellency's Government to the facts in the case, and respectfully ask your excellency for a statement of its conclusions in the matter.

I beg to renew, etc.,

THOMAS RYAN.

Mr. Ryan to Mr. Blaine.

No. 61.]

LEGATION OF THE UNITED STATES,
Mexico, August 8, 1889. (Received August 17.)

SIR: Referring to my No. 30, of 30th ultimo, relating to the case of B. C. Work, imprisoned, tried, and convicted in the State of Tamaulipas, from which judgment an appeal is pending, my attention was drawn to the publication of a letter by one A. W. Gifford, of St. Louis, Missouri (I beg to refer here to my No. 27, of 27th ultimo), who, I understand, was president of the Linares Land and Mining Company, of which Mr. Work was superintendent.

With a view to obtaining all the information possible relating to the subject of the offense of Mr. Work, I addressed a communication to Mr. Gifford (see inclosure No. 1) requesting him to furnish this legation with any facts relating to the matter. Mr. Gifford has kindly responded to my request, and I transmit, for the information of the Department, copy of his reply, of date July 29, 1889.

I am, etc.,

THOS. RYAN.

[Inclosure 1 in No. 61.]

*Mr. Ryan to Mr. Gifford.*LEGATION OF THE UNITED STATES,
Mexico, July 6, 1889.

DEAR SIR: It has come to my notice that you have important information bearing upon the subject of the treatment, by the court and other Mexican officials, of Mr. Work, during his incarceration at Ciudad Victoria, Tamaulipas, on the charge of homicide.

I would esteem it as a favor if you would transmit to me all information, documentary or otherwise, in regard to this matter, of which you may be possessed.

Yours, very respectfully,

THOMAS RYAN.

[Inclosure 2 in No. 61.]

*Mr. Gifford to Mr. Ryan.*ST. LOUIS, MISSOURI, *July 29, 1889.*

DEAR SIR: Absence in Mexico has prevented reply to your favor of the 6th instant, asking for information regarding treatment of Mr. R. C. Work by Mexican courts, as charged by his wife, Mrs. Mary Work.

The charges are false and, in my opinion, did not originate with Mrs. Work, but came from a relative of the family, a lawyer in San Antonio, Texas, by the name of Brooker, who doubtless imagined his plan a good one to serve his relative.

I was on the ground a few days after the killing and know that the family received kind and generous treatment considering the surroundings and circumstances. Even the brother (of the man killed by Work), with his family, called on Work's family, extending sympathy, and offering assistance and protection, showing by far a better Christian spirit than I have ever known in our own country. There was by far less excitement, annoyance, and trouble than would have been over a similar affair in one of our mining camps.

Work killed a man, as he claims (and I believe him), in self-defense, but unfortunately for himself, without witnesses, while there were two witnesses against him. There had been bad blood brewing in the camp for some months prior to this affair, produced by gossip, petty jealousies, and enmity, the immediate result of imaginary conflicting interests, which generally produces a killing in the average mining camp of any country before interested parties can realize their duty to their fellow-man.

The Government quickly offered troops to prevent any further trouble in the camp, all of which was unnecessary.

Work was placed under arrest, and during his several trials enjoyed the freedom of the towns in which he was held as a prisoner, a liberty seldom extended their own people under similar circumstances.

On one occasion Work was, under the generous consideration of the governor, permitted to go from Ciudad Victoria to Linares, in the State of Nuevo Leon, to transact business, simply on his personal word that he would return within a stated time.

Knowing personally of the kind and generous treatment extended to Mr. Work and his family by the Mexican people, I was completely astonished at first appearance of charges, published in San Antonio from Mrs. Work, and immediately opened up correspondence to ascertain if there were any facts in the matter that I did not possess, and to correct any injustice that might be extended to Work, or to Mexico and her people, by the false charges of Mrs. Work, copy of which correspondence I hereto attach, a copy being used in place of original, because original is in Spanish. In my opinion (as a personal friend of Mr. Work) he has had full justice, an impartial trial, generous treatment, and a mild sentence, and, under the circumstances, should be a happy, thankful man. Of course, as an American and personal friend, I would like to see him have his liberty; but not by false charges against Mexico and her people. When I violate the law I must be prepared to suffer the consequences.

Very respectfully,

A. W. GIFFORD.

FOREIGN RELATIONS.

[Inclosure 3 in No. 61.]

Mr. Gifford to Governor Prieto.

ST. LOUIS, MISSOURI, June 20, 1889.

DEAR SIR: The inclosed* articles from this morning's Globe-Democrat completely dumbfound me; and I take the liberty of writing you for the latest facts and developments in the Work case.

I can't believe that Mr. Work or his wife would make such charges in the face of the generous treatment he has received from your people, and am inclined to believe that it is the work of a San Antonio lawyer, for the purpose of working up trouble, notoriety, and sympathy. Of course I fully appreciate the trying position of his wife and daughter; but this is no ground for abuse of Mexico and her people.

Thanking you for your kind treatment toward Mr. Work, and knowing that you will still be just and generous in his case, I am,

Very respectfully,

A. W. GIFFORD.

[Inclosure 4 in No. 61.—Translation.]

Governor Prieto to Mr. Gifford.

CUIDAD VICTORIA, July 8, 1889.

DEAR SIR: I have the pleasure of receiving your favor of June 20, inclosing newspaper cuttings relative to the letter of Mrs. Mary C. Work, against Mexico, on account of the imprisonment suffered by her husband; and asking for additional facts and information. You may rest assured that the letter ascribed to Mrs. Work, has been written for the sole purpose of creating a sensation among the American people, abounding not only in exaggeration, but also in actual misrepresentations. I inclose copy of a letter in which the president of the supreme court of justice of this state explains the whole case to the Mexican consul in San Antonio, Texas, Dr. Ornelas, and from which you can judge of the prevarications contained in Mrs. Work's letter.

As a Mexican I most sincerely thank you for not having listened for a single moment to the slanderers of Mexico.

Very respectfully,

ALEJANDRO PRIETO.

[Inclosure 5 in No. 61.—Translation.]

Judge Mainero to Dr. Ornelas.

CUIDAD VICTORIA, July 2, 1889.

MOST RESPECTED SIR AND DEAR FRIEND: The governor of this State has seen fit to show me your letter, together with clippings from American newspapers it transmitted, relative to the affairs of Robert C. Work. After due consideration of both, I write you the following under instructions from the governor authorizing you to give it publicity, translated into the English language.

I was the judge who, after hearing the evidence against Work upon a first appeal, pronounced a second judgment against the accused, increasing the punishment imposed in the lower court, by one year and three months.

Work had prayed for an appeal against this my judgment, and this appeal having been granted, but not yet brought to trial, the whole matter is now pending *sub judice*, as no final sentence has been pronounced, or any decree been entered which could take effect or be put into execution. To a man of your information it must be perfectly plain that, under these circumstances, nobody, and least of all the judge whose findings and judgment have been appealed from, has any right to say whether Work is innocent or guilty. It may be stated, however, as an actual fact, borne out of public records, that all public functionaries who have had anything to do with the case of Work, as the representatives of impartial justice, have found Work guilty upon the evidence presented namely, the *nisi prius* judge who rendered the first judgment; the public prosecutor who, in the name of the people, moved for a severe punishment, and I myself, who, as the presiding magistrate of the court of justice of Tamaulipas, imposed what to me appeared a just punishment, being convinced that I was as mild as I could be without violating the † of all the judicial acts, the law itself.

* For article, see Mr. Ryan's, No. 27 of July 27, 1889, *supra*, p. 564.

† Blank in original.

To these three opinions, which I may qualify to be at least worthy of the most serious consideration, there is opposed the mere say-so, unsupported by evidence of any kind, of people who have neither legal attainments nor judicial standing, who have not examined the official records, and who can not be considered impartial from any stand-point. Under such circumstances it is hardly credible that so well informed a people as the people of the United States undoubtedly is, unless guided by blind prejudice against us, could give its approval, upon a little reflection and deliberation over the matter, to mere gratuitous and one-sided statements and insinuations.

Besides this statement, which is the only one that can be made properly of the principal question until the matter has been disposed of in the courts of competent jurisdiction, I should call attention to the following very significant circumstances, as contravening the charge that the Mexican judge had been guided by animosity against Work, the fact being that they had treated him with extreme leniency.

As you, Mr. Consul, well know, the laws of Tamaulipas, differing in this respect from the laws of the other States and of the Federal district, do not provide for the liberation, under bail, of persons judicially proceeded against, except in the case provided for in article 18* of the Federal constitution, when the act charged against the prisoner does not appear to be subject to any corporal punishment. I embrace the opportunity to say now that this will soon be changed in the interest of the good name of Tamaulipas, and that the law will shortly extend the privilege of admission to bail to a far wider range of cases. But, for all that, Work has been out on bail during nearly all the time that his case was pending in the lower court; and, even after he had been found guilty and his punishment had been fixed, he was not confined in prison until I found it necessary, when entering upon the case, to order his arrest in the interest of an impartial investigation, he having enjoyed the full freedom of the streets of this capital up to that time, although under sentence of the court.

A few days after his recommitment to jail, on my order, I was informed by the jailer that Work was suffering with a sickness, not very serious, but sufficiently severe to cause him to request that he be permitted to be nursed at his own home and by his family. In view of this statement, indorsed by medical certificates, and pending the decision of the tribunal on the application of Work to be again admitted to bail, I authorized the jailer to take Work to the latter's house as often as his condition required. Upon one of the many visits which Mr. Work was thus permitted to make at his home he declared himself unable to return to the jail, and offered a passive resistance to the officer. Being informed of this, and taking into consideration the fact that the prison is still incomplete and lacking hospital facilities, it seemed to me that humanity demanded his being left at his residence, and thus consented, in order that the generous people of this city might be spared the little edifying spectacle of seeing Mr. Work carried to the jail on a stretcher.

I understand that the judge before whom Work's second appeal is pending has, up to this time, acquiesced in this state of affairs, and has at least made no other dispositions regarding the keeping of Work.

The claim that Work has been condemned without having been heard is unfounded, for in both the lower and upper courts he was represented by an attorney of his own choice, Lic. Juan Luis Tercero; and when Mr. Work, assisted by the American consul, asked me to re-open his case in order that he might make his defense in person, I granted this favor upon his verbal request, although he afterwards failed to avail himself of the privilege.

I have, etc.,

G. MAINERO.

Mr. Ryan to Mr. Wharton.

No. 70.]

LEGATION OF THE UNITED STATES,
Mexico, August 17, 1889. (Received August 27.)

SIR: Referring to your No. 27 of July 8 last, relative to the claim of Shadrack White, deputy sheriff of Maverick County, Texas, I have the honor to advise you that, pursuant thereto, I addressed to Mr. Mariscal

*Article 18, Federal constitution, reads: "Imprisonment shall only take place for crimes which merit corporal punishment. In any state of the process wherein it shall appear that such punishment may not be inflicted upon the accused he shall be set at liberty under bail. In no event may said imprisonment or detention be prolonged to secure payment of fees or any other money consideration."

a note, copy whereof is herewith inclosed, drawing his attention anew to the subject of the violation of United States territory by Mexican officers and soldiers on the 3d of March, 1888, and reminding him that my predecessor on the 9th day of April, 1888, brought the facts relating thereto to his notice; and that, although he replied on the 13th of the same month, expressing regret and stating that the offenders had been arrested and ordered for trial by court-martial, and that he would duly communicate the proceedings and result of such trial, nevertheless, no subsequent information had been received from the Mexican Government. Proceeding, I called Mr. Mariscal's attention to the evidence, affirming that it clearly established two propositions: First, that on the 3d day of March, 1888, without the assent of the United States Government, a squad of Mexican soldiers under command of a commissioned officer of the Mexican army, evidently acting under orders of his superior officer, made an incursion from Mexico into the United States, to wit, into the city of Eagle Pass, Texas, for the purpose of kidnapping one Luis, alleged to be a deserter from the Mexican army, but, at the time, engaged in lawful labor; second, that, having been observed by Shadrack White, then deputy sheriff of Maverick County (a peace officer, charged by law with the obligation of arresting and bringing to justice all persons discovered by him in a commission of a breach of the peace, misdemeanor, or felony), in the act of brutally beating the said Luis, in said city of Eagle Pass, in an attempt to feloniously and forcibly seize and remove him from the territory of the United States, the said deputy sheriff commanded them (the squad referred to) to desist, informing them that he was such officer, and that he would arrest all of them; whereupon they resisted his authority and menaced his life by covering his person with two loaded revolvers; and when, a few moments thereafter, in the discharge of his lawful duty, the said deputy sheriff again attempted to arrest them, they fired upon him, inflicting serious wounds, from which his right hand is permanently disabled, whereby he sustained great damage.

Assuming these two propositions to be true in substance and fact, I submitted to his excellency that the United States Government has a right to expect from the Mexican Government full reparation, including indemnity adequate to cover all damages arising from injuries which may have resulted from the unlawful act stated; and, expressing the belief that the Mexican Government would promptly recognize its just obligations in the premises, I concluded by praying for a conference at the earliest day agreeable to his excellency, to treat on the reparation to be given, to the end that suitable indemnity may be awarded to cover the damage referred to.

I am, etc.,

THOS. RYAN.

[Inclosure in No. 70.]

Mr. Ryan to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, August 17, 1889.

SIR: Under specific instructions from my Government, I have the honor to draw your excellency's attention anew to the subject of the violation of United States territory on the 3d day of March, 1888, by a body of officers and soldiers of the Mexican army, the facts and circumstances pertaining to which were fully and clearly presented to your excellency by my distinguished predecessor, Mr. Bragg, on the 9th of April, 1888, to which, very much to the gratification of the Government of the United

States, your excellency on the 13th of the same month courteously responded in that spirit of amity which so happily characterizes the relations existing between the two nations, that your excellency's Government regretted the lamentable event; that it had ordered the arrest and trial by court-martial of the offending parties; and that the result of such trial would be duly communicated by your excellency to this legation.

In view of the gravity of the subject, and of your excellency's uniform zeal in the promotion of cordial relations between your excellency's Government and that of the United States, and of the courtesy which it has always pleased you to observe towards the latter, you will pardon the expression of regret that, although one year and four months have elapsed since the receipt of your excellency's note, no subsequent information touching the matter has been received from your excellency's Government.

Stripped of all superfluous and irrelevant matter, it appears from abundant evidence, undisputed so far as I am informed, some of which was submitted to your Excellency on the 9th day of April, 1889, with the statement referred to and the balance* I herewith transmit—

First. That on the 3d of March, 1888, without the assent of the United States Government, a squad of Mexican soldiers, under the active and immediate command of a commissioned officer of the Mexican army, to wit, a lieutenant, evidently acting under orders of his superior officer, made an incursion from Mexico into the United States, to wit, into the city of Eagle Pass, in the county of Maverick, and State of Texas, for the purpose of kidnaping one Atanacio Luis, alleged to be a deserter from the Mexican army, but at the time engaged in lawful labor in the city of Eagle Pass.

Second. Having been observed by Shadrack White, then deputy sheriff of Maverick County, a peace officer, charged by law with the obligation of arresting and bringing to justice any and all persons discovered by him in the commission of a breach of the peace, misdemeanor, or felony, in the act of brutally beating the said Luis, in said city of Eagle Pass, in an attempt feloniously and forcibly to seize and remove him from the territory of the United States, the said deputy sheriff commanded them (the squad referred to) to desist, informing them that he was such officer, and that he would arrest all of them; whereupon they resisted his authority and menaced his life by covering his person with two loaded revolvers; and when a few moments thereafter, in the discharge of his lawful duty, the said deputy sheriff again attempted to arrest them they fired upon him inflicting serious wounds, from which his right hand is permanently disabled, whereby he has sustained great damage.

I assume that these two propositions, referred to as first and second, are true, in substance and fact; and therefore I submit to your Excellency that the United States Government has a right to expect from the Government of Mexico not only the disapproval and regrets so promptly and courteously expressed in your Excellency's note of the 13th of April, 1888, but that the offenders shall be suitably punished, if they have not been, and also indemnity adequate to cover all damages arising from injuries which may have resulted from the unlawful act stated to any officer of the city of Eagle Pass, or of the county of Maverick, or of the State of Texas, or of the United States, or to any citizen thereof, or to any person entitled to the protection of the laws thereof.

Not doubting that your Excellency's Government will promptly recognize its just obligation in the premises, I would pray for a conference at as early a day as may be agreeable to your Excellency, to treat on the reparation to be given, to the end that suitable indemnity may be awarded by your Excellency's Government to cover the damages referred to.

I beg to renew, etc.,

THOS. RYAN.

Mr. Ryan to Mr. Blaine.

No. 110.]

LEGATION OF THE UNITED STATES,
Mexico, September 13, 1889. (Received September 23.)

SIR: Referring to my No. 70, of 17th ultimo, I have pleasure in transmitting to the Department the reply of Mr. Mariscal to my note of same date relative to the occurrences at Eagle Pass on the 3d of March, 1888, in which his Excellency states that he has not yet received the report

thereon requested by his Department, but when received he will communicate it to me "so the conference to which your [my] said note refers may be held."

I am, etc.,

THOS. RYAN.

[Inclosure in No. 110.—Translation.]

Mr. Mariscal to Mr. Ryan.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, September 11, 1889.

MR. MINISTER: I duly had the honor to receive your Excellency's note, dated the 17th of August last, relative to the unfortunate occurrences at Eagle Pass on the 3d of March, 1888, to which I did not make immediate reply, as I awaited the receipt of the report thereon requested by this Department.

As said report has not as yet arrived, I deem it advisable to inform your Excellency that as soon as it does reach me I shall have the honor to communicate it to you, so the conference to which your said note refers can be held.

I renew, etc.,

IGNACIO MARISCAL.

Mr. Whitehouse to Mr. Blaine.

[Telegram.]

LEGATION OF THE UNITED STATES,
Mexico, October 8, 1889. (Received October 9.)

Mr. Whitehouse informs the Secretary of State that he has received from the Mexican minister of foreign affairs a reply to Mr. Ryan's note of August 17, 1889, relative to the claim of Shadrack White against Mexico arising out of the acts of certain Mexican soldiers at Eagle Pass, Tex.; and that Señor Mariscal states that the officers concerned in the affair have been punished and that he is ready to confer with Mr. Whitehouse in regard to the indemnity to be offered to Mr. White.

Mr. Whitehouse requests instructions upon the subject.

Mr. Blaine to Mr. Whitehouse.

No. 103.]

DEPARTMENT OF STATE,
Washington, October 9, 1889.

SIR: Referring to your telegram of yesterday, received at an early hour this morning, in which you state that a note received by you from the secretary of state for foreign affairs announces the punishment of the officers concerned in the outrage at Eagle Pass and invites the conference suggested by Mr. Ryan, in his note to Señor Mariscal of the 17th of August last, I have to request that you advise Señor Mariscal that Mr. Ryan will, immediately upon his return to his post from his present leave of absence, join him in conference upon the subject of proper reparation to the persons aggrieved by the acts complained of, at such time as may be found mutually convenient.

I am, etc.,

JAMES G. BLAINE.

Mr. Whitehouse to Mr. Blaine.

[Extract.]

No. 139.]

LEGATION OF THE UNITED STATES,
Mexico, October 9, 1889. (Received October 18.)

SIR: Referring to my telegram of yesterday, I have now the honor to forward, herewith inclosed, text and translation of Mr. Mariscal's note, and the copies of the official documents furnished by the military department of justice concerning the sentences imposed upon the offending parties in the outrage committed at Eagle Pass, Texas, on March 3 and 4, 1888.

Before discussing the matter with Mr. Mariscal, I would desire instructions regarding the views of my Government as to the just and suitable compensation which should be claimed for White, the deputy sheriff who was wounded in the discharge of his duty.

I am, etc.,

H. REMSEN WHITEHOUSE.

[Inclosure 1 in No. 139—Translation.]

Mr. Mariscal to Mr. Whitehouse.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, October 7, 1889.

Mr. CHARGÉ, etc.:

Referring to the legation's note of 17th August last, relative to the disagreeable incidents which occurred in Eagle Pass on the 3d March, 1888, I have the honor to advise you that I have received through the War Department a copy of the sentence pronounced by the supreme court of military justice on the charges brought against the first captain, Francisco A. Muñoz, and others, responsible for the incidents.

Inclosed I send you a copy of the said sentence, advising you that in case you have instructions to take part in the conference requested by Mr. Ryan you can do so whenever you wish.

I am, etc.,

IGNACIO MARISCAL.

[Inclosure 2 in No. 139.—Translation.]

Judgment of the Supreme Court of Military Justice.

DEPARTMENT OF STATE OF THE OFFICE OF WAR AND MARINE.

On the margin a seal saying supreme court of military justice, Mexico, second court No. 2346.

In the matter of the charge against Francisco Muñoz, first captain, Miguel Cabrera, lieutenant, José Ma. Castellanos, sergeant, and Pedro Ochoa, all of the Twelfth Regiment, for the faults of not complying with their military duties, wounding, and resisting the civil police of the United States, this court agreed on the following:

“MEXICO, *September 4, 1889.*

“Having considered in the degree of an appeal the charge brought against the lieutenant of the regiment No. 12, Miguel Cabrera, for the faults of having passed into the American territory with some soldiers, in order to capture the soldier Atanacio Luis, thus committing an act of hostility against that nation, and of not complying with his military duties, the sentence of the council of war of 31st May of the present year having taken into consideration what the solicitor asked for, and the defending lawyer asked for, it was accorded, considering that the extent of the fault is proved as well as its author, for although it is true that the first captain, Francisco A. Muñoz,

ordered the lieutenant Miguel Cabrera to pass to the territory of the United States, in pursuit of the deserter, Atanacio Luis, he ought not to have respected said order, because in so doing and in the conditions that the order was given he committed a fault provided for and punished by the article No. 3514, and not the number 3513 of the code of military justice which was mentioned in order of precedence, because although at that time the passage of troops between both Republics to their respective territories was more or less allowed, the group formed by Lieutenant Cabrera and the soldiers which went separately, with their arms concealed, can not be considered as regular troops, and for the same reason not included in the permission to pass to a foreign territory in pursuit of individuals who invade one or other territory to transgress; that the offender is responsible for the immediate consequences of his proceeding, such as the wounding of Sheriff Shad White and the deserter Atanacio Luis, the damage sustained by his regiment in the loss of a man and horse, fault provided for in the article No. 3645 of the military code; that according to the article 3377 of the same military code, in any case when, by one act or by one omission, several criminal regulations are violated, all of which have different penalties, the greatest of these must be applied (article 3377 and Fraction 11 of article 3422 of the military code); preference is given to the circumstances which increase the guilt, and proceeds to the infliction of the maximum penalties is, therefore, in order (articles 3405 and 3414 of the same code). By what is already exposed, and in accordance with the articles 2921, 3340, 3343, and 3364, of the military code, the court decrees:

First. The sentence given by the council of war of 31st May last is confirmed in the part which condemns the Lieutenant Miguel Cabrera to ten years of imprisonment, and a fourth part more in the character of an arrest in Lis case, in the place designated, and to the loss of his employment, decorations, and military rewards, which time will date from 10th of June last. Second. The same sentence is confirmed in the part in which Lieutenant Cabrera is acquitted of the charge of having directed an attack armed to the United States civil police. Third. As regards the first Captain Francisco A. Muños, be it known. Fourth. As regards the accused José Ma. Castellanos and Pedro Ochoa, be it known."

"MEXICO, September 6, 1889.

"There being no reason to attach responsibility to the functionaries who have intervened in this trial, and the execution of the sentence of the council of war therein given by the desistence of the defending lawyer, in time and form of the recourse of an appeal. With foundation of the articles 3160 and 3161 of the code of military justice; having revised the sentence of 31st May of the present year, in which the first Captain Francisco Muños was declared culpable of the fault of having ordered the arrest of a deserter in the United States territory, thus committing an act of hostility against that nation and of not complying with his military duties, and condemned him to the penalty of ten years' imprisonment, and the fourth part more in the character of an arrest, and to the loss of his employ, decorations, and military rewards, which will date from 10th June last."

"MEXICO, September 7, 1889.

"In view of these proceedings carried on in the city of Monterey, against the Sergeant José Ma. Castellanos and the soldier Pedro Ochoa, of the Twelfth Regiment, for the faults of not complying with their military duties, wounding and attacking armed the United States civil police, the sentence advised of the 30th September of last year; what was asked by the attorney, and everything being agreed. Considering that it does not appear proved that the accused Castellanos and Ochoa should be responsible for the faults they are accused of, as they acted complying with a legal duty in obeying a military order (12th fraction of the article No. 3398 of the code of military justice) that consequently the necessary conditions to justify a decree of imprisonment do not exist (article No. 3052 of the referred to military code), and the proceeding must necessarily cease, since there is no legal reason for its continuation; that for the same reason the sentence passed, referred to, is passed in accordance with right. By what has been said and according to what is provided for in the articles No. 2922 and 3052 of the code of military justice and 121 of the judicial proceedings of the Federal district the court decrees, first, the decree of 30th September of last year, in which it was declared that there was no reason to decree the imprisonment of José Ma. Castellanos and Pedro Ochoa, who will be set at absolute liberty, is to be confirmed."

All of which I have the honor to communicate to you for your superior knowledge.
Liberty and Constitution.

Mexico, September 10, 1889.

I. N. MENDEZ (signature) to the Secretary of the War and Marine Department,
City. Copy. Mexico, September 12, 1889.

P. O. de S. T. Ma. ESCUDERO (signature). O. M. intq. Copy September 7, 1889.

JOSÉ T. CUELLAR, O. M.

I agree.

PEDRO A. MAGAÑA.

[Inclosure 3 in No. 139.]

*Mr. Whitehouse to Mr. Mariscal.*LEGATION OF THE UNITED STATES,
Mexico, October 9, 1889.

SIR: I am in receipt of your excellency's note of the 7th instant, informing me of the sentences passed on the officers concerned in the regrettable incident at Eagle Pass on March 3 and 4, 1888, and in which your excellency also courteously expresses a readiness to proceed with the conference proposed by Mr. Ryan for the purpose of agreeing on just and equitable compensation for Shadrack White, the deputy sheriff who was wounded by the said officers while in the performance of his legal duties.

I have communicated the contents of your excellency's note to my Government and will await further instructions before accepting your excellency's courteous invitation to a conference on this matter.

I take, etc.,

H. REMSEN WHITEHOUSE.

Mr. Whitehouse to Mr. Blaine.

No. 148.]

LEGATION OF THE UNITED STATES,
Mexico, October 20, 1889. (Received October 30.)

SIR: I have received your instruction No. 103 of the 9th instant, informing me of the receipt of my telegram of the 8th instant, relative to the punishment of the officers concerned in the outrage at Eagle Pass, and instructing me to inform Mr. Mariscal that Mr. Ryan will confer with him on the subject on his return to this legation.

I have transmitted your wishes to Mr. Mariscal as directed.

I am, etc.,

H. REMSEN WHITEHOUSE.

[Inclosure in No. 148.]

*Mr. Whitehouse to Mr. Mariscal.*LEGATION OF THE UNITED STATES,
Mexico, October 21, 1889.

SIR: Referring to your excellency's note of 8th instant, concerning the punishment imposed on the officers concerned in the regrettable affair at Eagle Pass, I am informed by my Government that Mr. Ryan will, immediately on his return to his post from his leave of absence, be instructed to join in a conference upon the subject of proper reparation to the persons aggrieved by the facts complained of.

I take, etc.

H. REMSEN WHITEHOUSE.

Mr. Whitehouse to Mr. Blaine.

No. 164.]

LEGATION OF THE UNITED STATES,
Mexico, November 15, 1889. (Received November 23.)

SIR: I have the honor to inclose copies of telegrams reporting the arrest at Coatzacoalcos, Mexico, of Captain Stilpen, of the American schooner *Robert Ruff*.

The captain was arrested on his return voyage to that port, presumably for aiding the escape from justice of one Patton, an American citi-

zen, who had on the previous voyage boarded the vessel when some distance from port.

As it is claimed that the persons who requested his surrender did so when the schooner was some 9 miles from land, it would appear that the captain would have been justified in considering himself as without the jurisdiction of Mexico even had a formal demand been made on him.

To-day I left a memorandum of the facts that have reached me with Mr. Mariscal, and have requested that they be carefully inquired into.

I have also telegraphed for full particulars of the case.

I am, etc.,

H. REMSEN WHITEHOUSE.

[Inclosure 1 in No. 164.—Telegram.]

Mr. Hoff to Mr. Ryan.

VERA CRUZ, November 13, 1889.

At Coatzacoalcos they arrested Captain Stilpen, of schooner *Robert Ruff*. Last voyage an American citizen, Patton, asked passage home and was taken on board, and 9 miles from land a boat came alongside the schooner and apparently wanted Patton, but did not come on board, and no one hindered them. They now arrest captain, as they say Patton committed assault and battery. Will write particulars.

HOFF.

[Inclosure 2 in No. 164.]

Mr. Hoff to Mr. Ryan.

CONSULATE OF THE UNITED STATES,

Vera Cruz, November 13, 1889.

SIR: This morning I received the following telegram :

“COATZACOALCOS, 13.

“HOFF, Vera Cruz :

“Last voyage Stilpen, *Robert Ruff* was boarded outside after sailing by American citizen Patton, who asked passage home and was taken. Short while after another boat came up to *Ruff*; one party in boat exhibited piece of paper, but did not come on board. He spoke Spanish, which was not understood by captain. Apparently desired Patton, but all in boat were in citizen's clothes. *Ruff* kept on her course. Patton was wanted for assault and battery, but had not been arrested. Stilpen, *Ruff* now here, and is to be arrested; what must he do?

“CARPENTER.”

I then sent back the following message :

“Shall I send your message to Minister Ryan? Did Stilpen hinder them from taking Patton? Was he 3 miles from land?”

“HOFF.”

I then received the following message :

“COATZACOALCOS, 13.

“Send message to Ryan. Did not hinder them. About 9 miles from land.”

I then sent the following message :

“Hon. THOMAS RYAN,

“*Envoy Extraordinary and Minister Plenipotentiary, Mexico :*

“At Coatzacoalcos they arrested Stilpen, of schooner *Robert Ruff*. Last voyage an American citizen, Patton, asked passage home and was taken on board, 9 miles from land. A boat came alongside the schooner and apparently wanted Patton, but did not come on board, and no one hindered them. They now arrest captain, as they say Patton committed assault and battery. Will write particulars.

“HOFF.”

Captain Stilpen I have known for a long time and have only known him as an honest, sober, industrious man, and am satisfied that it was no fault of his that he is there. In all my dealings with him I always found him a model captain, and have, in a number of cases, pointed him out as such. I always found him on board of his vessel attending to his business, and not in the saloons, but where his business and presence was wanted. I feel in hopes that you will do all in your power to have him released.

I have, etc.,

JOSEPH D. HOFF.

[Inclosure 3 in No. 164.]

MEMORANDUM.

LEGATION OF THE UNITED STATES,
Mexico, November 15, 1889.

After sailing from Coatzacoalcos, the schooner *Robert Ruff*, Captain Stilpen, was boarded outside by an American citizen called Patton, who asked passage home and was taken on board. Shortly afterwards another boat came up to the schooner; one of the parties in this boat exhibited a piece of paper, but did not come on board. He spoke Spanish, which language the captain does not understand. It was evident that he wanted Patton, but as all on the boat were in plain clothing, and the schooner was almost 9 miles from land, the captain kept on his course. The persons in the boat did not attempt to board the schooner. On return voyage to Coatzacoalcos, Captain Stilpen was arrested and is now in jail there. It appears that Patton was wanted by the authorities for assault and battery, but had not been arrested.

Mr. Whitehouse to Mr. Bayard.

[Extract.]

No. 166.]

LEGATION OF THE UNITED STATES,
Mexico, November 16, 1889. (Received November 25.)

SIR: In answer to request from Mr. Mariscal, I called on him this afternoon.

In referring to the case of Captain Stilpen, of the schooner *Robert Ruff* (see my No. 164 of yesterday), who was arrested on his return to Coatzacoalcos for aiding the escape from justice of Patton, Mr. Mariscal stated that he had been asked at the time by the authorities as to whether it was possible to demand Patton's extradition after the occurrence, but had discountenanced such a step, advising, however, the captain's arrest should he return to Coatzacoalcos.

I represented to Mr. Mariscal the difficulty of proving that the vessel was within the territorial waters of Mexico when the demand for the surrender of Patton was made; and also that even had he picked Patton up inside that limit, there was at that time no reason why he (the captain) should take it for granted Patton was a fugitive from justice, and that by the time he had an opportunity of being convinced of this fact, his vessel was, according to his own statement, some 9 miles from land.

At the end of our conversation Mr. Mariscal offered to telegraph that the matter be quickly investigated in order to cause the least possible prejudice to the captain's interests.

I informed Mr. Mariscal at the beginning of our conversation that I had stated in referring the case to you yesterday that I should take no official action until I had received your instructions.

I am, etc.,

H. REMSEN WHITEHOUSE.

Mr. Blaine to Mr. Ryan.

No. 136.]

DEPARTMENT OF STATE,
Washington, November 27, 1889.

SIR: I have to acknowledge the receipt of Mr. Whitehouse's dispatches Nos. 164 and 166 of the 15th and 16th instant, respectively in relation to the arrest of Captain Stilpen, of the American schooner *Robert Ruff*, at Coatzacoalcos, Mexico.

It appears that the ground on which Captain Stilpen has been arrested is that on a previous voyage from Coatzacoalcos he assisted an American citizen named Patton, charged with assault and battery at the place, to escape. The facts in the case, as they are stated to the Department, are that Patton, who was accused of the offense alleged, but who had not been arrested, took passage on the schooner for the United States. When the schooner was about 9 miles from land, on the high seas, and outside the jurisdiction of Mexico, she was approached by a boat on board of which were certain persons in citizens' clothes, one of whom, who spoke Spanish, exhibited a piece of paper and apparently solicited Patton's surrender. He did not, however, come on board of the schooner, and Captain Stilpen kept her on her course, paying no attention to the demand apparently made upon him. For this act he is now, upon his return to Coatzacoalcos, arrested on the charge of aiding a criminal to escape.

The Department is of opinion that upon the facts stated there is no ground for Captain Stilpen's detention, and that he should be set at liberty without delay, if that step has not already been taken. As the Department is informed, the *Robert Ruff*, at the time the demand was made upon her master, was clearly outside of the jurisdiction of the Mexican Government, and was, as an American vessel on the high seas, within the exclusive jurisdiction of the Government of the United States. She was not, therefore, in any respect subject to the criminal laws of Mexico, and her commander was not, and is not answerable to those laws for acts then and there committed. For the same reason, the demand made upon him was unauthorized and illegal, and one which he would not have been justified in conceding. Merchant vessels on the high seas being constructively considered as for most purposes a part of the territory of the nation to which they belong, they are not subject to the criminal laws and processes of another nation; and any attempt of the officers or citizens of the latter to execute and serve such laws and processes on board of them can only be regarded as an illegal proceeding which their masters and crews are justified not only in disregarding but also in resisting.

You are instructed to bring these views to the attention of Mr. Mariscal, and it is not doubted that appropriate action, in accordance with them, if not already taken, will be had without delay.

I am, etc.,

JAMES G. BLAINE.

CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON.

Mr. Romero to Mr. Bayard.

[Translation.]

LEGATION OF MEXICO,
Washington, November 12, 1888. (Received November 12.)

MR. SECRETARY: Having seen that the works which the Mexican Government is constructing at Paso del Norte, for the protection of the Mexican bank of the Rio Bravo del Norte (Rio Grande), have been misunderstood by some of the inhabitants of El Paso, Texas, it seems proper for me to communicate to you a copy of an unofficial letter which I received from Don Ignacio Garfias, the engineer in charge of the construction of said works, since it contains important data with respect to the same, which data may serve to acquaint you with their object and scope.

Be pleased, etc.,

M. ROMERO.

[Inclosure.]

*Mr. Garfias to Mr. Romero.*PASO DEL NORTE, *November, 4, 1888.*

DEAR SIR: A new complaint has arisen at El Paso on account of the commencement here of work No. 6, which begins just below the railroad bridge between the two cities. This route, being the thoroughfare by which trade is carried on, occupies a much more prominent position than the others. I think that this single reason, together with the ignorance of the complainants with regard to the matter, is what has given rise to this complaint. In fact, as the new work, which is the sixth, implies nothing new, and as they have already made their complaint, the present attitude of our people is not understood. Technically this sixth work is the one that can least affect the present shape of the left bank of the river, because, although science technically compels me to project this work in the place which it is going to occupy, the experience that I have acquired, since leaving Matamoras, of the real effect of these works in this river, induces me to believe that it will be entirely useless, for the reason that work No. 5 will throw the current to the center of the river, where it will be kept for a space many times as great as that fixed by theory, the consequence of which will be that the said current will pass at a long distance from work No. 6, so that the latter will be of no use whatever. Such is my opinion with regard to the effect of this work, which has caused so great alarm among the people of El Paso, and I hope that the freshets of April and May will show the correctness of this opinion. As to the legal question, it is seen by them in another light than that in which they formerly viewed it.

They now claim that the deepest channel is the boundary, and say that, as this work is being constructed in the deepest channel, the treaty is violated. In vain have I called their attention to Article V of the treaty of Guadalupe Hidalgo, which most clearly and positively declares that the boundary line is the middle of the river, and that, in case of there being more than one branch, it shall be the middle of the deepest branch. They have not been willing to understand the matter otherwise than in their own way.

The same is the case with respect to Article III of the treaty of 1884. That article has reference to the non-admission of changes artificially produced within the legal line drawn in 1852. The line of 1852 does not exist for them, because a change is favorable to them in this case, and they are concerned solely about a change that might be made in the present line. I think, and I said so in my statement, that we have a right to do work on the left bank of the river, provided that bank does not occupy the position that it did in 1852; consequently, they have no reason to complain of a work which not only does not make any use of the land invaded by the river, but which, owing to an excess of caution and delicacy, respects even the land of which the present alarmists are now in wrongful possession. They further allege

that my labors do not constitute a revetment, but that they "project over the current of the river" (Article III of the treaty of 1884). In the first place, only in an entirely straight channel can there be a revetment that does not "project over the current;" in any river a simple revetment may be constructed, "projecting over the current," by merely taking advantage of the salient curves. In the second place, the treaty very wisely says "that they shall not project *unduly*," and it is not an undue projection if the current is made to deviate over land which is ours, as it would be if the line occupied the position that it did in 1852. In the third place, the result of the works which I am now constructing will be that of a simple revetment.

A copy.

Washington, November 12, 1888.

I. GARFIAS.

C. ROMERO,
Secretary.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
November 14, 1888.

DEAR MR. ROMERO: Following our understanding that you shall always be called into counsel when anything touching Mexican and American interests is involved, I would like to show you personally some correspondence * I am having in relation to a dam projected across the Rio Grande at El Paso, which is said to be partly on United States soil, and may seriously affect our riparian and boundary rights.

Your co-operation to make matters satisfactory to both sides will be welcome.

Yours, sincerely,

T. F. BAYARD.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, November 15, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, accompanied by an extract from an unofficial letter from General Ignacio Garfias touching the projected dam at Paso del Norte, against the construction of which the city of El Paso, Texas, has made complaint to this Department.

As explained to you by Mr. Adee during your visit to the Department this morning, I have communicated to Mr. Whitehouse, the *chargé d'affaires ad interim* of this Government to the city of Mexico, the substance of the complaint of the Texan authorities, and suggested that, as this Government has requested the Secretary of War to detail a competent Federal engineer officer to proceed to El Paso and investigate fully and impartially the work in question, the Mexican Government adopt a similar course, to the end that a speedy and just determination of the rights of each Government may be thereby obtained and that a friendly co-operation on the part of the officers selected by the two Governments might be assured.

I am now happy to inform you that I have just received a telegram from Mr. Whitehouse, dated the 15th instant, saying that the Mexican

Government was willing to co-operate with the United States touching the complaint in question and that you had been instructed by telegraph to confer with me upon the subject which was the intention of my personal note to you of yesterday.

Accept, etc.,

T. F. BAYARD.

Mr. Romero to Mr. Bayard.

[Translation.]

LEGATION OF MEXICO,
Washington, November 26, 1888. (Received November 27.)

Mr. SECRETARY: I have the honor, in pursuance of instructions received from my Government, to inclose an authenticated copy, consisting of 30 folios, of the report of the proceedings had in the district court of Nuevo Leon, in the United States of Mexico, which furnish evidence of the crime of embezzlement committed by Rafael Treviño, ex-revenue collector at Monterey, who has fled from Mexico and taken refuge at Laredo, Texas; and I request you to be pleased to grant Treviño's extradition, in accordance with the stipulations of December 11, 1861.

Be pleased, etc.,

M. ROMERO.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, November 27, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 26th instant, relative to your application for the extradition of Rafael Treviño, said to be a fugitive from the justice of Mexico in the United States, charged with the crime of embezzlement, and to say that when the formalities prescribed by the extradition treaty between the United States and Mexico of December 11, 1861, and by the laws of the United States regulating the procedure in extradition cases shall have been complied with, a warrant for the surrender of the fugitive will be granted.

Accept, etc.,

T. F. BAYARD.

Mr. Romero to Mr. Bayard.

[Translation.]

LEGATION OF MEXICO,
Washington, December 6, 1888. (Received December 6.)

Mr. SECRETARY: I have the honor to inform you that Señor Mariscal, secretary of foreign affairs of the United Mexican States, has advised me, under date of the 22d of November last, that in virtue of an agreement with the Government of the United States, the Government

of Mexico has named Engineer Don Felipe Zavalza as a commissioner to associate himself with Engineer Don Ignacio Garfias, to confer with Major of Engineers of the United States, Mr. Oswald H. Ernst, commissioned by your Government, on the technical question raised by the construction of works on the Rio Bravo del Norte, and that by later dispatches which I have received from Paso del Norte I learn that the two Mexican engineers and the United States engineer are in that city.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, December 7, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, announcing the appointment of Don Felipe Zavalza and Don Ignacio Garfias as a commission on the part of Mexico to meet and confer with Major Oswald H. Ernst, of the United States Engineer Corps, regarding the projected dam in course of construction on the Mexican side of the Rio Grande, opposite El Paso, Texas.

Accept, etc.,

T. F. BAYARD.

Mr. Romero to Mr. Bayard.

[Translation.]

LEGATION OF MEXICO,
Washington, December 8, 1888. (Received December 10.)

Mr. SECRETARY: I have the honor to acknowledge the receipt of your note of the 27th ultimo, wherein, referring to mine of the 26th, whereby, in pursuance of instructions received from my Government, I applied for the extradition of Rafael Treviño, a fugitive from Mexican justice, charged with the crime of embezzlement, who had taken refuge at Laredo, Texas, you were pleased to say: "When the formalities required by the extradition treaty between Mexico and the United States of December 11, 1861, and by the laws of the United States in extradition cases, shall have been fulfilled, an order for the surrender of the fugitive will be issued."

The Mexican Government considers that, according to the stipulations of Article I of the extradition treaty between Mexico and the United States of December 11, 1861, it is only obliged to present, diplomatically, an application for extradition, together with the evidence of the commission of the crime, in the form provided by the treaty, and that, if the Executive of the United States desires that a judicial investigation of the case be held in order that he may be enabled to base his decision thereon he should apply to the proper courts, and not to the Government that asks the extradition.

Be pleased, etc.,

M. ROMERO.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, December 11, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, in response to my note of the 27th ultimo, in which, replying to your request of the preceding day for the extradition of one Rafael Treviño on a charge of embezzlement in Mexico, I stated that when the conditions required by the treaty between the United States and Mexico, of December 11, 1861, and by the laws of the United States in relation to extradition should have been complied with, a warrant for the surrender of the fugitive would be granted.

In your note of the 8th instant you inform me that the Mexican Government considers that under the treaty in question it is only obliged to present diplomatically an application for extradition, together with the evidence of the commission of the crime, and that if the Executive Department of the United States desires a judicial investigation of the case as a basis for its decision, it should apply to the courts and not the Government requesting the extradition.

I find myself unable to concur in the construction of the treaty above stated. With the exception of the special provisions for the surrender of fugitives by the chief civil authority of frontier States and Territories of the contracting parties, I am not aware that the course of proceedings in the United States under the extradition treaty with Mexico differs, in respect to resort to the judicial tribunals, from that uniformly pursued by other Governments under our laws for the execution of our conventions for the delivery of fugitive criminals.

In this relation I have the honor to advert to the correspondence that took place between this Department and the Mexican legation in December, 1886, in the case of Marcus F. Mayer, in which the Department's views on details of procedure were fully stated and finally accepted.

Thinking that you may have use for the papers inclosed in your note of the 26th ultimo, I have the honor herewith to return them.

Accept, etc.,

T. F. BAYARD.

Mr. Romero to Mr. Bayard.

[Translation.]

LEGATION OF MEXICO,
Washington, January 17, 1889. (Received January 18.)

MR. SECRETARY: I duly received your note of the 11th ultimo, whereby you answered that of this legation of the 8th relative to the application which, in pursuance of instructions received from my Government, I made to you for the extradition of Rafael Treviño, who is charged with the crime of embezzlement, committed in Mexico, and whereby you informed me of the views of the United States Government with respect to the formalities to be fulfilled by my Government in order to secure the extradition of criminals.

I at once communicated your aforesaid note to Mr. Mariscal, secretary of foreign relations of the United States of Mexico, and, in obedience to instructions received from him dated City of Mexico, January

3, 1889, I have the honor to inform you in reply that the Government of Mexico can have no objections to the President of the United States consulting the judicial authorities, if that is required by the laws of this country, as to whether there is or is not ground for the extradition that is asked for, or to the issuance of a warrant by those authorities for the arrest of the individual who is wanted. On the contrary, it is perfectly willing that this course should be taken. My Government can not, however, admit that, in order to secure the extradition of any person, it is obliged to do anything more than what is stipulated in article 1 of the treaty of December 11, 1861; that is to say, anything more than to present its requisition, through its diplomatic agent, in ordinary cases, and through the frontier authorities in cases which have occurred on the frontier. The diplomatic requisition mentioned in this article can not be addressed to any authority other than the Secretary of State, and Mexico has not bound herself to apply to the courts of this country likewise.

My Government thinks that the laws of the United States are not binding upon Mexico, for the same reason that any laws that Mexico might enact concerning extradition would not be binding upon this Government. Although any nation has a right to make the surrender of criminals by it conditional, other countries are obliged to submit to the conditions thus established only when they have concluded no treaty; when a treaty exists, however, the demanding country is obliged to submit to no conditions save those to which it has agreed.

If the consul-general of Mexico at New York applied to the courts of this country in the extradition case of George Benson, he did so unofficially, and in so irregular a manner that the course pursued by him, although tolerated by my Government in consideration of the end desired, was never approved by it.

In the case of the extradition, for which application was made to this Government, of Francisco G. Casanova, in the year 1874, this legation addressed the Department of State, and not the judicial authorities, in order to secure the arrest, to the end that extradition might be granted. The same course was taken in the case of Francisco Querejasu, in 1881.

In the first of the cases cited certain lawyers in New York were instructed to endeavor to prevent the escape of the criminals, and to assist the judicial authorities in their proceedings, while, in the second case, the consul-general of Mexico was so instructed; this, however, in no wise implies that the Government of Mexico considers itself under obligations to apply to the courts for the arrest or surrender of the delinquent.

Be pleased, etc.,

M. ROMERO.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, February 19, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo, in which you communicate the views of Mr. Mariscal in respect to the execution of the extradition treaty between the United States and Mexico. You state that the Mexican Government can "have no objections to the President of the United States consulting the judicial authorities," if such course is required by our laws; but that your

Government "can not admit that, in order to secure the extradition of any person, it is obliged to do anything more than what is stipulated in article I of the treaty of December 11, 1861, that is to say, anything more than to present its requisition, through its diplomatic agent, in ordinary cases, and through the frontier authorities in cases which have occurred on the frontier." You further state that your Government "thinks that the laws of the United States are not binding upon Mexico, for the same reason that any laws that Mexico might enact concerning extradition would not be binding upon this Government;" that "although any nation has a right to make the surrender of criminals conditional, other countries are obliged to submit to the conditions thus established only when they have concluded no treaty," but that "when a treaty exists the demanding country is obliged to submit to no conditions save those to which it has agreed."

The Department finds itself compelled to dissent from the views entertained by your Government. Since 1848 the United States has had among its statutes laws for the execution of its treaties of extradition. These laws are operative under all such treaties alike, and it has always been understood that when, as in the case of the Mexican treaty, provision was made that extradition should be granted only when the fact of the commission of the crime should be so established as that the laws of the country in which the person charged should be found would justify his apprehension and commitment for trial if the crime had been there committed, an express recognition was intended of the methods of ascertaining the question of criminality in that country. The provision in the Mexican treaty is not exceptional, but may, it is believed, be found in all our extradition treaties. Nor is the United States peculiar in having laws for the execution of such treaties. While some treaties are regarded as self-executing, many require legislation for their execution. It would be superfluous to cite examples to show that extradition treaties have generally been regarded as belonging to the latter category.

The application by a foreign Government or its agents to the judicial branch for the arrest and detention of a fugitive is not regarded by the United States as onerous, nor as, in any sense, affixing a condition to the execution of its treaties. Such application is constantly made under the direction of this Department to the judicial tribunal of other countries, and is found to be a convenient method of procedure. And it is thought that, under the statutes of the United States, as construed by the Supreme Court in case of *Benson*, there exists an efficient and liberal method of initiating and carrying on the preliminary judicial proceedings, which, under our treaties and the laws adopted for their execution, form the basis of the decision of the Executive upon the question of surrender.

Accept, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 1, 1889.

SIR: Referring to the previous correspondence which I have had the honor to exchange with you in relation to the questions arising at El Paso, Texas, by reason of the construction on the opposite Mexican shore, at Ciudad Juarez, of certain wing dams for the ostensible purpose of

protecting the shore from erosion, I have now the honor to transmit for your information a copy of the report of Major Oswald H. Ernst, United States Engineers, giving the results of the investigation he was detailed to make and submitting the protocols of his conferences with Señor Garfias, the engineer who, in pursuance of the amicable understanding which was reached at the time, was detailed on behalf of the Mexican Government to make a like investigation and report.

I trust that at a convenient season this Government may be furnished with the corresponding report of the Mexican engineer.

In view of the apparent subjection of the questions presented at Ciudad Juarez to the stipulations of the river-boundary convention of November 12, 1884, and of the immediate prospect of a convenient forum for their adjustment being afforded as the result of the negotiation for an international boundary commission which we are about to bring to so satisfactory a close to-day, there seems to be no present occasion for discussing the incident of the obstructions in question; for I assume that those works will continue to be suspended until a harmonious decision can be reached in the premises, unless, indeed, all occasion for possible complaint should be sooner removed by so modifying the plan of operations as to cause its obnoxious features, which Major Ernst reports so clearly and forcibly, entirely to disappear.

Accept, etc.,

T. F. BAYARD.

[Inclosure 1.]

Major Ernst to Mr. Bayard.

UNITED STATES ENGINEER OFFICE,
Galveston, Texas, December 12, 1888.

The SECRETARY OF STATE,
(Through the honorable Secretary of War, and Chief of Engineers, U. S. Army),
Washington, D. C.:

SIR: I have the honor to report that, in compliance with the instructions contained in your letter of the 19th ultimo, I have visited El Paso, Texas, where I arrived on the 24th ultimo and remained until the 30th ultimo, and have examined the works under construction by the Mexican Government for the protection of the right bank of the Rio Grande at that place. The following maps, photographs, and documents are herewith transmitted:

(1) Comparative map, showing approximately the change which occurred in the location of the river between the years 1855 and 1885. Scale $\frac{1}{15000}$.

(2) Map which accompanied the original project of the Mexican engineer, showing the banks of the river in 1885, the proposed location of the works, some details of their construction, and the water-ways at a medium stage. Scale $\frac{1}{5000}$.

(3) Sketch showing approximately the water-ways as they appeared November 26, 1888, and the location of the works as actually constructed. Scale $\frac{1}{5000}$.

(4) Six photographic views of the works taken November 27 and 28, 1888.*

(5) Translation of the original project for the protection of the bank submitted by the Mexican engineer to his Government in 1886, under which the work has been done.

(6) Minutes of the proceedings at the conference between the engineers of Mexico and the United States in the Spanish and English languages.

Leaving a rocky gorge just above El Paso the Rio Grande issues into an alluvial plain some 5 or 6 miles in width, through which it flows in a bed of its own formation. The banks and bottom are of light earth and sand, easily moved by the currents. The river is a silt-bearing stream carrying at times an excessively large proportion of solid matter. At the lowest stage the water ceases to flow and except in detached pools the bed becomes entirely dry. During the spring freshets the water

* Not reproduced herewith. See Senate Executive Document No. 144, Fiftieth Congress, second session.

† The minutes in the Spanish language are not printed herewith.

sometimes rises to a height of from 9 to 10 feet above the lowest, and flows with a rapid current heavily charged with sediment. At such times it possesses great building as well as destructive power. Between these two extremes there are at different seasons all degrees of volume and velocity. The size and character of the stream are ever varying, and its requirements as to form and dimensions of bed vary equally. The river's work of altering its bed to suit the necessities of the moment is never ending. The bed as it happens to exist now is the final resultant of all efforts of the stream, some of which have neutralized and some have aided each other, but the bed is not fixed. It is shifting from one position to another, altering its course, eroding one bank and building up the opposite one, forming islands and bars and then destroying them. The result of the natural changes is most noticeable in a bend, where the erosion of the concave shore is sometimes continuous for many years, as appears to have been the case at El Paso. The location of the river at this place as it was found in 1855 is shown in black upon Plate I, which is an enlargement of a portion of sheet 29, United States Mexican Boundary Survey, furnished me with your letter of instructions. Upon the same plate is shown in red ink the location of the stream as it was found by Mr. Garfias, the Mexican engineer, in 1885. It will be observed that between those dates there has been a very considerable encroachment upon Mexican territory, with a corresponding advance of the American shore. The maximum distance between the shore of 1855 and that of 1885 is about five-eighths of a mile, and the total area added to American territory is about 490 acres. I have been unable to learn whether this movement has been continuous throughout the thirty years or whether it has been intermittent. Of late years there has been a tendency to erode the American side. Beginning a short distance below Dike 1, for half a mile or more the American shore bears evidence of recent erosion. The vertical face of the bank indicating recent caving is partially shown upon photographic view No. II.

The evidence as to when the erosion began or how far it has extended was contradictory. These points must be determined, if at all, in a court of law.

In 1886 Mr. Ignacio Garfias, civil engineer, submitted to the Mexican Government a project for the protection of the right bank. A translation of this document is herewith transmitted. A tracing of the map which accompanies it constitutes the inclosed Plate II. Mr. Garfias took the ground that the left bank, as well as the right bank, belonged to Mexico, and that any works which might be required to push the river back to the position which it occupied in 1855 were legal and proper, provided they did not interfere with navigation. (There is no navigation of any kind upon this portion of the river, except a small skiff used as a ferry, and there never can be any.) He furthermore held that in this case it would not be necessary to encroach upon the left bank, and that while the use of dikes projecting into the stream to the injury of left bank was justifiable, some persons might object to it, and he could and would locate his works so that the current would not be thrown upon the left bank. He proposed a series of deflecting dikes, eight in number, which are shown upon Plate II. The total length of shore which they are designed to protect is about 2½ miles. They are numbered consecutively according to location, and not according to the order of their construction. He rejected the system of continuous revetment of the bank, on account of its supposed greater cost, and he announced that at present in the United States and in Holland, no works for the rectification of a river's channel, the defense of its banks, or the improvement of a bar are constructed upon any other system than the one adopted by him. It may be remarked, in passing, that he was misinformed as to the United States.

The work was begun in August, 1886, under the direction of Mr. Felipe Zavalza, civil engineer, with the construction of Dike 4, which was completed in January, 1887. It was followed by Dike 3, which was finished in July, 1887, also under the direction of Mr. Zavalza. Mr. Garfias then took personal charge of the works, relieving Mr. Zavalza, and has remained in charge up to this time. Between August, 1887, and January, 1888, he built No. 1; between January, 1888, and March 1888, No. 2, and subsequently No. 5, which was completed early in November, 1888. He then began No. 6, but soon suspended operations there to await the action of higher authorities upon the complaint made against his works by the citizens of El Paso, Tex. At the time of my visit he was engaged in preparing material for the construction of No. 8.

The general method of construction is the same for all the works.

Brush is first made into closely-bound bundles, called fascines, about 6 inches in diameter and of varying length. A course of fascines is laid at right angles to the general direction of the dike and about 3 feet apart. Over these a second course is laid, parallel with the general direction of the dike and also about 3 feet apart. Above these, again, a third course is laid parallel with the first, and also about 3 feet apart, and so on until six courses have been placed, the fascines in each course being laid in a direction perpendicular to that of those immediately below. Each course is secured to those below by withes and pickets which pass through three courses. The

fascines intended for the longitudinal courses are made long enough to extend from one end of the work to the other. Those intended for the outer courses are made of a length necessary to extend through from one side of the dike to the other. In this state the structure constitutes a sort of crib-work or grillage, having very large interstices. In the voids short brush is packed vertically as closely as possible by hand. These six courses, after being filled in with brush, constitute what Mr. Garfias calls a mattress. It is made in place, or, when the water is too deep for that, it is made upon inclined ways and then floated into position and sunk. In either case it is loaded with stone sufficient to hold it in place when submerged. One mattress being completed and placed, another is constructed in a similar manner and superposed on the first.

The width of the top mattress is 20 feet, that being the thickness of the dike on top. The width of the others increases with their depth below the top as shown in the cross-section, Plate II. The top of the dike when completed is on a level with the highest floods. It is finished with a top-dressing of loose gravel, as shown in photographic view No. 6.

When first placed the dike is permeable and allows the water to pass freely through it. It is a silt-catching device similar in its action to the hurdles used for building up new banks upon the Mississippi River. Checking the velocity of the water and smoothing out its boils and whirls, it causes the water to drop its load of solid matter and to make deposits above and below and within the work itself. It is most active at the higher stages of the river, when the water is most fully charged with sediment. It is a thoroughly efficient device for building up a new bank in advance of the old one, but, like all of its kind, must be kept in repair.

Some changes in the river bank subsequent to the original project involved some slight alterations in the location of the works. As actually constructed they are shown upon Plate III, upon which also are sketched the water-ways approximately as they appeared at the time of my first inspection, November 26, the stage of the river being a few inches above low water. The works not yet built are shown upon this plate in broken lines. In plan all the dikes have one main branch, connected with the shore at its upstream end and running obliquely into the river until its down-stream end is at a distance from the shore which differs from the different works. Those first connected, Nos. 4, 3, and 1, have a second or return branch which connects the down-stream end of the first branch with the shore below. This return branch being found unnecessary, has been omitted in the later works.

The following lengths and distances have been measured from the map furnished by the Mexican engineer, Plate III: The main branch of No. 1 is about 325 feet long, and its greatest projection from the Mexican bank is about 90 feet, the total distance between the two banks here being about 325 feet. A view of this dike is given in photographic view No. 1. No. 2 is about 450 feet long, and its greatest projection is about 110 feet, the total distance between the banks here being about 300 feet. This dike appears in photographic view No. 1 and also in view No. 2. The main branch of No. 3 is about 250 feet long, and its greatest projection is about 60 feet, the total distance between the banks here being about 180 feet. This dike appears in photographic view No. 3. The main branch of No. 4 is about 325 feet long, and its greatest projection about 250 feet, the total distance between the banks here being about 430 feet. This dike appears in photographic view No. 4. No. 5 is about 500 feet long, and its greatest projection is about 170 feet, the total distance between the banks here being about 600 feet. The down-stream end of this dike connects with a pier of the railway bridge, as shown in photographic views Nos. 5 and 6.

Just above the railway bridge there begins a decided increase in the distance between the banks. Near the wagon bridge, where dike No. 6 was begun, the distance is about 700 feet. The river is here divided into two arms (see Plate III), which are separated by a high bar or low island. Incipient vegetation is growing upon this bar or island, and it is submergible only at the higher stages of the river. It was not entirely submerged during the year 1888 at all, the highest freshets of this year having reached a level less than 6 feet above the lowest and between 3 and 4 feet below the highest. A few days before my visit the left arm was entirely dry, and all the water which was passing flowed through the right arm in a stream which, I am informed, was not over 30 feet wide and but a few inches deep. This fact demonstrates that the right arm is the deeper arm, and that the middle of it is therefore the boundary of the two countries.

Dike No. 6, as projected upon Plate III and as its construction was begun, is about 350 feet long and extends entirely across the right arm at the lower stages. At the higher stages of course the right arm becomes wider and the obstruction is not total. As already stated, work upon this dike had been suspended. The first courses of fascines had been placed for the entire length of the dike, and at the outer end they rested upon the dry ground of the bar or island. They had been ballasted with stone, for only a short distance from their up-stream end—say about one-quarter of their entire length. I was unable to obtain a photographic view of this work, for the rea-

son that between the date of my first inspection, November 26, and that of my second, November 27, when I was accompanied by a photographer, there was a rise of over 4 feet in the river, which submerged a part of the work and disturbed much of it that had not been ballasted.

Dike No. 7, as projected upon Plate III, also extends entirely across the right arm. It had not been begun, for the same reasons that had caused the suspension of work upon No. 6.

The main branch of dike No. 8, as planned, is about 325 feet long, and its greatest projection from the Mexican bank is about 160 feet, the total distance between the banks here being about 780 feet. No work had been actually placed in the river here, but the fabrication of fascines had been begun, and it was the intention of Mr. Garfias to proceed with the construction of the dike.

It thus appears that the five dikes constructed project from 60 to 250 feet from the Mexican bank, and occupy at the points where they are located from about one-quarter to more than one-half the entire width of the stream between high-water banks. They are of a class which are designed to utilize the building power of the river itself, and their effect will be to push out the Mexican shore between them as well as behind them. The river will not endure such material reduction of its bed. The area of cross-section will be restored by excavations elsewhere. This will be done partially at the expense of the opposite bank and partially at the expense of the bottom. There will be a deepening of the channel at the outer extremities of the dikes which will tend to undermine them. But the material of the bottom being heavier than that of the bank, the restoration of the area of cross-section will, in all straight or gently curving portions of the river, be made principally at the expense of the opposite shore. In the sharp bends, where much the strongest current is found upon the concave side, the restoration of the area will be more at the expense of the bottom. The excavation caused by this sudden contraction of the width will at first load the stream with an amount of solid matter which it can carry only while it retains the increased velocity due to the contracted section, and a portion of which it will drop at the first wide place below, where in finding its normal area of cross-section its velocity is slackened. This may cause a temporary bar to make its appearance below the dike and on the opposite side of the river. Mr. Garfias claimed that such bars had actually formed below his works, and he held that they proved that his works were not injuring the opposite bank. The fact may be admitted, but not the conclusion. Subsequent freshets, when not overloaded with sediment, approaching such bars, will sweep them away, and may then attack the bank behind them. He claimed also that no erosion of the opposite bank had thus far been caused by his work, and that such erosion as is now going on began before the works were constructed. If it be admitted that the erosion began before the works were constructed—and I am unable to say that it did not—it does not by any means follow that it has not been increased or hastened by them. Or, if it be admitted that even this has not as yet occurred, it does not follow that it will not occur in the future. Dikes 1 and 2 have been in existence through only one high-water season, that of 1888, in which the river was less high than usual. Their bank-building effect has thus far been moderate, and their maximum effect upon the opposite shore has therefore not been reached. They are permeable now in their upper courses, but will hereafter become solid. The deposits above and below them are now comparatively low, but they will increase in height with every flood. The proposition of the Mexican engineer is, in substance, that the width of a river flowing in a straight reach between alluvial banks can be contracted one-fourth by works constructed upon one side of it only. Hydraulic engineers in general will not assent to this proposition. In the case of Dikes 1, 2, and 3, I should expect that if the works be maintained in full efficiency as they have been constructed they would push out the Mexican shore to approximately the same distance that they themselves extend into the stream, and that as the result of this there would be a slight deepening of the channel, but that the American shore would recede a distance only a little less than that by which the other shore advanced. If allowed to stand the wear and tear to which they will be subjected without repair, they will cause a less advance and less recession of the opposite shore. In the case of Dikes 4 and 5 I should expect a similar advance of the Mexican shore, but owing to the sharp bend here not much, if any, recession of the opposite one, except what might be caused by the works above. The probable effect of Dike 6, if completed, is more serious. In connection with No. 5 above and No. 7 below it would probably close the right arm of the river and throw the entire volume into the left arm, thus making the boundary difficult of identification, and transferring all the destructive power of the American territory. It should be remarked that when these works were planned the condition of the river was different to what it is now. The main stream then crossed the bed in a single channel over ground which is now occupied by the high bar or island, as may be seen by superposing Plates II and III and looking through the tracing. No. 8 would cause an advance of the Mexican shore, and possibly some recession of the opposite one, but owing to the fact that the opposite shore here

diverges with a sharp bend, the latter result may not occur. These are given as the probable effects of the works after two or three high-water seasons. Their ultimate effects are somewhat uncertain. A new force is injected among a multitude of natural forces which are already in a state of unstable equilibrium. A well-defined erosion of the left bank having been inaugurated may possibly continue after the original inciting cause has ceased to exert a direct influence.

The ground upon the American side which will probably be destroyed by these works is of recent formation, subject to overflow, and but sparsely occupied where occupied at all. Its money value is not great.

I am required to give my opinion as to whether these works are in conformity with those permitted by the third article of the convention of November 12, 1884. That article reads as follows:

"No artificial change in the navigable course of the river by building jetties, piers, or obstructions which may tend to deflect the current or produce deposits of alluvium, or by dredging to deepen another than the original channel under the treaty when there is more than one channel, or by cutting water-ways to shorten the navigable distance, shall be *permitted to affect or alter the dividing line* as determined by the aforesaid commissions in 1852, or as determined by Article I hereof and under the reservation therein contained; but the protection of the banks on either side from erosion by revetments of stone or other material not unduly projecting into the current of the river shall not be deemed an artificial change."

The article does not appear to prescribe what character of works shall or shall not be constructed in the river, but it defines what the effect of different classes of works shall be upon the location of the boundary. If the course of the river be changed by jetties, piers, etc., or by revetments which project unduly into the river, the boundary between the two countries does not move with the channel, but remains where it was before.

There are various methods in common use among engineers for the protection of river banks. One of them is the continuous revetment, which consists in covering the face of the bank with a material, such as brush and stone, which can not be washed away by running water. It conforms to the natural outline of the shore, projecting uniformly and slightly, and is strictly defensive in its character. It is regarded by American engineers as the surest, and therefore in the end the cheapest, means of defence, and is in general use upon the largest American rivers. Another method is in the use of the ordinary spur, in which at intervals along the shore to be protected, short dikes, called spurs, are run out at right angles to the shore or slightly inclined up or down stream. They are designed to hold the bank where they find it, but not to advance it. They also are defensive, though less strictly so than the former, but they are uncertain in their action. Another method is in the use of deflecting dikes, designed to turn the current entirely away from the shore, and, in silt-bearing streams, to push the latter forward. They are aggressive in character. The works under consideration belong to the latter class. They have been adopted upon the ground of supposed economy. They do, in my judgment, project unduly into the current of the river.

I was unable to carry out the spirit of the third paragraph of your instructions, which contemplated an exchange of views between myself and a Mexican engineer not heretofore associated with the works, for the reason that the engineer appointed by the Mexican Government to confer with me was Mr. Garfias himself, who projected the works and is now in charge of their construction. This gentleman was thoroughly committed in his official reports and public utterances to the ideas that his works would not injure the left bank, and that if they did, it was still his right to build them. I did not consider it necessary or desirable to enter into any discussions with him, further than were required to elucidate his views and to procure the information I was seeking. He was very courteous and obliging, going with me through mud and rain to examine his works, showing me his drawings, freely making explanations, answering all questions, and allowing me to take into my service his draughtsman for making copies of his maps.

Viewed from a Mexican standpoint, his work is a credit to him, showing much ingenuity and fertility of resource. There was associated with him as his subordinate Mr. Felipe Zavalza, who had been appointed by the Mexican Government to aid in the conference. This gentleman is not at present connected with the works, but he formerly was, having built the first two dikes.

Mr. Beckford Mackey, United States consul at Juarez, was present at all the conferences between the Mexican engineers and myself, and, with his knowledge of the Spanish language, was of much assistance in the mutual understanding of what was said. He made the translation of Mr. Garfias' project, which is hereto appended, and he was of material service in bringing me into communication with the citizens of El Paso, who might be able to furnish information. He cheerfully rendered me all the assistance within his power.

I was unable to procure from American sources any recent maps which I considered

as valuable for the present purpose as the Mexican map of 1855. I held interviews with Mr. F. Ashton, the present city engineer of El Paso, and with Mr. G. N. Marshall, his predecessor, and with other citizens; but they did not know of any maps except those which had been made to exhibit the boundaries of land owners. These maps indicated the location of the river in a general way, but they showed only the American side, and that, as it appeared to me, only approximately, as would be natural with a land map in the case of a boundary which is changeable.

The general result of my investigation is that the Mexican Government has constructed and is constructing works which project unduly into the current of the river, to the injury of American citizens owning the left bank; an injury not as yet great, but which may become serious. The injury to be expected from those already constructed may be largely diminished by leaving them without repairs and allowing them to suffer the deterioration to which all such works are subject. Even thus they will protect a large part, if not the whole, of the right bank. Should portions of the bank remain unsheltered by them, the money which would otherwise be expended in repairs might be directly applied to such unsheltered parts. The works planned but not yet constructed, viz, Dikes 6 and 7, promise to do more harm than the others, and in the present condition of affairs, which is so different from that when they were planned, they should be abandoned, and recourse had to a direct revetment for this portion of the bank.

It may be pertinent to add that the changes which have occurred in the Rio Grande at El Paso are perfectly natural to an alluvial stream, and that similar changes have doubtless occurred throughout its course below. It is highly probable that at the date of the convention of 1854 there were very few points in common between the location of the river at that time and its location at the time of the survey of 1855. To hold that the convention of 1854 was a new agreement, not retroactive, and that the boundary of that time was where it was in 1855, without reference to changes in the river which might have occurred prior to 1854, is to make the convention meaningless. The boundary of 1855 was in 1854 upon dry land, except at isolated points where it crossed the river. To make it the subject of stipulations which could refer only to a river would not mean anything.

My account of disbursements and mileage will be forwarded with a separate communication hereafter.

Very respectfully, your obedient servant,

O. H. ERNST,
Major of Engineers.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., December 17, 1888.

SIR: I have the honor to transmit herewith a report, just received, from Major O. H. Ernst, Corps of Engineers, U. S. Army, addressed to the honorable the Secretary of State, in the matter of the works of construction by the Mexican Government for the protection of the right bank of the Rio Grande at El Paso, Texas.

As the report is made in compliance with instructions from the Department of State (with the sanction of the War Department), it is forwarded at once.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. WILLIAM C. ENDICOTT,
Secretary of War.

[Inclosure 2.]

*Project of works of defense in the Rio Bravo in front of the town of Paso Del Norte.
Dated March 25, 1886.*

[Translation.]

GALVESTON, TEXAS, *December 12, 1888.*

Respectfully forwarded to the honorable Secretary of State, with letter of this date.

O. H. ERNST,
Major of Engineers, U. S. Army.

STATE OF THE RIVER AND FORM OF ITS BED IN 1848.

At that point in the west at which the river commences to be the line of boundary its bed is well defined, flowing as it does through a narrow valley and encased for a considerable distance between the mountains which form the great range known as the Sierra Madre Oriental.

When the river reaches the point at which is placed the dam for the irrigation of the right bank the valley widens, the flat country begins, and the bed becomes variable. The course of the river for the whole of the space described, and especially between the dam mentioned and the town of Paso del Norte, is from northwest to southeast, but precisely in front of the town it changes to the east, forming a large curve, the concavity of which extends toward the south.

The maps surveyed (?) by the joint commission which marked the line of boundary, and which, according to Article V of the treaty, "form part of the same treaty and have the same force as though they were inserted therein," exhibit the condition of the river-bed at that epoch, the form of its curve, and above all its location, which, as will be seen further on, is most important in order to establish the right of Mexico to recover the land which has been lost by the aggressions of current employing such means as should be adequate for the purpose.

The accompanying tracing has been taken from the original on file at the department of public works.

DAMAGE SUFFERED BY THE MEXICAN SIDE.

The natural form of rivers presents always the same phenomena. The conditions of the regions which rivers traverse make these phenomena more or less characteristic.

The modifications of a river's bed depend upon the class of land through which it flows and upon the velocity of the current. Near the source of a river the stream is rocky, narrow, abrupt, irregular, and generally precipitate as a torrent; its bed is fixed and invariable because the obstructions which the current encounters are of a permanent character, formed by the inequalities of the soil.

Lower down the bed of the stream becomes more tortuous and truly serpentine, as it crosses broad valleys and forms great curves, which seem to recognize no law, as the slightest obstruction, or at times no known cause, will make the river leave its channel and force a new bed entirely different in its location and development.

In such places bars and shores are formed, the apparition of which phenomena follows laws perfectly understood.

When a river leaves the higher regions from which it takes its source the increase in volume caused by freshets may deepen the channel and leave its banks unchanged. The matter held in suspension by the waters and that torn away from its bed or banks will not be deposited except in those places where the force of the current has so diminished as to be unable to bear them away.

At the beginning of its course not only does the river bear along the material dislodged from its bed and sides, but by the irresistible operation of the water upon the fragments of rock and the rotation and shocks to which these fragments are subjected they become round and smooth and what are known as "cantos rodadas" (boulders).

Passing from the mountains to the level regions accessions to the volume of the water enlarge the channel, not in depth but in width; because, as the force of the upper and middle part of the current is greater than at the bottom, and the banks of the river in the valleys and plains more spacious and yielding, they give way more easily than the soil which forms the bottom of the river's bed.

In support of this theory, which is perfectly corroborated by experience, Professor Molesworth makes use of the following expressions:

"Representing V as the velocity of the surface, that of the middle will be equal to $a(n+05) - \sqrt{V}$, and at the bottom equal to $a(\sqrt{V}+1) - 2\sqrt{V}$; from which it results that 4, for example, being the velocity of the surface, that of the middle will be 2.5 and the velocity of the bottom of the stream 1."

So, now, if the dams must yield to every increase in the volume of water, let us see which of them will be most likely to suffer.

Every body in movement unless meeting resistance follows a straight line. The body in movement which does not follow the straight line must have met some resistance which causes it to pursue a different direction. This rule holds with rivers, which tend always to follow a straight line, but when encountering resistance change their course and wear away portions of their banks. In the curves of rivers is produced this effect, which science calls "avulsion."

On the side opposite, that is to say, in the convex part of the curve, from the same tendency of the river to follow a straight line it will follow the tangent of the curve for a distance more or less great, dependent upon the breadth of the river and its velocity; and consequently the space embraced between the tangent and the curve from the point of tangency until where this change of course occurs is occupied by still water, where is deposited the matter held in suspension and where is formed what is technically called "alluvion." These two phenomena just described are directly contrary, and as the convex side of the curve gains what is lost by the concave, and this evolution is constant and natural, unless the hand of man should interpose a limit the river would continue its advance, adding land each day to the convex side and each

day carrying away territory on the other. This is exactly what has occurred in the case now under consideration.

The curve of the river in front of Paso del Norte presents its convex side towards the Mexican bank, and from a comparison of the surveys of the commission of 1852 with one made by me, it results that the river has changed its course towards the south 1,735 meters. Without the necessity for the inspection of maps the aspect of the soil on both sides of the river proves the invasion of the right bank; for this side is covered with vegetable earth, which waters never deposit, and the left bank displays only sand and that character of soil produced only by alluvion. I think, therefore, that I have sufficiently demonstrated the loss of territory suffered by the Mexican side.

LEGAL PART.

Let it now be seen whether the Mexican Government possesses the right to construct works which may prevent the continuance of this damage and re-establish the bed of the river in the state it held when the united commissioners surveyed the line of boundary.

The question is perfectly clear and simple. No necessity exists for recurring to an examination of doctrines in regard to alluvion and avulsion, for the existence of a formal compact nullifies all else.

The treaty of peace, friendship, limits, and definitive settlement between the Mexican Republic and the United States of America, signed February 2, 1848, at Guadalupe Hidalgo, and ratified at Queretaro, May 26 of the same year, says in Article V, part 3: "In order to designate the boundary line with due precision upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both Republics as described in the present article the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte.

"They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two Governments shall amicably agree regarding what may be necessary for these persons, and also as to their respective escorts, should such be necessary." And in part 4 of the same, Article V: "The boundary line established by this article shall be religiously respected by each of the two Republics, and no change shall ever be made therein except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution." And in Article VII of said treaty it is agreed that "The River Gila and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth article, divided in the middle between the two Republics, the navigation of the Gila and the Bravo below said boundary shall be free and common to the vessels and citizens of both countries, and neither shall construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favoring new methods of navigation."

From these conventions it is seen that the course of the river as shown on maps of that epoch shall be the line of boundary and that "no change shall ever be made therein;" so that the boundary line is not the course of the river with the changes which it has had or may have, but the line which the river occupied as shown by the surveys of the joint commission on limits, and consequently the land which is to-day on the left bank of the river, but to the south of the line marked by the maps of the commission, belongs to Mexico, and are subject to the jurisdiction of the Mexican Government.

With respect to works on the river the Mexican Government can establish such as may be necessary to restore the line of boundary to its legal position, with the sole limitation that they "may not interrupt or impede in whole or in part the exercise of the right of navigation."

CLASS OF WORKS OF DEFENSE PROPOSED.

Established the necessity and right to construct works to defend the right bank of the river, it remains to select the class of works which, in consideration of the circumstances, will be most expedient.

In view of the works constructed by me under similar circumstances at the port of Matamoros, I have formed the opinion that in this case it will only be necessary to modify my plans in one detail, on account of the force of the current, which is greater here than at Matamoros.

All works of defense for river banks, with the exception of these spurs, are based on the system of facings, and in consequence must be of considerable extent, and

therefore greater in cost than spurs which occupy only a sixth part of the surface which they are expected to protect, it being known that a spur of this kind protects an extent of territory five times longer than its face.

The only inconvenience sometimes presented by these works is that it is not always possible to so select their location and direction that the opposite bank of the river may not be injured.

In such a case it is necessary to abandon the system.

In the case under consideration no such difficulty exists, for such a location may be chosen and such directions and dimensions given that the deflection of the current will not reach the opposite bank.

If, then, the only objection to the construction of these works in the present instance disappears and it is beyond doubt that spurs of this description defend the same extent of territory at a smaller cost and with less labor, there is no reason for hesitating to adopt this system.

Let us see now the class of material which must be used in their construction.

The piles system gives good results when the force of the current does not pass a certain limit, as at Matamoros, where the works constructed by me resulted satisfactorily; but if the current is sufficiently strong to cause the piles to oscillate, this, aided by the floating tendency and shocks received from matter carried down the stream, loosen their fastenings, and the connection between the stakes once destroyed the works go to ruin.

I do not know the velocity of the current at Paso del Norte, but it is sufficient to know that the pile bridges of the railways here have not been able to resist the current during high water, and that Paso del Norte is much higher up than Matamoros, to presume that works constructed on the pile system will not give good results and should not be adopted while there is another system exempt from these inconveniences. The mattress system has been known from time immemorial and was used and is still used in several of the countries of Europe as a simple facing of the banks, usually in one layer only.

The genius of Captain Eads has worked a genuine revolution in this respect, and at present in the United States and in Holland no works for the rectification of a river's channel, the defense of its banks, or the improvement of a bar are constructed on any other system.

The new system consists in forming a dam of proper dimensions by means of superposed layers of willow or other branches; each mattress so constructed being sufficiently ballasted to secure immersion. The mattresses consist of bundles of branches, and their length varies according to the importance of the work, but in general is never less than 100 feet.

The diameter of the bundles from which the mattresses are formed can not be fixed, but is usually from 4 to 6 inches. The bundles are so united as to form the mattresses by means of flexible reeds or vines or with tarred ship-cord.

The mattress is laid on an inclined plane of beams placed at such distance as permits the tying or weaving of the bundles, and at the bank of the river in order that the mattress may be easily floated. The mattress is then drawn to the place where it is to be situated, and once in place is ballasted and sunk.

The mattresses are placed one upon the other, and diminish in breadth to give the necessary slope.

The dike is built to the highest point which the waters of the river may attain during the freshets.

This is the system which Captain Eads employed and which he called "mattresses of fascines."

In Holland these mattresses are differently constructed, and two kinds of work of this description are used, one for simple revetments, and one for the formation of dams. The first are called "kizzen-bedden," the second "zink-stukken." To the first is given greater longitudinal strength, to the second greater transverse resistance.

A frame of crib-work is made, which commences with a transverse series of branches tied or twisted in bundles and placed at a distance from each other of 1 meter or nine-tenths of a meter. Over this is laid a longitudinal series at a distance which is never less than nine-tenths of a meter for the "zink-stukken." In order that the longitudinal strength may be greater and may better resist the force of the current the bundles of branches are made of the whole length of the work, if this should not be greater than 150 or 200 meters, and never less than these dimensions.

The diameter of the bundles is from 4 to 6 inches. Where the bundles cross each other they are fastened together by means of flexible reeds or vines, except at the points of the perimeter, in which places use is made of unraveled ship-cable, by which the mattresses are fastened to stakes, and the upper layers united with the lower after these are filled.

The openings in the crib-work are filled with twigs tied together and placed vertically, the height of the two bundles which form the layer.

Another layer is then superposed so that the openings coincide, and these are filled in the same manner, the layers being united with ship-rope as described.

Three layers form the mattress, which will be from forty-hundredths of a meter to a meter in thickness. A greater diameter is not desirable, for the reason that the mattress then assumes too great rigidity and does not adapt itself to the form of the river's bed.

These mattresses are submerged by ballasting of stones of the proper weight and dimensions. In order that the ballast may be kept in position, small stakes are placed in all the openings of intersection, and at each fourth stake is placed one which is called the "stake of anchorage" (*estaca de anclaje*), which penetrates the river's bed and prevents the movement of the system.

These stakes must be strong, but thin, so that the floating tendency will be as slight as possible. The ballast should be in the proportion of eighteen-hundredths of a cubic meter of stone or gravel to a square meter for the center, and twenty-six hundredths of a ton of stone to the square meter for the perimeter.

This is the system which I believe advisable to adopt for the works now under consideration.

SURVEY.

Having adopted the system and class of works to be constructed, let us pass to the location and dimensions of said works, which require more exact data.

This data I began to collect immediately upon my arrival at Paso del Norte, and with more or less success. I encountered no obstacles in the topography.

Provided with an excellent theodolite, I quickly made a detailed plan of the river and its relative location.

The soundings also offered but little difficulty, for, as the river was found almost dry, the transverse sections which I believed would be necessary became rather profiles taken on *terra firma*.

The examination of the river's bed and subsoil gave a like result.

Unfortunately I can not say the same in regard to the other data relative to the regimen, the lowest point of the water during the dry season, the freshets and middle stage of the waters, the velocity of the current, its direction, the points at which the matter carried along or held in suspension strikes the banks, the discharge, and other particulars which result from the above.

My stay in Paso del Norte has been during the months of October and November last, when the rains had ceased more than a month. During this season the rain-fall had been slight and freshets produced had disappeared; and the season of the breaking up of the snow and ice not having arrived, I found the river in what may be termed at low-water state; that is to say, almost entirely dry. This will be shown by the transverse sections which appear on the plans herewith annexed.

This was the first occasion of my visiting this locality on a scientific mission, and consequently I lacked the data proper for determining the elements necessary to base my calculations. I inquired on both the American and Mexican sides whether any observations had been made of the low and high stages of the waters, its volume, the force of the current, etc., and I found that no such data had been obtained.

On the Mexican side, which is the side injured, and consequently where a very natural interest should exist in collecting the information referred to, no person has been found of sufficient knowledge, united with the zeal and foresight, necessary to make the observations required, which demand time, constancy, and expense not inconsiderable from its duration and continuance.

As on the American side, far from having experienced any damage, the land has been added to day by day by alluvion; no attention has been given to changes which could not affect them injuriously; and no such observations had been made, which under adverse circumstances would have been carefully registered, as occurred at the military post near Matamoros.

In view of these circumstances, and reserving the completion of my observations for a favorable epoch, I have resolved, time and circumstances permitting, to proceed by deductions founded on the theories of the most reputable authors and the experience acquired for many years of study of the phenomena presented by rivers and the various works intended to regulate their regimen, protect their sides, and prevent the formation of banks and bars.

To deduce the regimen of this river in the locality referred to, I availed myself of the following theories and facts:

As is known, the regimen of a river is the relation which exists between the transverse section, the longitudinal slope, the nature of the bed, and the volume of water. It is said that this regimen is fixed when these relations are constant, or change insensibly at long intervals of time. This regimen is, on the contrary, variable when the relations expressed are subject to changes which recognize various causes. It is sufficient to glance at the accompanying map to be convinced of the irregularity and inequality of the transverse sections, and if this map is compared with those of ante-

rior epochs, it will be seen how much the course of the river has changed, invading a great extent of land on the south, and widening in all that part which remains in front of the town of Paso del Norte. Now, if the transverse sections are so variable, and if the course of the river changes so easily, augmenting the development of the line, and consequently modifying the longitudinal slope, the regimen of the river can not be fixed at this place. The volume of water also is very variable.

Not only is this manifested by facts in a passage of time sufficiently great, but this may also be deduced from the relation which exists between the volume, the velocity of the current, and the section; for these last being variable, the volume will also vary.

The velocity may be deduced approximately from the nature of the matter deposited in the river's bed by the following table:

- A current of one-quarter foot per second carries fine clay.
- A current of one-half foot per second carries fine sand.
- A current of three-quarters foot per second carries coarse sand.
- A current of 1 foot per second carries fine gravel.
- A current of 2 feet per second carries coarse gravel.
- A current of 3 feet per second carries a stone as large as an egg.
- A current of 5 feet per second carries a stone as large as 2 feet square.

In the bed of this river are found all these materials, which shows that the lighter matter has been deposited in the dry season when the velocity of the current is reduced to the minimum; but as large stones are also found in the bed of the river it may be deduced that during the freshets the velocity of the current is sufficiently great to carry this matter, and consequently is at least that of the maximum in the above table. This datum is what has made me reject the pile system and adopt the system of fascines, which offers greater resistance and at less cost, at least in the locality now treated of.

LOCATION.

Having selected the system of works and the materials to be used let us proceed to fix upon the location and dimensions to be given to each of the dams in order that the desired effect may be obtained.

Assuming, according to the established theory, that when water encounters a convex curve it follows the tangent of said surface, this natural effect should be availed of in such a manner that it may be produced in the whole extent which it is sought to defend.

It is known that a spur protects an extent of land five times greater than the length of its face. Now, in order that the opposite bank may not be injured, in spite of the justice of the title which I have shown to exist in Mexico, I have fixed upon the most pronounced convex curves and given to each spur such length and direction that they will not carry the current to the left bank, but will protect our own side, which has been worn away and must continue to be worn away unless defended.

Between the irrigating dam and the first work I did not think it necessary to do anything, because there the course of the river is almost straight, possessing only a slight curvature which presents its concave side rather to the left bank.

The first work, as marked on the plan, will have 100 meters face of deviation and 50 of counter-force (return face?), with a breadth of 10 meters, and a height which according to the depth of the bed but attains the altitude of the river's bank which supports it.

The second work will be 75 meters in length, and have 50 meters of counter-force (return face?), it will also have 10 meters of breadth and a corresponding height. The third will have respective dimensions of 80, 20, and 10 meters.

The fourth, 75, 75, and 10 meters; the fifth, 95, 85, and 10; the sixth, 95, 55, and 10; the seventh, 200 meters, 70, and 10; the eighth, 150, 130, and 10.

The ninth must be a simple dike, without counter-force (return face?), supported in its lowest part by the bank, or natural island, marked on the map and commencing above at half the distance defended by the last spur.

This work might be left isolated because the current will not strike it except from the third part formed.

The construction of this dike appears to me of the greatest importance, although I must remark that it will remain in the river beyond the middle of the bed at present; and although the part treated of is no determined channel, and the bed of the river where it now flows is not the line of boundary, I believe it my duty to submit to the high consideration of the Department whether I may adopt the location indicated.

The dimensions of this work must be 600 meters by 10. Its greatest height will be 3 meters and its medium 2.

The order in which the works should be constructed is that which I have mentioned. But, above all, the last should not be constructed until the next has produced its

effects, forming a bank on the right side and causing to disappear the movable sand on which nothing can be built without danger of the work being undermined and losing its stability.

ESTIMATE.

From the anterior data it results that there are required 2,000 longitudinal meters of mattresses, with a breadth of 10 meters, and a height of 1 meter 80 centimeters; or a total of 60 mattresses of a 100 meters by 10 and of 60 centimeters.

For greater clearness, I will calculate the cost of one mattress of these dimensions:

The branches for the fascines are purchased in Paso del Norte, in cart-loads which average a ton and a half, and cost \$2 delivered at the works. The stone costs \$1 a ton; the gravel 75 cents per cubic meter; the wood costs \$2 per thousand square feet of 1 inch in thickness.

The wages of the laborers will be from 75 cents to \$1 per diem.

The average weight of branches necessary for a mattress is 240 tons, or 160 cart-loads, at \$2.

160 cart-loads, at \$2	\$320. 00
144.90 cubic meters of gravel, at 75 cents	108. 67
44.5 tons of stone, at \$1	44. 50
164 feet of wood for 109 frames, at 3 by 3 by 2, \$3	3. 28
82 feet of wood for stakes	64. 00
5 pounds nails, at 10 cents .....	. 50
8,100 yards tarred hemp cord	4. 00
50 spikes, at 12½ cents	6. 25
50 yards thick cord	6. 25
1,250 yards medium	12. 50
Labor on frames	7. 50
Labor on 222 fascines or bundles	55. 50
Labor on 11 fascines, at \$2.50	27. 50
20 beams, 1,312 square feet	26. 24
Labor on inclined plane	20. 00
Placing, binding, and formation of a mattress, at 50 cents square meter ...	500. 00
Floating into position of each mattress	40. 00
Ballasting mattresses, 25 cents a ton	38. 25
Total	1, 222. 58
For 60 mattresses	73, 354. 80
Contingent expenses	7, 335. 48
Total	80, 690. 28

The time required for the construction of the work will depend upon the sum assigned each week for the purchase of materials and payment of labor, and may be reduced by beginning at the same time construction on all except the last, which should not be erected until a year later than the others.

March 25, 1886.

Y. GARFIAS.

CONSULATE OF THE UNITED STATES,
Paso del Norte, Mexico, December 4, 1888.

I hereby certify that the accompanying translation was made by me, and after being submitted to Mr. Ygnacio Garfias declared by him to be true and correct.

Given under my hand and seal of office the day and year above written.

[SEAL.]

BECKFORD MACKAY,
United States Consul.

[Inclosure 3.]

MINUTES OF PROCEEDINGS.

[Seal.]

I.

In the city of Juarez, on the 26th day of November, 1888, in the office of the director of the hydraulic constructions for the Rio Grande at (Paso del Norte) said city, a meeting was held by and between O. H. Ernst, major of the United States Engineer

Corps, and special envoy of the American Government; Beckford Mackey, consul of the United States at said city; Felipe Zavalza, engineer, and the directing engineer of the works, Ygnacio Garfias, as a result of the protest made by the city authorities of El Paso, Tex., against the construction of said works, and these persons proceeded to hold a conference to elucidate the probable effects of said works; and Engineer Garfias having been called upon to do so, as the author of the project, and as builder of the works, began his explanation by exhibiting the plans of the river as made in 1852 by Commissioners Emory and Salazar Harregui, and a map made by himself in 1855 for the purpose of formulating the project. He called attention to the difference in the lines occupied by the channel in the two maps, a difference which is wholly against Mexico in front of the city in its central portion and most populated part, making the comparison by a reference to the church, which appears in both plans. He called attention to the fact that not only had Mexico lost a very considerable part of cultivated and irrigable lands and some dwelling houses, but also one of the irrigating canals, known as the Chamizal ditch, the loss of which constituted a greater damage because it ruined and converted into arid lands a considerable amount of ground formerly used for viticulture and the cultivation of choice fruits; that these damages were caused in the beginning by the natural effect of the water, which in this part of its channel attacks the right bank as it makes a big curve, to the detriment of the concave part, which is on the right-hand side, and partly caused by small wing-dams constructed for defense on the left side, which helped powerfully to increase the destruction which already without them had been considerable. Afterwards the embankments of the Mexican Central and street-car railroads were built in an oblique direction to the channel, forming an obtuse angle with the axis of the current, whereby the water in meeting these dikes deviated almost normally from its true current, producing deterioration on the opposite bank every day of greater importance.

These facts, which are notorious on both sides of the river, caused the Mexican Government to decide to defend its territory, where already the only remaining canal for irrigation was threatened; wherefore Engineer Garfias was appointed to make plans for defensive works. During the months of October and November of 1885 he made his preliminary topographical and hydrometric studies, and presented the project in March, 1886.

The project includes eight wing-dams, whose location and angle of deviation are so calculated that the current shall occupy the center of the channel, so that the parabolic curve described by flowing fluids shall in no case reach the opposite bank.

He explained the theory of wing-dams as consisting in the claim that they defend a distance equal to five times the length of their face of deviation when the departing curve (whose tangent defines the location of the wing-dam) follows the channel for that distance, increasing or diminishing the distance defended according to the curve of the channel to the right or left.

According to this theory the projected wing-dams can not cause the current to reach the opposite side, and if this happens it may be considered one of the many caprices of the Rio Grande, but in no way caused directly by the wing-dams.

After this those present went to examine the works already constructed, beginning with No. 5, which was the nearest.

Engineer Garfias described the method of construction, gave the date of the completion of this work, which was in the early part of the current month, and explained that as there had been no rise in the river during its construction, no effect had been produced.

They then proceeded to work No. 4, and the same engineer, after giving the date of its completion, explained that this work, in spite of having faced the rises in the river for the past two years since its completion, had not caused any damage to the opposite side. The same was shown of work No. 3, and the examining party proceeded to work No. 1. This work was concluded before the rises of the present year, and had therefore produced its defensive effects. The low-water season permitted the view of the formation of the special circumstances of the form of the channel and justified the exactness of the theory, as the said bar preserved almost exactly the form of a parabolic curve, which, commencing at the extremity of this wing-dam, continued until it intercepted nearly the middle of the next work. He explained here also that no effect detrimental to the opposite side had been produced, though this work had faced all the rises of the present year. Thence they proceeded to work No. 2. This was also completed before the rise of the current year, and has not caused any damage to the other side, its effects being defensive in a greater degree, because the channel has a curvation towards the right.

Hence they visited work No. 6, the cause of all these proceedings. Arise of 3 inches of water two days previous had filled a channel which had been dry on account of low waters during the days of the protest. Engineer Garfias explained this circumstance, which would completely set aside any ground for the protest of the authorities of El Paso.

He called the attention of Engineer Ernst to the inexactness of the telegram written by Attorney Caldwell, there being nothing true therein except the fact that the work crossed the small current, which in those days was the only one; but he added that even in such a case the work could not be considered as a dam, because the water passed freely through the fascine cribs that formed it, as was manifest at the examination. He explained other data which are not stated herein, because they appear in the plans, tracings of which Engineer Ernst will receive, showing the extent of the channel occupied by the current, the location of the work, the breadth of the true and proper channel, etc.

To conclude, the party passed on to visit the place designed for the location of work No. 8, of which nothing appears in the river but where they are constructing various fascines, which are accumulating, to be put in place when an opportunity is offered.

Thus terminated the first conference, with the understanding that the second should be held on the 28th, as Engineer Ernst intended to devote the 27th to private interviews with the engineers of El Paso, just as he had previously given his time to Engineers Garfias and Zavazla.

On the 28th of the same month the conference continued. The minutes of the 26th were read, and having been translated into English by Consul Mackey, Mr. Ernst desired to have it understood that he manifested neither his agreement nor disagreement with the propositions of Mr. Garfias, some of which were expressed in these minutes in a manner to imply his indorsement, and that making this reservation and extending the minutes in both languages he would sign them upon the termination of the conference. He added that in his opinion the works would necessarily cause the erosion of the left bank, because they were an obstacle to the free course of the water and they confined the channel, although theoretically and under the hypothesis that the left bank would resist it might not happen, because the section would be equalized by additional depth; but he believed the bank would not resist. Furthermore, that as the flow in the river was so variable, having a dry channel at times, then again its waters overflowing its banks, there was no fixed regimen, and it was difficult to calculate the effects of the work with such uncertain data.

Engineer Garfias answered that the theory was a technical reason as against a simple hypothesis; that, besides, the facts justified till now the exactness of the theory, as two of the existing works had produced their effects during two years and two others had done so for one year without causing damage to the left side, and that the effect of the works was calculated for the highest water, for the reason that the current was so variable. That, furthermore, it was not to be supposed that he had projected works that would throw the water against the left bank, because by the theory of the angles of incidence and reflexion the water would return to attack the right side and cause destruction.

Mr. Ernst asked why they had not adopted the system of continuous revetment, to which Engineer Garfias answered, because it was very expensive and the wing-dam system produced the same result for one-sixth of the expense.

Engineer Zavazla said that at the time of a rise both banks were attacked, and that if one was defended and the other not, the latter would suffer somewhat, but not as a direct effect of the works.

Mr. Juan S. Hart was proposed as translator. Mr. Mackey observed that the gentleman might act as such as a special favor, as he did not usually act in that capacity.

The four members of the conference then called upon Mr. Hart, who willingly offered his services, keeping in his possession the minutes already written in order to begin their translation.

Engineer Ernst said he had ordered photographs taken of the works completed, and that before leaving the city he would present a collection of them to Engineer Garfias.

On the 29th of the same month the conference continued. The minutes of the preceding day were read, and after Mr. Ernst received the copies of the plans and the project translated by Mr. Mackey, the conference was declared closed, during the whole of which the English language was spoken, as being the only one understood by all who signed.

Before signing Mr. Garfias added that he desired to state that the proposed second visit to the works had not taken place, not only on account of the bad weather but also because Major Ernst admitted that it was probable that among the earlier effects of the work would be the formation of a bar on the opposite side of the river, but well below the work, and, Major Ernst added, immediately opposite the work there would be erosion.

He thought that later on this opposite erosion might work down stream, but he believed the ultimate results of such works to be uncertain. To this Mr. Garfias replied that, even admitting that this erosion might occur, compensation would exist between the territory lost and that gained and even supposing the loss of the left bank caused by said erosion greater than would be gained by the resulting accretion, this would be grounds on which the owners of this property might found a claim for in-

demnity, but not for the suspension of these works, which have for their object the restraining of the destructive effects of the current on the Mexican side, where, from the form of curve, not only cultivated and habitable lands are threatened with destruction, but also the only remaining canal of irrigation, which once destroyed would completely kill the agriculture of the place, on which its existence depends.

He also said that it should be held in mind that the land on the left bank which might be exposed to injury had been separated from the Mexican territory by the action of the waters, and that should the line of jurisdiction or even boundary be declared changed, this would not affect the right of property of individuals, and that the title to these lands remained in their ancient proprietors, who are Mexicans now living on the right bank of the river, and who have neither claimed or asked anything for the damage which might be inflicted upon their properties left by the river on its left bank.

With this the conference terminated, and the minutes were signed in quintuplicate, two copies in Spanish and one in English remaining in the possession of Mr. Garfias. One in each language to be sent to the Department of Public Works, and one to be retained by Mr. Garfias. A copy in each language was delivered to Major Ernst.

During the last moments of the conference Major Ernst expressed a desire to modify one paragraph of the minutes, but as Major Ernst desired to leave for Galveston in a few moments no time remained for making the desired correction; it was therefore agreed that the quintuplicate copies of the minutes should be forwarded to Galveston for his signature, those intended for the Mexican commissioners to be returned by mail.

O. H. ERNST,
Major of Engineers, U. S. Army.
BECKFORD MACKAY,
U. S. Consul.

Y. GARFIAS,
FELIPE ZAVALZA.

Mr. Blaine to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 13, 1889.

SIR: I have the honor to apprise you, in connection with previous correspondence, and especially your note of January 23, 1888, promising information touching the live-stock sanitary regulations of Mexico, of the receipt of a letter from the Honorable J. M. Rusk, Secretary of Agriculture, dated April 18, 1889, submitting for my consideration a copy of a letter from Mr. H. M. Taylor, secretary of the Beef Producers' and Butchers' National Association, saying that the "Republic of Mexico is without any live-stock sanitary laws—of which the public have any knowledge—and that cattle are admitted into Mexico without restriction and without investigation as to whether they are diseased or have been exposed to disease."

"The pastoral interests of Mexico," continues Mr. Taylor, "are being very rapidly developed, and in consequence the demand for thoroughbred cattle with which to improve their herds is constantly increasing, and unless steps are taken by the Mexican authorities to protect the herds of that country from the introduction of contagious bovine diseases, it will only be a question of time when pleuro-pneumonia and other plagues gain a foothold in that country."

Mr. Taylor also refers to the vast extent of the open border between the United States and Mexico, and to the circumstance that without any barriers to prevent the cattle of Mexico from crossing the boundary line and intermingling with the cattle of the United States, any introduction of contagious pleuro-pneumonia among the cattle on the open ranges of northern Mexico would cause that dread disease to spread among the cattle of the United States on the border.

The Department at once realized the importance of the subject and

the necessity of inviting the Government of Mexico to put in force such live stock sanitary regulations as would protect the herds of that country, and afford ample security for our own cattle.

However, before addressing you upon the subject, it was thought advisable to refer Mr. Rusk to the previous correspondence between the Commissioner of Agriculture and this Department concerning the complaint of the Mexican Government in regard to the cattle quarantine of Arizona Territory, and your declaration that "Mexican cattle have not hitherto been infected with any contagious disease," and to invite an expression of the views of Mr. Rusk on the general question in the light of that correspondence.

His reply bears date the 4th instant, and states that the Department of Agriculture, after fully investigating the facts alleged by the Territorial authorities of Arizona for such protection, made a report to the Secretary of the Treasury, in accordance with section 4 of the act of Congress, approved May 29, 1884, establishing the Bureau of Animal Industry, and advised certain restrictions upon the importation of cattle from Mexico to the United States, which restrictions were subsequently ordered by the Treasury Department.

The conclusions reached by Mr. Colman were as follows:

First. That the Republic of Mexico has no laws or regulations for the prevention or suppression of contagious diseases of cattle, nor any facilities for the inspection of the cattle within its domain to ascertain the existence or non-existence of disease.

Second. That it has no laws or regulations respecting the importation of cattle from foreign countries that are known to have contagious diseases among their cattle.

Third. That there are being imported into Mexico from foreign countries where contagious cattle diseases exist pure breeds of cattle for the purpose of improving the native stock, and that this class of cattle are quarantined against by the United States when imported directly into this country.

Fourth. That the topographical and climatic conditions of the coast regions of Sonora, one of the States of the Republic of Mexico bordering on the Territory of Arizona, and exporting into Arizona large numbers of cattle, are in every way similar to those of Lower California, and as the cattle from the latter country when driven north impart to northern cattle splenic fever, there is every reason to believe that Sonora cattle when driven north will impart this disease to the cattle of Arizona.

Fifth. That the cattle herds of Sonora have occasional outbreaks of disease that carry off large numbers of their cattle, but owing to the absence of veterinary inspection the nature of these diseases are not definitely known, but from the description of the same it is believed to be anthrax.

Sixth. That the live stock interest of Arizona is one of the leading industries of that Territory, and the estimated number of cattle in the Territory is said to be 600,000. That these cattle are maintained on open ranges, the various herds commingling with each other, so that should any contagious disease be introduced among them it would spread rapidly and be impossible of suppression.

In view of the foregoing facts it was thought necessary that some protection should be given to the cattlemen of Arizona against the possibility of the introduction of any contagious disease among their herds by cattle from foreign countries, and especially as the Territory, being protected from the introduction of disease from any of the States and Territories of the United States, should have the same protection from Mexico.

It was therefore recommended that section 2497 of the Revised Statutes of the United States prohibiting the importation of cattle be enforced as to cattle imported from the Republic of Mexico into the Territory of Arizona:

Provided, however, That cattle may be imported at the ports of Nogales and Yuma, after the same have been inspected by the Territorial veterinarian of Arizona, and found to be free of contagious diseases.

The views of Mr. Colman, says Mr. Rusk, are still the views of the Department of Agriculture, which has, at the present time, succeeded

in eradicating contagious pleuro-pneumonia from among cattle throughout the United States, with the exception of a small infected area on Long Island, New York, and hopes within a few months to be able to announce that the area in question has also been cleared of the disease.

On account of the great expense which the Government of the United States has incurred in eradicating the disease from among its domestic animals and of the immense value of the cattle industry of this country, it is absolutely necessary that every precaution should be taken against the possibility of another introduction of this dreaded and insidious disease.

Under these circumstances, and in view of the fact that contagious pleuro-pneumonia is now prevalent in Europe and the colonies of New Zealand and Australia, it seems especially necessary that the Government of Mexico should, as a measure of safety to its own extensive cattle industry, immediately establish quarantine regulations against the unrestricted importation of cattle from those countries. Unless this is done, there would appear to be great danger that the importations of cattle into Mexico which are being made for the purpose of improving their breed of cattle, as stated in your note of January 9, 1888, will introduce this disease among the cattle of Mexico; and, if unrestricted importation is allowed into the United States, will be the means of spreading the disease in this country.

These observations are made in a spirit of perfect frankness and cordiality, having regard only to the protection of one of the largest industries in this country, as well as in Mexico; and I entertain no doubt they will be so understood, because the cattle interests of your country will no doubt be promoted by the enforcement of such protective measures as experience has demonstrated are necessary to prevent the introduction and spread of contagious bovine diseases.

In the hope, therefore, that you will make such communication of these views to your Government as you may deem advisable, and apprise me of any measures it may have adopted or proposes to adopt, relative to a system of sanitary inspection for domestic animals as well as imported cattle, I renew, etc.,

JAMES G. BLAINE.

Mr. Romero to Mr. Blaine.

[Translation.]

LEGATION OF MEXICO,
Washington, May 13, 1889. (Received May 14.)

MR. SECRETARY: I have the honor to receive your note of this date, in which, referring to our previous correspondence relative to sanitary measures adopted in Mexico in regard to cattle, and especially to my note of January 23, 1888, you are pleased to inform me that you have received a communication from Honorable J. M. Rusk, Secretary of Agriculture, dated April 3, 1889, inclosing copy of a letter from Mr. J. M. Taylor, secretary of the Beef Producers' and Butchers' National Association, in which he states that "the Republic of Mexico is without any live-stock sanitary laws, and cattle are admitted into Mexico without restriction and without investigation as to whether they are diseased or have been exposed to disease."

You insert in your note fragments of the correspondence had by your Department with Mr. Colman, late Commissioner of Agriculture, in

which the views expressed by Mr. Taylor are repeated, and you close by remarking that "the cattle interests of Mexico will, no doubt, be promoted by the enforcement of such protective measures as experience has demonstrated are necessary to prevent the introduction and spread of contagious bovine diseases," requesting me to communicate to my Government the views of the United States on this subject, and to inform you of the measures adopted or that may hereafter be adopted in Mexico for the establishment of a system of sanitary inspection of domestic and imported cattle.

In reply I have the honor to state that in the note which I addressed to the Department of State under date of January 9, 1888, I apprised it of the state of this question, as I understand it, and that, on the 23d of the same month, in compliance with a request contained in a note from Mr. Bayard of that date, in which he asked for information similar to that now desired by you, I requested my Government to send me such information.

I shall transmit your note to the Mexican Government without delay, again requesting it to send the desired information, and as soon as I receive it I will transmit it to your Department.

Be pleased, etc.,

M. ROMERO.

THE NETHERLANDS.

Mr. Thayer to Mr. Blaine.

No. 41.]

LEGATION OF THE UNITED STATES,
The Hague, August 26, 1889. (Received September 7.)

SIR: The recent dedication of the "Pilgrim Statue" at Plymouth, Massachusetts, which has awakened such general interest in the events of our early history, having naturally directed my attention to the connection of Holland with the particular event thus celebrated, I have the honor to state that it has recently been my privilege to retrace the steps of the Pilgrims from the commencement of their journey in this country to the place where they finally embarked upon their memorable enterprise.

Leaving their homes in Leyden, where during eleven years they had enjoyed a safe and hospitable asylum under the auspices of the Dutch Republic, they traveled by canal through the city of Delft to the point where this canal enters the river Maas, and which for this reason is called Delftshaven, or the "Port of Delft," where lay the *Speedwell*, the vessel which they had bought to convey them to America.

Following the banks of the canal to the place where it joins the river I took especial pains to note the point of land which the *Speedwell* must have doubled as she entered the Maas to follow its course to the sea. Upon this spot, doubtless, John Robinson and that portion of the company who were to remain in Holland till later took leave of their brethren as the vessel commenced its voyage. I observed that the spot was one eminently favorable for being marked by some memorial. The river, with a broad sweep, bends around in such a way to either side of it that it can be seen from a great distance both to the east and west, that is, as one approaches the busy port of Rotterdam from the North Sea, and as one descends the river on the outward journey, while hundreds of vessels of every size and description are constantly passing, in going to or coming from every part of the globe. On inquiry I ascertained that all the territory immediately adjoining the harbor was public land belonging to the city of Rotterdam, to which corporation Delftshaven has been annexed within very recent years. I also perceived that a fine sea-wall of brick and blocks of basalt rock was being constructed—and would soon thoroughly fortify the point in question against the encroachments of the powerful tides which here prevail, as well as the occasional floods.

Surely the cause of civil and religious liberty never claimed greater sacrifices than those made by the Pilgrim Fathers of New England and the inhabitants of the Dutch Republic, who gave them from the first that substantial aid and encouragement without which their organization would doubtless never have been perfected.

In view of the above-named facts and the interest the national Government has recently taken in the Pilgrim Memorial just dedicated, I have the honor to submit to the Department for its consideration the

propriety of making an effort for the erection of a suitable monument on the spot indicated, as a tribute to the heroism of both peoples, and as a further measure of strengthening the bonds of friendship between two nations in whom the love of liberty is a common inheritance.

I have, etc.,

SAMUEL R. THAYER.

Mr. Thayer to Mr. Blaine.

No. 72.]

LEGATION OF THE UNITED STATES,
The Hague, November 14, 1889. (Received November 26.)

SIR: Referring to my dispatch No. 41, dated August 26, 1889, I have the honor to state that in an interview had a few days since with the minister of foreign affairs touching the completion and dedication of the Pilgrim Memorial at Plymouth, Massachusetts, I exhibited a copy of an article published in an influential paper in New York containing quotations from the above-named dispatch, and warmly advocating the erection of a monument at Delftshaven in commemoration of the departure of the Pilgrims from this country. In the same connection I said I had noticed articles of a similar tenor in other journals in different parts of our country, and that it had been mentioned in the public prints that the State Department had been instrumental in bringing the subject to the notice of the Pilgrim Society in Massachusetts, so that I knew the project was being discussed to some extent by our people.

Whether the increasing demands of the various educational, charitable, and religious organizations which always claimed the attention of the American people would admit of the employment of the necessary funds for such an object at this time I did not know, but of this I was assured, that respect and veneration for the memory of the Pilgrim Fathers as well as for the memory of those who aided them in their struggles on this side of the water is increasing with each advancing year, and that if not now certainly at no distant day action would be taken in this direction.

The minister replied that whether the movement was successful or not he was glad to know that the people of the United States had not forgotten the relation that Holland sustained to the Pilgrims, and he considered it a compliment to his people that the Department deemed the subject worthy of consideration and he wished me to thank the Department for its action in the matter and to say whenever the movement took shape the Netherlands Government would joyfully render any service in their power to facilitate the accomplishment of the undertaking.

The minister further added that he would like the privilege of showing the King and his colleague in the ministry, the articles I had relating to the subject, for he knew it would give them great pleasure to see them. He remarked in conclusion that he considered it a very bright spot in the history of Holland that it gave aid and comfort to so noble a body of men when it cost an effort so to do, and no act, in his judgment, could be more graceful and appropriate than the erection of a dignified memorial at Delftshaven, forever made historic as the place from which they first set sail.

To my surprise, while writing this dispatch I received a note from the minister referring to the same subject, a copy of which I send as an inclosure, with translation of the same and my reply thereto.

I have, etc.,

SAMUEL R. THAYER.

FOREIGN RELATIONS.

[Inclosure 1 in No. 72.—Translation.]

Mr. Hartsen to Mr. Thayer.

MINISTRY OF FOREIGN AFFAIRS,
The Hague, November 14, 1889.

MR. MINISTER: I hastened to communicate to the King's ministers assembled in council the contents of the letter a copy of which you did me the honor to leave with me several days ago, and wherein you most graciously suggested to his excellency the Secretary of State at Washington the idea of erecting at Delftshaven a monument similar in character to the Pilgrim statue at Plymouth, in commemoration of the Pilgrim Fathers who, after leaving Leyden, sailed from Delftshaven by way of Plymouth to America.

It is not necessary for me, Mr. Minister, to assure you that this communication was welcomed with the liveliest satisfaction by all my colleagues, and that the final realization of this project will be regarded by the people of the Netherlands, as well as the King's Government, as a new pledge of sympathy and a further proof of the inviolable relationship which has always existed between the two nations.

I can also add, Mr. Minister, that the Government of the Netherlands appreciate at its true worth the initiative which you kindly took in this matter.

I shall esteem myself fortunate if you will permit me to have inserted in a Holland newspaper (unofficial of course) a translation of the article published in the New York Tribune of the 22d of September last, which you had the kindness to furnish me.

Accept, etc.,

HARTSEN.

[Inclosure 2 in No. 72.]

Mr. Thayer to Mr. Hartsen.

LEGATION OF THE UNITED STATES,
The Hague, November 14, 1889.

SIR: I have the honor to acknowledge the receipt of your favor of the 14th instant, in which you express in your own behalf and that of your colleagues of the Netherlands Government a high appreciation of the interest shown by the Department of State and myself towards the project of erecting a memorial of at Delftshaven, now a subject of discussion among our people.

In returning acknowledgments for this expression I take great pleasure in assuring you that the words of encouragement and appreciation you give will be an additional incentive in promoting the realization of an object in which the good men of both countries will experience the profoundest pleasure.

The bonds of friendship between the nations ought never to weaken so long as the memory of the Pilgrims and those who aided them in their extremity is the heritage of both.

The article referred to is at your service for the purpose you request, and I take the greatest pleasure in complying with your wishes.

I take, etc.,

SAMUEL R. THAYER.

PERSIA.

Mr. Pratt to Mr. Bayard.

No. 305.]

LEGATION OF THE UNITED STATES,
Teheran, October 22, 1888. (Received November 30.)

SIR: Believing it desirable that our Government should be enlightened in regard to the exact relation of silver to the economy of this Empire, I have been endeavoring for some time past to procure reliable data bearing upon that question for transmission to the Department.

The want of official statistics on the subject made this task seem in the beginning almost a hopeless one.

At last, however, I have succeeded in obtaining, through trustworthy private sources, the required information, and this I now have the honor to submit to you, embodied in the following report:

Though Persia nominally possesses a bimetallic currency and still continues to coin gold in small quantities, the universal medium of circulation throughout the land is silver.

This metal up to eight or nine years ago was supplied to the Persian mint in bars, imported by native and foreign merchants from England *via* Bushire.

The Persian mint then paid for the bullion an amount of new kran pieces equivalent in weight, and as the Persian krans are .90 fine, gained 11 per cent. or more on the transaction, the importers gaining $5\frac{1}{2}$ per cent., less their expenses for freight and insurance.

In October, 1880, 1 ounce troy of standard silver cost 56.35*d.* and one pound troy of it £2.817. For 1 pound (5,760 grains) of pure silver the importers received in Persia 1 pound weight of krans; and 1 kran weighing 70.672 grains, 81.503 go to the pound. At the then rate of exchange (27.5 krans=£1) these 81.503 krans were equal to £2.96363, and the importer realized on each pound troy a profit of £0.1466, or about $5\frac{1}{8}$ per cent. But as the importer had to pay transport, insurance, etc., his direct profit was nil; in fact he would have lost on the transaction if he had not bought merchandise for exportation with the krans he received here and then gained on the exchange.

The value of the exports from Persia is not very considerable, and considering that the export trade is in the hands of many while the silver import was in the hands of a few the silver importers soon found that they had more krans than they could hope to purchase merchandise with.

To cover the losses of the importers the Persian mint had to raise its rate and pay more for the silver than its equivalent weight in krans.

The mint in September, 1888, was paying $107\frac{1}{2}$ pounds of krans for 100 pounds of pure silver, most of which came from Russia.

A firm of Tabriz and Moscow is reported to have just made a contract with the mint-master for the supply of 1,000 puds (43,880 pounds Troy, nearly) at the rate of $107\frac{1}{2}$ krans for a weight of pure silver equal to

100 krans. The Persian mint gains about $2\frac{3}{8}$ per cent., less the expenses of the mint establishment on this transaction.

The profits of the importer are about $11\frac{1}{4}$ per cent., less expenses of transport, insurance, etc. He buys pure silver at the rate of $45d = .476$ an ounce = £2.274 per pound Troy (London market September 1, 1888), and gets for the pound 1.075 pounds of krans = 87.61 krans = £2.539 (at exchange 34.5 krans per £1 in Russia), hence his profit is £0.265 on a pound of silver, or about $11\frac{3}{4}$ per cent.

As he does not export much and has to buy bills for remitting his money to Russia, and has also to pay much for the transportation from Russia to Teheran, his clear profits are very much less, probably only 5 per cent.

Those who are supposed to be "au courant" estimate the quantity of silver annually made into coin at the Persian mint at about 220,000 pounds.

Exchange on London varies between 32, $32\frac{1}{2}$, 33 and 34 krans silver to the pound sterling.

Bills of this legation on the bankers for the Department of State, London, are regularly purchased at 33. Bills of the British legation sell, I understand, at the same rate.

An English firm here are now arranging it appears to import silver in bars from India.

The question arises, could not this be done with greater advantage from the United States direct?

I have, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 347.]

LEGATION OF THE UNITED STATES,

Teheran, April 17, 1889. (Received May 27.)

SIR: I have the honor to report that the American missionaries at Tabriz, wishing to dispose of their present place of worship (which had become too unsafe for further use), applied to his excellency, the Emir Nizam, governor of the province, for permission to purchase a site upon which to erect another building for the purpose in question.

On account of certain charges against the Roman Catholic and Anglican missionaries under British protection, it appears that a general order had been issued prohibiting the erection of any new Christian churches in the Emir's province (Azerbaijan). Hence, his excellency stated that it would be impossible for him to grant the permission desired, unless an order to that effect were sent him from the central government at Teheran, and advised that the missionaries should endeavor to obtain this through me.

There was accordingly sent me a petition embodying the above, a copy of which I have the honor to inclose herewith for your consideration.

It was also suggested by certain of the missionaries that by presenting the facts of the case to Sir Henry Drummond Wolff, the British minister here, and to the French minister, Mr. de Balloy, it might be possible by united effort to obtain a rescinding of the general prohibitory order before mentioned.

I did not feel at liberty, however, even where it concerned a non-political matter of this nature, to undertake joint action with the en-

voys of other powers without your cognizance and authorization; besides which the propriety of such a mode of procedure appeared to me questionable, it being in my opinion more politic for your representative here to pursue, as far as possible, an entirely independent course in his dealings with this Government.

Accordingly I thought best (in a private interview I had with him previous to his departure with the Shah) to lay the petition of the American missionaries directly before the first minister, his excellency the Emine Soltan, and am happy to state that the result has been an official order to the Emir Nizam authorizing our people at Tabriz to purchase land and erect their church as desired.

The plan I adopted for the arrangement of this affair, as above reported, will, I trust, meet with your approval.

I have, etc.,

E. SPENCER PRATT.

[Inclosure in No. 347.]

Petition addressed by the American missionaries at Tabriz to E. Spencer Pratt, United States minister at Teheran.

At the regular meeting of Tabriz station of the Northeastern Persia Mission held Tuesday evening, February 12, 1889, the following preamble and resolutions were adopted, and Dr. Holmes was requested to forward them to his excellency, the United States minister.

"Whereas the American mission church building in Tabriz is in a dangerous condition, necessitating the erection of a new building; and

"Whereas his excellency the Ameer Nizam having informed us that while we have the right to rebuild on the old site, if desired, it would be necessary to obtain permission from Teheran in case we wish to rebuild elsewhere; therefore,

"Resolved, That we respectfully request of his excellency E. Spencer Pratt, United States minister at the court of the Shah, that he will obtain the necessary authorization permitting us to buy a site and to build a church."

Rev. S. G. WILSON,
Moderator.

Mr. Pratt to Mr. Blaine.

No. 363.]

LEGATION OF THE UNITED STATES,
Teheran, June 8, 1889. (Received July 15.)

SIR: I have the honor to report that I have received from Oroomiah, near western Persian frontier, under date of the 25th ultimo, a letter complaining of an assault committed at Gundekta, Tkhoma, Turkish Kurdistan, upon the person of one E. W. McDowell and one John G. Wishard, represented as American citizens peacefully traveling through that region.

Whilst referring the case to the Department in the copy of said communication attached, I have thought it advisable, since the locality mentioned as the scene of the alleged outrage is contiguous, apparently, to Persian territory, to bring the facts to the attention of the Turkish ambassador at Teheran in a note, a copy of which is also respectfully submitted herewith for your consideration.

This course, which I trust will meet with your approval, I adopted in order to afford the official representatives of the Porte an opportunity to investigate the affair of their own accord and properly punish the

guilty parties, thereby relieving our Government of the possible necessity of having to resort to the unpleasant expedient of a demand for redress at Constantinople.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 363.]

Mr. McDowell to Mr. Pratt.

OROOMIAH, PERSIA, *May 25, 1889.*

DEAR SIR: As a citizen of the United States, living and traveling in the East by permission and under the protection of the same, I beg leave to call your attention to a violation of our rights to safe and unimpeded travel through these countries. Dr. John G. Wishard and the undersigned, E. W. McDowell, while passing through Tkhoma, in Kurdistan, were robbed of our property and had personal violence inflicted upon us.

This was done in daylight in the streets of a village, Gundekta, and the instigator of it was one of the rulers, Malek Baboo, of Tkhoma Gowai, his accomplices being two priests of the village, Kasha Gihjonnis, of Mngrai, and Kasha Yokhonnis, of Gundekta.

They were aided by the people of the village.

This was done without any provocation whatever. On the following day in attempting to pass on our way empty we were again assaulted by the men of Gundekta, stoned, one of us knocked down, our clothing torn from us, and other indignities suffered. We had appealed to the chiefs of this district for protection before passing through the village the second time and placed upon them the responsibility of our safe conduct through their territory. They not only refused protection but in one case, at least, assisted in robbing us. We have abundant and satisfactory proof as to the guilt of these three ring-leaders and of all their confederates. We desire their punishment. This is a serious matter to us, involving much more than the loss of our goods. We do not propose to leave a stone unturned in securing the punishment of these men.

We know that your jurisdiction does not extend to Kurdistan, but we understand that you wish to be kept informed of all matters pertaining to government which affect the interest of American subjects in Persia. If in any way you can assist in bringing these offenders to justice you will have rendered us valuable service, for which we shall be truly grateful.

Very respectfully, yours,

E. W. McDOWELL.

[Inclosure 2 in No. 363.—Translation.]

Mr. Pratt to Khalil Khalid Bey.

LEGATION OF THE UNITED STATES,
Teheran, June 8, 1889.

YOUR EXCELLENCY: I have the honor to submit herewith enclosed a translation of a letter which I have received from Oroomiah, dated 25th May, bringing a complaint against the authorities, the inhabitants, and certain priests of the village of Gundekta, in the province of Tkhoma, Kurdistan, for an attack made upon two of my countrymen traveling in these parts. As the unfortunate incident took place in a province of Turkey adjoining the territory of Persia, I thought that in bringing it to your notice you might indicate the simplest and most expeditious manner of obtaining a judgment and bringing the guilty parties to justice.

Confiding in the spirit of justice which has always animated your conduct and the friendship of which you have already given me such repeated proofs, I beg, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 365.]

LEGATION OF THE UNITED STATES,
Teheran, June 18, 1889. (Received July 24.)

SIR: Referring to my dispatch No. 363, diplomatic series, of the 8th instant, I have the honor to report that yesterday, the 17th instant, I received a note from his excellency Khalil Khalid Bey, Turkish am-

bassador at this capital, inclosing for transmission through such channels as I should select, a communication addressed to his excellency the governor-general of the Vilayet of Van, on the subject of the complaint of Messrs. McDowell and Wishard, brought by me to the embassy's attention on the 8th as already reported.

Copies and translations of the ambassador's above-mentioned note and of my acknowledgment thereof are herein respectfully submitted.

I have also the honor to submit inclosed for your consideration the copy of a letter I have this day forwarded to Mr. McDowell with the note from the Turkish embassy to the governor-general aforesaid.

It is my hope that the affair may thus be satisfactorily adjusted without the necessity of our Government's intervention.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 365.—Translation.]

Khalil Khalid Bey to Mr. Pratt.

TEHERAN, June 16, 1889.

MR. MINISTER: I have had the honor to receive the letter you were pleased to address to me under date of the 8th instant, on the subject of the complaint of two of your countrymen, traveling on the frontier, against the authorities, the inhabitants and certain priests of the village of Gundekta, situated in the province of Tkhoma, in Ottoman Kurdistan.

Though trusting that the incident in question is but of a purely local and private nature, I have, nevertheless, not failed, by the letter you will find inclosed, to call the facts to the attention of his excellency the governor-general of the Vilayet of Van, who, I am sure, will not delay to have justice in the matter accorded.

Accept, etc.,

KHALID.

[Inclosure 2 in No. 365.—Translation.]

Mr. Pratt to Khalil Khalid Bey.

LEGATION OF THE UNITED STATES,

Teheran, June 17, 1889.

EXCELLENCY: I have the honor to acknowledge the receipt of your esteemed note of the 16th instant, containing a communication for his excellency the governor-general of the Vilayet of Van, on the subject of the complaint brought by two of my countrymen against the authorities, the inhabitants, and certain priests of the village of Gundekta, situated in the province of Tkhoma, Ottoman Kurdistan.

In expressing to you my thanks for the manner in which you have been pleased to take this matter in hand, I hasten to say that I shall, without delay, transmit the letter in question to its destination through the agency of Mr. McDowell, and beg your excellency to accept, etc.,

E. SPENCER PRATT.

[Inclosure 3 in No. 365.]

Mr. Pratt to Mr. McDowell.

LEGATION OF THE UNITED STATES,

Teheran, June 18, 1889.

SIR: Referring to my communication of the 8th instant, I take pleasure in handing you inclosed a sealed note which in accordance with my representations based upon the complaint conveyed in your letter of the 25th ultimo, his excellency Khalil Khalid Bey, the Turkish ambassador at Teheran, has addressed to his excellency the governor-general of Van.

The note in question you will please deliver in person or transmit through most reliable hands to the governor-general in order that this matter may have his earliest attention and the desired investigation be instituted as soon as possible.

I am, etc.,

E. SPENCER PRATT.

Mr. Pratt to Mr. Blaine.

No. 383.]

LEGATION OF THE UNITED STATES,
Teheran, August 7, 1889. (Received September 14.)

SIR: I have the honor to report that yesterday, the 6th instant, by special request, I laid the corner-stone of the American hospital at Teheran, in the presence of a numerous assembly, comprising distinguished members of the Imperial family, high dignitaries of state, both civil and military, and representatives of the different ministers.

The ceremony consisted in an impromptu address, in which I briefly explained, in French, the object of the institution, the idea of which had originated with Dr. W. W. Torrence, and on being approved of by his Imperial Majesty the Shah was now being carried out with the voluntary aid from America mentioned in my dispatch No. 23, diplomatic series, of the 27th January, 1887, and the generous co-operation here of those who could easily recognize the practical value of a charity of this nature.

My address was followed by a short prayer and benediction by the Rev. S. Lawrence Ward.

I have, etc.,

E. SPENCER PRATT.

PORTUGAL.

Mr. Bayard to Mr. Lewis.

No. 103.]

DEPARTMENT OF STATE,
Washington, January 29, 1889.

SIR: I inclose a copy of a letter from Messrs. A. Mudgett & Co., of 39 South street, New York, and of its inclosures, by which it appears that on the 9th May, 1888, the American bark *Carrie Heckle* (Capt. M. E. Colcord, master) parted her chain at Port Natal, and, losing one anchor, was forced by stress of weather to "bear away to Delagoa Bay," where she arrived on the 17th of May, with all her papers except a bill of health from the Portuguese consul at Port Natal; and it further appears that, notwithstanding the captain procured such a bill by telegraph, under the direction of the authorities at Dalegoa Bay, he was fined in the sum of about £15 sterling, and paid the amount under protest.

The above facts are admitted in the record of the imposition of the fine; and the statement is made that *vis major* and distress could not exempt from the fine, since no provision for such contingency was contained in the regulations.

Notwithstanding the absence of such a provision from the regulations, it is a principle universally accepted and founded in the strictest justice, that a vessel can not be held liable for a penal violation of port laws by being driven into port by stress of weather, a rule so clear and necessary that argument can not add any force to it.

It is hoped the Portuguese Government will remit the fine.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 103.]

Messrs. Mudgett & Co. to Mr. Bayard.

NEW YORK, December 12, 1888.

SIR: Herewith we beg to hand you an extract from a letter received from Capt. M. E. Colcord, of American bark *Carrie Heckle*, which will explain itself. We also inclose the vouchers in the case and respectfully ask you to urge the Portuguese Government to return the money exacted from the captain.

Yours, etc.,

A. MUDGETT & Co.

Extract from letter of Capt. M. E. Colcord, of American bark Carrie Heckle.

On the 9th day of May, 1888, we parted our chain at Port Natal, losing about 40 fathoms and the anchor, and, having only one anchor left, were obliged to bear away for Delagoa Bay.

We arrived at that place on the 17th, with all my papers except a bill of health from the Portuguese consul at Port Natal, which of course, under the circumstances, was impossible to obtain. All of which the American consul and myself explained to the Portuguese authorities at Delagoa Bay; whereupon they requested us to send to the Portuguese consul at Port Natal and get a bill of health by telegraph, which we did. When that arrived they let us go ahead and discharge our cargo.

On the day we went to clear, however, they told me, *for the first time*, that I must pay a *fine*, which amounts altogether to about £15 sterling. I protested, but it did no good, and they obliged me to pay it.

Now, I want to send these facts, with all the documents, to the State Department at Washington, and ask them to request the Portuguese Government to return the money so unjustly taken from me.

Mr. Lewis to Mr. Bayard.

No. 163.]

LEGATION OF THE UNITED STATES,
Lisbon, February 28, 1889. (Received March 16.)

SIR: Immediately upon the receipt of Department instructions No. 103, relating to the fine imposed upon the American bark *Carrie Heckle* by the Portuguese custom-house authorities at Lourenço Marques on the east coast of Africa. I addressed a communication dated 22d instant to Senhor Henrique de Barros Gomes, minister of foreign affairs, a copy of which accompanies this dispatch. I have this day received a communication from Senhor Barros Gomes, and forward inclosed copy and translation thereof.

I have, etc.,

E. P. C. LEWIS.

[Inclosure 1 in No. 163.]

Mr. Lewis to Mr. Gomes.

LEGATION OF THE UNITED STATES,
Lisbon, February 22, 1889.

SIR: I am instructed by my Government to call your excellency's attention to a case that has occurred in Delagoa Bay, on the east coast of Africa. It appears that on the 9th of May, 1888, the American bark *Carrie Heckle* (Capt. M. E. Colcord, master) parted her chain at Port Natal, and losing one anchor was forced by stress of weather to bear away for Delagoa Bay, where she arrived on the 17th May with all her papers except a bill of health from the Portuguese consul at Port Natal; and further, it appears that notwithstanding the captain procured such a bill by telegraph, under the direction of the authorities at Delagoa Bay, he was fined in the sum of about £15 sterling, and paid the amount under protest. The above facts are admitted in the record of the imposition of the fine, and the statement is made that *ris major* and distress could not exempt from the fine, since no provision for such contingencies was contained in the regulations.

Notwithstanding the absence of such a provision from the regulations, it is a principle universally accepted and founded in the strictest justice that a vessel can not be held liable for a penal violation of port laws, by being driven into port by stress of weather, a rule so clear and necessary that argument can not add any force to it. I am instructed to state that it is hoped that the Portuguese Government will remit the fine. I have the honor to inclose to your excellency a copy of the certificate from the president and secretary of the board of health at Lourenço Marques.

I avail, etc.,

E. P. C. LEWIS.

[Inclosure 2 in No. 163.]

*Mr. Gomes to Mr. Lewis.*MINISTRY OF FOREIGN AFFAIRS,
Lisbon, February 26, 1889.

SIR: I acknowledge the receipt of the note dated 22 current, which your excellency did me the honor to address me on the case of the fine imposed on the captain of the *Carrie Heckle* in Lourenço Marques.

I have forwarded an account of the contents of said note to the proper authorities, whose report I await before replying to your excellency.

I avail, etc.,

BARROS GOMES.

Mr. Loring to Mr. Blaine.

No. 7.]

LEGATION OF THE UNITED STATES,
Lisbon, August 9, 1889. (Received August 24.)

SIR: Referring to Mr. Lewis' dispatch 163, dated 28th February last, referring to the involuntary infraction by Captain Colcord, of the American bark *Carrie Heckle*, of a port regulation at Lourenço Marques, and for which he was fined £15 by the custom-house authorities at that port, I have now the honor to inclose copy and translation of note received from the minister of foreign affairs, dated 7th August, instant, stating that the fine exacted from Captain Colcord will be returned to him or his representative.

I have, etc.

GEO. B. LORING.

[Inclosure in No. 7.—Translation.]

*Mr. Gomez to Mr. Loring.*MINISTRY OF FOREIGN AFFAIRS,
Lisbon, August 7, 1889.

Upon the subject of the note which Mr. Lewis did me the honor to address to me on February 28 last past, I have the satisfaction to communicate to your excellency that the fine imposed upon the captain of the American bark *Carrie Heckle* has been remitted, and there will be returned to Mr. Colcord, or to his representative, the sum of 40,000 reis—amount of that fine.

I avail, etc.,

BARROS GOMEZ.

Mr. Adee to Mr. Loring.

No. 11.]

DEPARTMENT OF STATE,
Washington, August 30, 1889.

SIR: I have received your No. 7, of the 9th instant, reporting the remission of the fine imposed upon the *Carrie Heckle* by the Portuguese authorities at Lourenço Marques, and desire that you will convey to the minister for foreign affairs, a suitable expression of the gratification with which this intelligence has been received.

Messrs. A. Mudgett & Co., who brought the complaint to the Department's attention, have been advised of the remission of the fine and their direction touching its payment requested.

I am, etc.,

ALVEY A. ADEE.

Mr. Adee to Mr. Loring.

No. 12.]

DEPARTMENT OF STATE,
Washington, September 10, 1889.

SIR: The Department was glad to receive your No. 7, of the 9th ultimo, touching the remission of the fine imposed on Captain Colcord, of the American bark *Carrie Heckle*, at Lourenço Marques.

In view of a letter from Messrs. A. Mudgett & Co., of 39 South street, New York, dated the 5th instant, I have to ask that you will kindly collect the amount and remit the same to the above company through this Department.

I am, etc.,

ALVEY A. ADEE.

Mr. Loring to Mr. Blaine.

No. 11.]

LEGATION OF THE UNITED STATES,
Lisbon, October 15, 1889. (Received October 28.)

SIR: I regret to inform you that His Majesty Luiz I, King of Portugal, has after many months of ill health, become entirely prostrated and it is felt that his life is in danger.

The loss of the King will be great to the Portuguese people. Accomplished, judicious, patriotic, and devoted to his country, he has secured the affection of the community here, and the respect of all associate powers. The anxiety with regard to him is intense.

I have, etc.,

GEO. B. LORING.

Mr. Blaine to Mr. Loring.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 18, 1889.

Express President's deep concern at His Majesty's illness, and his earnest hopes for recovery.

BLAINE.

Mr. Blaine to Mr. Loring.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 19, 1889.

Suitably express President's sincere condolences upon His Majesty's lamented death.

BLAINE.

Mr. Loring to Mr. Blaine.

No 13.]

LEGATION OF THE UNITED STATES,
Lisbon, October 19, 1889. (Received Nov. 4.)

SIR: His Majesty King Luiz I died this morning at 11 o'clock. His health was failing when I arrived in Lisbon and he has steadily declined during the summer and autumn. His death will be deeply lamented by the Portuguese people. The telegram from the Department of State conveying the sympathy and hope of the President was forwarded to the foreign office immediately on its arrival. I have endeavored as the representative of the United States to perform every courtesy required on this sad occasion. My last personal inquiries at the palace at Cascaes, where the king died, were made yesterday, and my sympathy expressed.

I have, etc.,

GEO. B. LORING.

Mr. Loring to Mr. Blaine.

No. 14.]

LEGATION OF THE UNITED STATES,
Lisbon, October 21, 1889. (Received November 4.)

SIR: I most respectfully acknowledge the receipt of a cablegram from the Department of State, dated 19th October, relating to the death of the King of Portugal, in the following words:

Suitably express President's sincere condolences upon His Majesty's lamented death.

This cablegram I communicated to the foreign office in a note dated 21st instant, copy of which I transmit herewith.

I have also the honor to inclose copy and translation of a note, dated October 19, from the minister of foreign affairs, informing me of the death of His Majesty Dom Luiz I, and of the advent of Dom Carlos to the throne.

I also inclose a printed copy of the proclamation of His Majesty Dom Carlos I upon assuming the duties of his office, dated October 19, and a translation thereof.

I transmit, also, the proclamation of the prime minister Luciano de Castro, issued on the same occasion, with a translation thereof.

I have, etc.,

GEO. B. LORING.

[Inclosure 1 in No. 14.]

Mr. Loring to Mr. Gomes.

LEGATION OF THE UNITED STATES,
Lisbon, October 21, 1889.

SIR: The President of the United States has learned with pain the death of Dom Luiz I, King of Portugal, and I am instructed by cablegram from the Department of State, Washington, to express the sincere condolence of the President on the lamented decease of His Majesty. In giving expression to his own sympathy on this occasion the President speaks also for the American people, who appreciate the wisdom and dignity of the late King in his peaceful and prosperous reign and the loss the Kingdom suffers in his death.

To the Queen also the President extends his warm sympathy in Her Majesty's severe affliction.

I take this occasion to renew to your excellency my high consideration and to express the earnest desire of the President for the prosperity of the Kingdom under the reign which has just now commenced.

GEO. B. LORING.

[Inclosure 2 in No. 14.—Translation.]

Mr. Gomes to Mr. Loring.

MINISTRY OF FOREIGN AFFAIRS, POLITICAL DIRECTION,
Lisbon, October 19, 1889.

Oppressed with deep sorrow, I fulfill the sad and painful duty of communicating to your excellency that to-day, the 19th, at 11 o'clock and 5 minutes in the morning, God was pleased to call to His holy glory the King, Dom Luiz I, who succumbed after great and prolonged suffering to the grave malady with which he was afflicted.

His most faithful Majesty the King Dom Carlos, in succession in accordance with the terms of the constitutional charter, assumed the Government, has been pleased to confirm the ministry which was found in office, and resolved, in demonstration of his profound sentiment for the irreparable loss of his greatly loved and esteemed father, the King Senhor Dom Luiz, of most blessed memory, to seclude himself during the space of eight days; determining, also, that general mourning shall be assumed for a period of three months, half of that time deep mourning.

His Majesty the King Dom Carlos will not delay conveying to the knowledge of the Senhor President of the Republic this deplorable and sad intelligence, in the conviction which he feels of the Senhor President's great interest in everything which concerns his royal family.

I avail, etc.,

BARROS GOMES.

[Inclosure 3 in No. 14.—Translation.]

Proclamation of Dom Carlos I.

Portuguese! God was pleased to put a premature end to the life of the King Dom Luiz I, my esteemed and much loved father, after a reign of twenty-eight years which will remain marked in the history of the country as a period of peace, toleration, and liberty, of fruitful changes in the fundamental and organic laws, and of the most ample moral and material development.

In conformity with the political institutions of the monarchy I am called to preside over the destinies of the kingdom and for the best performance of the duties incumbent upon me I am sustained by the tradition left to me by the late sovereign and the veneration with which the Portuguese people regard his memory and partake with me and with the royal family in the great grief which afflicts us all alike.

In the most faithful execution of our political institutions, in the incessant effort to raise as far as in me lies the greatness and prosperity of my country, I will exercise, as it becomes me, the most conscientious diligence. In this way I will endeavor also to merit the affection of the people, and thus imitate the monarch who so well knew how to endear them to his person, and who was so early snatched from the endearments of his family and the respect and love of the entire nation.

Hastening then to fulfill a precept of the fundamental law of the monarchy: I swear to maintain the Roman Catholic apostolic religion, the integrity of the kingdom, to observe, and cause to be observed the political constitution of the Portuguese nation, and other laws of the kingdom, and to provide for the general welfare of the nation as far as in me lies; and I engage soon to ratify this oath before the General Cortes of the Portuguese nation.

I declare also that it pleases me that the actual ministers and secretaries of state continue in the exercise of their functions.

Palace, October 19, 1889.

(Countersigned by the ministers of state.)

DOM CARLOS I.

[Inclosure 4 in No. 14.—Translation.]

Prime Minister's proclamation.

His Majesty the King, Senhor Dom Luiz I, having died this day at eleven o'clock and five minutes in the morning, His Majesty the King, the Senhor Dom Carlos I, resolves, in demonstration of his great grief, to seclude himself for the period of eight days.

The same august seuhor ordains as follows :

That there shall be observed general mourning for the period of three months—deep mourning for the first half of that time, and light mourning for the latter.

That for eight successive days, counting from to-day, all business shall be suspended before the tribunals and public departments with the exception of fiscal offices and all stations of public health.

That all theaters and public amusements shall be closed during these eight days.

That the authorities shall order the observance of all demonstrations customary on similar occasions.

That on the day of the interment of the deceased monarch, which shall be solemnized as indicated in the programme, and which will be made known in due season, all persons who assist at similar funeral solemnities will present themselves either in their uniforms or in a dress of deep mourning.

That all these orders be announced to the authorities and persons interested, and to be put into force when printed in the "Diario do Governo" without waiting for further orders, and that from this moment all corporations and functionaries consider themselves as already having received notice.

Palace, October 19, 1889.

JOSÉ LUCIANO DE CASTRO.

SIAM.

Mr. Child to Mr. Blaine.

No. 80.]

LEGATION OF THE UNITED STATES,
Bangkok, June 30, 1889. (Received August 16.)

SIR: I have the honor to report that during the past three days the lower part of the city of Bangkok was held by a party of rioters, two Chinese clans, respectively from Swatow and Amoy.

It was only upon the appearance of the soldiery that the fighting was checked.

Inclosed I send clippings from the Bangkok Gazette, giving particulars. The prisoners are now undergoing examination, and the leaders will be summarily punished.

I have, etc.,

JACOB T. CHILD.

[Inclosure in No. 80.]

Riots among Chinese.

On Wednesday evening a serious conflict took place in the new road behind the rice mills, between the Chinamen from Swatow and those from Amoy, which resulted in the deaths of several of the rioters, and also it is said of one or two onlookers. Some of the rioters were armed with long bamboo poles sharpened at the end, and it is said shod with iron; others had fire-arms. The fighting was very keen and it may be imagined there were a good many killed and wounded. Some police came down but could do nothing, and the riot was only stopped by the darkness. It was resumed, however, next morning and continued all Thursday, the traffic on the road being completely stopped.

On Friday morning the military were called out and a large body of troops, both cavalry and infantry, was sent down to the scene of the disturbance and quickly put a stop to the rioting. It is a pity this step was not taken sooner. We hear that about 8 or 10 of the rioters were killed during the two days the disturbance continued, and a great many others wounded.

It is really time that the police were reorganized and placed in a condition to cope with these disturbers of the peace.

Later news.

Yesterday morning a squadron of cavalry under Captain Castenskiold, a detachment of infantry under Captain Schow, and at last, but not least, the marines under Commodore A. de Richelieu appeared on the scene of the riots. A lively fusillade took place and a good many Chinamen were killed and wounded; but it must be said that the Siamese soldiers acted humanely, and no unnecessary bloodshed took place. About six hundred Chinese were captured at the different rice mills and tied together in pairs with their pig-tails, which came in very handy for the purpose. About four hundred guns, revolvers, and spears were seized. Numbers of the rioters were caught in the water-tanks of the steam-ship *Hecate*, in her coal bunkers, and in the funnel, and some were caught bundled up in small baskets and among pig's fodder, with only the mouth and nose above the surface.

Mr. E. B. Gould, the British chargé d'affaires, accompanied by Mr. French, the acting consul, and several officials of the British legation, was on the scene of action and gave permission where the houses of British subjects had to be searched. Owing

to some requests addressed to the German legation having been written in Siamese, some delay occurred before searching Messrs. A. Markwald & Co.'s mill.

It is to be hoped that now the Siamese have shown themselves to be masters in their own country they will keep the upper hand of the Chinese and not permit anything of the kind to occur again.

The riots will cause heavy loss to the steam-ship lines to Singapore and Hong-Kong. The steam-ship *Hecate*, which should have left yesterday, is not yet discharged, the steam-ship *Hecuba* has been here since Thursday, and to-morrow the steam-ship *Hydra* is expected.

We hear that all the prisoners, numbering between thirty and forty, taken during the last riots some four months ago, were released after paying each 3 catties as a fine. We hope, although we are no friends of capital punishment, that the blood, especially of innocent passers-by, that has been shed on this occasion will not be avenged by mere money payments. We hope at least to see the rattan freely used upon the 600 now captured as a warning to themselves and other members of the secret societies.

Mr. Child to Mr. Blaine.

No. 82.]

LEGATION OF THE UNITED STATES,
Bangkok, July 30, 1889. (Received September 13.)

SIR: Adverting to the subject of the donation of property at Ratburi to the American Presbyterian Mission by His Majesty the King of Siam, I have the honor to inclose a translation of the letter of Prince Devawongse Varoprakar, minister for foreign affairs, announcing the signing of an agreement and the conveyance of the property.

I have, etc.,

JACOB T. CHILD.

[Inclosure in No. 82.—Translation.]

Prince Devawongse Varoprakar to Mr. Child.

FOREIGN OFFICE, *July 18, 1889.*

MONSIEUR LE MINISTRE: Referring to previous correspondence regarding the establishment of a hospital by the American Presbyterian Mission in Ratburi, I have the honor to inform you that His Majesty has been graciously pleased to grant the use of a government house to Dr. Hays and Dr. Thompson for that purpose, and that an agreement has been signed.

I have handed the official letter of the Kralahorne department to Phya Anarien-tharuchai, governor of Ratburi, to Dr. Hays and Dr. Thompson, so that they may take possession of the house.

Accept, etc.,

DEVAWONGSE VAROPRAKAR.

SPAIN.

Mr. Bayard to Mr. Belmont.

No. 27.]

DEPARTMENT OF STATE,
Washington, February 20, 1889.

SIR: I inclose with this dispatch copies of an extended correspondence which has recently taken place with Messrs. James E. Ward & Co., of New York, agents of the New York and Cuba Mail Steam-ship Company, and with the consular officers of the United States at Matanzas and Havana, in relation to the vexatious requirements of the Cuban customs regulations, by which minute and circumstantial declarations of manifested merchandise, which are unusual and unnecessary in the legitimate course of mercantile and shipping transactions, are demanded by the Cuban authorities; and whereby also fines are imposed without apparent recourse of revision or appeal in cases of shortage in the delivery of cargoes under circumstances admitting of the conclusive establishment of good faith in the transaction.

Although the correspondence herewith transmitted relates to two different causes of complaint, it has seemed convenient to embrace them in one instruction, inasmuch as the conclusion reached in both cases involves the same treatment in their presentation and suggests the same remedy.

The files of your legation for the last sixteen or seventeen years contain a mass of correspondence in relation to the general subject of vexatious and obstructive treatment of commerce by the Spanish colonial officials through the imposition of wholly disproportionate penalties for trivial errors in the preparation of the manifests of vessels and for accidental irregularities in the cargo they carry. It would be convenient for you to familiarize yourself with so much of the correspondence in question as may be applicable to the question treated of in the present instructions. You may in particular consult the correspondence which took place in the early part of 1873, when concurrent action was had by the representatives of the United States, Great Britain, Germany, and Sweden and Norway at Madrid, in the effort to obtain some amelioration of the existing restrictions upon trade; and you will also find the subject referred to in the instructions and correspondence which preceded the negotiation of the original Foster-Ruiz *modus vivendi* of 1884.

Messrs. Ward & Co. complain in the first instance of the imposition of a fine of \$800, at Matanzas, upon the steamer *Manhattan*, of their line, in July last, because her cargo was found upon discharge to be short four tierces of lard. The facts of the case are very simple and the explanation of the shortage and establishment of complete *bona fides* in the transaction are conclusive, and yet it appears that the financial authorities of the Island of Cuba raise technical objections to considering the case in the light of the evidence presented and allege their incompetency to revise or reverse the decision of the predecessor of the present general administrator of customs.

It appears that the steamer *Manhattan*, in the course of her regular

trip by way of Havana from New York, arrived at Matanzas on the 28th of July last. When her cargo was unloaded it appeared that the four tierces of lard in question, while borne upon the vessel's manifest, were not found on board. The maximum fine of \$200 for each missing package was thereupon imposed, but was not immediately collected pending inquiry to ascertain whether the missing packages might not have been delivered at the intermediate port of Havana. They were not so delivered. Meanwhile it was ascertained that the four missing tierces had by accident been left upon the wharf at New York, and on the next voyage of the steamer *Manhattan* they were put on board, carried to Matanzas, and there entered, upon payment of duties, apparently under the original manifest of the voyage of the 28th of July. The agents of Messrs. Ward & Co. at Matanzas seem to have regarded the affair as ended by the production and entry of the missing packages, and took no steps by way of appeal from the fine until the 1st of September following, when they were advised by the collector of customs at Matanzas that the fine in question must be paid. The intervention of the consul of the United States at Matanzas was exerted to procure suspension of the collection of the fine in order to permit the consignees to obtain from New York, under the seal of the Spanish consulate, duly-certified proof that the four tierces of lard had been in fact left on the wharf at New York, which certificate was duly received and communicated by the consul to the collector of customs at Matanzas on the 26th day of September, 1888. The collector, however, persisted in claiming the payment of the fine; and on the 14th of December the consignees presented their case anew by way of appeal through the consulate-general at Havana, to which the consulate at Matanzas referred the case. On the 27th of December the consul-general, Mr. Williams, informed the consul at Matanzas that on presenting the case to the intendente-general and the central administrator of customs, he found that the case had already been passed upon and decided two months before by the predecessor of the present intendente, who, it was therefore said, could not reverse the decision.

It is not easy to conjecture the grounds upon which an adverse decision confirming the fine in question was reached, as stated, in October last, when the authorities at Havana must have had before them full explanation of the shortage and conclusive proof of the absence of all bad faith in the transaction, which was furnished by the certificate of the Spanish consul-general at New York, dated September 18, 1888, and when they must have had knowledge that the missing tierces had been subsequently produced and entered in perfect good faith; and the refusal of the financial administrator of authorities at Havana to review the case, upon appeal being made through the authoritative channel of the United States consulate-general at Havana, is equally inexplicable.

The whole proceeding illustrates the constant tendency in the administrative procedure of Cuba to regard the original application of a penalty under a strict and technical, although morally indefensible construction of the letter of the Spanish customs law as a conclusive disposition of the case, and to interpose further technical obstacles to all attempts at explanation, justification, or appeal. In this respect, the Spanish system is in striking contrast with that which is pursued in the United States and the benefits of which are secured to Spanish vessels entering our ports under the existing *modus vivendi*, as Consul-General Williams well points out in his dispatch No. 912, of January 30 last. While in this country good faith is made the sole test in the case of questioned enforcement of a penalty, and where the law expressly pro-

vides that no fine shall be collected or punishment inflicted if satisfactory explanation of the penalized short-coming can be made, the Spanish procedure appears to follow a directly contrary rule, and to surround with every possible obstacle, any attempt of the parties in interest to explain the case or exculpate themselves from the charge of violation of the law. In brief, while the United States law punishes only the wilful infraction thereof, the Spanish law appears to be designed to furnish opportunities for technical exaction of penalties, even though the absence of all wilful intent to do wrong is patent.

It is true that on some occasions in the past, upon representation made through the United States legation at Madrid, conclusively establishing good faith and absence of intent to defraud, fines have been in part remitted; although it is to be remarked that even in such instances justice has been but tardily rendered to the injured party, and the redress furnished has been inadequate owing to the alleged incompetency of the Government of Spain to remit the moiety of the fine collected and paid to the informers. The viciousness of this moiety system and its injurious effects upon commercial operations have been heretofore abundantly represented in the instructions sent to your predecessors, and it therefore appears unnecessary in this connection to do more than advert to this point, in the assumption that you will bear it fully in mind in the execution of the present instructions.

But even the fact that tardy and partial reparation may be at times obtained in this round-about way, serves only to emphasize the contrast which it is now sought to point out as existing between the customs administrative procedure in the United States and in Spain and its dependencies. So long as this complete diversity between the two systems of procedure exists, and so long as direct, speedy, and simple resort to administrative relief does not enable those parties who may be injured by the technical application of Spanish law to exonerate themselves from any charge of wilful intent to defraud and to furnish satisfactory explanation of the charges against them, it can not be said that a full and complete reciprocity in this regard exists between the United States and the Spanish Antilles.

Another aspect of the general question now under consideration is presented by Messrs. Ward & Co., respecting the requirements of the Spanish customs law that the manifest of cargo while conforming in every respect to the bills of lading signed by the master or agent of the vessel shall yet contain a minute description of the articles shipped, specifying among other things, not only the generic character of the merchandise but the specific character or composition thereof. The ground of the particular complaint they present in the imposition of small fines in June and July, 1888, and January, 1889, upon the master of the steamer *Cienfuegos* for using the word "drugs" in the manifests presented, it being claimed by the collector who imposed the fines that under paragraph 26, art. 3, of the general orders to be observed by captains of vessels trading between foreign ports and the Island of Cuba, issued by Spanish royal decree on May 1, 1881, the employment of a vague term like the word "drugs" is punishable by a fine as aforesaid. The complainants, however, represent that the phrase in question is habitually used by the whole commercial world to distinguish mixed consignments of assorted drugs and medicines, and that it so appears, customarily, in bills of lading.

The Spanish requirement is open to many objections, not the least of which is, that it seems to contemplate the regulation or modification by municipal law of the mercantile procedure of other communities by

constraining them to adopt new and unusual methods of describing merchandise for which usual, legitimate, and sufficient descriptions are already employed in the course of commerce. The change, if effected at all, must be in the bills of lading prepared by the exporting merchants and presented to the agents of the steam-ship companies. Common carriers ordinarily possess no other means of knowledge of the contents of packages than the contents of the bills of lading. They are, besides, constrained under heavy penalties by Spanish law to make their manifests an exact copy of the bills of lading presented.

This phase of the question was very fully discussed at Madrid on the occasion above referred to in 1883. The vexatious character of the constantly recurring fines upon masters of vessels upon trivial allegations of error or irregularity in the preparation of the manifest, for which neither the master nor the owners of the vessel could in any way be justly held responsible, was then thoroughly exposed.

It was pointed out on behalf of the complaining governments that where mercantile usage regarded such descriptions as "shooks and heads," "flour," "nails," and the like, as full and sufficient descriptions of the ordinary merchandise carried, it was a needless and onerous requirement to insist that the shooks and heads should be described as of *wood*; the flour as made from *wheat*; and the nails as of *iron*. Moreover, it appeared clear that it was no part of the business of the ship-owner, as a carrier, to verify the contents of packages as stated in the bills of lading; that they were without the knowledge in most cases which would enable them to correct, when they came to make up the manifests of the vessels, any errors of statements in the bills of lading presented to them; and, further, that any correction of or departure however trivial from the language of the bill of lading, when discovered in the manifest, became a separate pretext for a fine.

Recognizing the justice of these representations, the Spanish Government adopted a more equitable rule in apportioning responsibility for so-called errors in the generic and specific description of imported merchandise, by providing that where an error was discovered to have originated in the bill of lading, and to have been reproduced in the manifest, the consignees should be held responsible, and not the owners or the master of the vessel. It does not appear in the particular instance presented by Messrs. Ward & Co., of the fines upon the *Cienfuegos*, that this rule was applied, or that the errors, so penalized, originated in the preparation of the steamer's manifest. It is, on the contrary, to be inferred from the letter of Messrs. Ward & Co., of January 25, that the description of the contents of papers or packages of medicines as "drugs" originated in the bills of lading, and it is further stated in the protest of the master of the *Cienfuegos*, that such method of description has been used for a number of years on the island of Cuba, and as such, had up to the time of imposing the fines referred to, been accepted by the Spanish custom-house authorities as good and sufficient.

Assuming that this statement of the master of the *Cienfuegos* is correct (and there seems but little reason to doubt its accuracy, as he speaks of a matter constantly within his knowledge, and under his observation in the course of frequent voyages), it would seem that a new and ingenious device for the imposition of a fine has been discovered by the customs authorities of Cuba. Under the obnoxious system which governs the imposition of such fines, the interested motives of the customs authorities at the port of entry to strain the letter of the law to the utmost against the master or the importer is evident, and this powerful incentive necessarily overlooks considerations of equity, and, by dis-

regarding the most ordinary usages of commercial intercourse, an obstacle is placed in the way of legitimate trade. No just principle of responsibility is discernible in these penal proceedings. No fraud is perpetrated. Duties are not paid upon the manifested descriptions or values of goods. The ascertainment of the exact contents of any package for the purpose of assessing customs duties thereon pertains to the revenue officers of the port of entry, who of course are governed by the precise regulations and requirements of the revenue law; and it is not to be expected, nor is it in any way practicable, that the shippers of goods, much less the mere carriers of merchandise can be made a part of the machinery for the enforcement of all the intricate details of the Spanish revenue laws. The question seems to be much larger in its scope than one of mere form and detail. The enlightened policy of the governments of our day is to extend as far as possible all operations of legitimate commerce, to remove the burdens which oppress and the obstacles which hinder a full and fair interchange of the commodities and productions of neighboring communities; and it is to this end that the present representations are addressed through you to the Government of Spain.

The existing *modus vivendi* in regard to commerce between the United States and the dependencies of Spain was doubtless a great step forward in this direction, in that it recognized a just principle of reciprocity in the commercial treatment of imports and exports and of the vessels carrying the same. It would seem to be the part of wisdom and foresight still further to extend the principle of reciprocity and to emphasize the principle of non-discrimination by incorporating in the present agreement a provision for the treatment of American vessels and their cargoes in the colonial ports of Spain on a footing approximating to the treatment which is extended in the ports of the United States to Spanish vessels and their cargoes, particularly in respect of penalties for alleged violations of customs laws. It is but fair that we should expect and obtain the same prompt opportunity in Cuba and Porto Rico for appeal to a superior authority for the remission of technical, but often enormously disproportionate, penalties for so called errors, themselves merely technical, not conducive to fraud, not involving any intent of wrong doing, and capable of simple and sufficient explanation in good faith.

I have, therefore, to instruct you to present this important matter for the consideration of the Government of Her Majesty the Queen Regent. In doing so you will adopt such method of presentation as may appear to you best adapted to the end in view, fortifying your argument with such citations of examples and cases in point from the present instruction or from those addressed to your predecessors and to be found upon the files of your legation as you may deem expedient. You will bear in mind that your present object is not so much to obtain consideration and redress of the complaints herein presented, as to lay down a rule of action which will do away with the causes of such complaints in the future.

A convenient method of accomplishing this result would be the inclusion of an article or articles in the existing commercial arrangement, following as far as possible the draught articles 9 and 10 of the proposed commercial treaty with Spain which was submitted to me by your predecessor, Mr. John W. Foster, on the 16th of April, 1885, and which is referred to in my instruction to Mr. Curry, No. 27, of January 22, 1886. For your greater convenience of reference, I here quote the text of those draught articles:

ART. 9. The two high contracting parties mutually stipulate by the present treaty that the fines and pecuniary penalties which may be imposed, and the product of the

forfeitures which may result from violations of the laws and of the customs ordinances of the United States and of the islands of Cuba and of Porto Rico, when the fines, penalties, and forfeitures proceed from violations of said laws and ordinances committed in the commerce of importation and exportation of said States and islands, shall be paid in full into the public treasury of said States and islands and shall remain absolutely under the control of the respective Governments, without being received directly and with any preferred or any other kind of right by any informer or by any other individual.

The laws and regulations of each one of the two contracting parties shall establish the manner of recompensing individually the services rendered by public officials in the prosecution of fraud.

ARR. 10. The two high contracting parties mutually agree that no fines or penalties shall be imposed either in the custom-houses of the United States or in those of the islands of Cuba and of Porto Rico on the vessels of Spain or of the United States, or on the captains thereof engaged in the commerce of importation or exportation between the said States and islands, on account of errors or omissions in the manifests of any part of the cargo of said vessels, if it shall appear that said manifests agree with the bills of lading of said cargo, unless it is proved that there has been complicity on the part of the captains or owners of the vessels in the attempt to defraud the treasury by said omissions or errors.

It is further agreed that the conductors or carriers of merchandise with whose importation the attempt may be made to violate the laws, ordinances, or regulations established by the respective Governments to prevent fraud in the commerce of importation or exportation between said States and islands shall not incur responsibility, fine or imprisonment, unless the complicity of the said carriers in the attempt to commit it is proved. Vessels are also exempt from responsibility and fine if complicity on the part of the captains or owners of the vessels in the commission of the fraud is not proved.

These propositions, which reproduce, with some verbal modification and explanation, the text of the commercial convention signed by my predecessor, Mr. Frelinghuysen, having already received the full assent of the Spanish Government, it is not conceived that any objection can now exist to their incorporation in the existing *modus vivendi*.

It would, moreover, be advisable to add to them a provision for the prompt and equitable disposition of cases in administrative appeal in the first resort to the superior customs authorities of the locality in the way permitted by our laws, and with opportunity satisfactorily to explain the delinquency which may be caused and to establish good faith in the transaction.

The report of your action upon this instruction will be awaited with interest.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 27.]

Mr. Pierce to Mr. Rives.

No. 87.]

UNITED STATES CONSULATE,
Matanzas, January 22, 1889.

SIR: I have the honor to report for the knowledge of the Department the following particulars regarding a fine upon the American steamer *Manhattan*, imposed by the customs authorities of this port, for alleged non-delivery of 4 tierces of lard, on her trip to Matanzas from New York, touching at Havana and arriving here on the 28th of July last.

At the time stated I was absent from Matanzas on leave in the United States, but returned to my post and resumed charge of my office on the 1st of September. After my return the matter of the fine was for the first time brought to the attention of this office by a letter from Messrs. Bea, Bellido & Co., the consignees of the steamer and agents of the owners, Messrs. James E. Ward & Co., of New York, who transmitted to me two communications received by them from the principal administration of customs; one notifying them that the fine imposed was still pending and the other demanding its immediate payment.

I learned from Messrs. Bea, Bellido & Co. that the short delivery of 4 tierces of lard, for which fault the fine of \$800 had been imposed, had occurred by the said tierces having been left on the wharf of New York at the time of shipment of the steamers'

cargo for that trip, as would be satisfactorily proven to the custom-house by a document from the Spanish consul in New York, which was shortly expected, and they for the *first time* called upon my official services in the interest of the vessel, to request from the collector the delay of a fortnight within which to present the certificate referred to.

I therefore addressed a communication to that effect to the collector of customs, dated the 11th of September, and in their name as consignees of the steamer requested him to suspend the collection of the fine until the receipt of the consular document referred to by Messrs. Bea, Bellido & Co.

In reply to this I received a communication from the administrator principal of customs to the effect that it was impossible to grant my request, and I communicated the same verbally to Messrs. Bea, Bellido & Co.

Under date of the 25th of September, Messrs. Bea, Bellido & Co. again addressed me, inclosing for my information an official notification, addressed to them on that same date, from the principal administrator of customs, exacting payment of the fine, and also, for transmission, the certificate referred to, received from the Spanish consul at New York, showing the causes which gave rise to the non-delivery at the proper time of the 4 packages referred to. This certificate, together with a copy of the letter of Messrs. Bea, Bellido & Co. to me, I transmitted to the administrator under date of the 26th of September.

From this latter date I have received no communications whatever from the customs authorities not even the acknowledgement of my official communications to them; nor did I hear anything further in the matter until the 14th December, when I received a letter from Messrs. Bea, Bellido & Co. I had supposed during this interval that the matter had been passed and disposed of, and I was waiting to receive some intimations to that effect in order to report the case to the Department of State.

In their letter of the 14th December, Messrs. Bea, Bellido & Co. relate the circumstances which gave rise to the fine, and state that they had been defending the interests of Messrs. James E. Ward & Co., of New York, which the custom-house here had tried to injure in the case of the steamer *Manhattan*, and for the first time call upon me as the representative of American interests in this city to take up the defense of Messrs. James E. Ward & Co., the owners of said steamer, as all their efforts had been exhausted and they were being proceeded against for the immediate payment of the said fine imposed upon the *Manhattan*, and they stated further they consider that pending such action as this consulate might deem it convenient to take his excellency the governor-general should be asked to order these customs authorities to suspend all proceedings against them as consignees.

In consequence of their letter I addressed a letter to the consul-general at Havana, and after the receipt of his reply by letters of the 22d and 26th December I communicated its substance to Messrs. Bea, Bellido & Co.

I have also sent a full report of this case to the consul-general at Havana.

I accompany herewith copies and translations of the correspondence in the subject.

I am, etc.,

FRANK H. PIERCE.

[Inclosure 2 in No. 27.—Translation.]

Mr. Osorio to Messrs. Bea, Bellido & Co.

MATANZAS, September 1, 1888.

It being duly established that the 4 tiers of lard, which appeared short upon the discharge of the American steamer *Manhattan* on her trip of the 28th of July last past have not been discharged neither in Havana, nor in this port, nor in Sagua, which are the only ports at which said steamer touched; and the certificates of those custom-houses, which prove this fact, being added to the proceedings instituted by this administration, the fine of \$800 imposed, in accordance with the regulations, still remains in force, and I have to request you to make due payment thereof, that this administration may avoid the necessity of proceeding to collect it by judicial process.

May God keep you many years.

PEDRO OSORIO.

[Inclosure 3 in No. 27.—Translation.]

Mr. Osorio to Messrs. Bea, Bellido & Co.

MATANZAS, September 10, 1888.

As a reminder of my communication of the 1st instant, I repeat to you for the last time the necessity of making payment on this day to this administration of the \$800 fine imposed, in accordance with article 30, paragraph 3, of custom-house regula-

tions, on 4 tierces of lard which appeared short upon the discharge of the American steam-ship *Manhattan* on her trip of the 23th of July last past, and if payment thereof is not made, you are notified the same will be judicially enforced.

May God keep you many years.

PEDRO OSORIO.

[Inclosure 4 in No. 27.—Translation.]

Messrs. Bea, Bellido & Co., to Mr. Pierce.

MATANZAS, September 11, 1888.

We have the honor to inclose to you herewith two communications received from the principal administration of customs, referring to a fine imposed on the captain of the American steam-ship *Manhattan* for non-delivery of packages. As it demands of us payment by judicial procedure, we refer the matter to you, that you may notify the said captain.

BEA, BELLIDO & CO.

[Inclosure 5 in No. 27.—Translation.]

Mr. Pierce to the Principal Administrator of Customs.

CONSULATE OF THE UNITED STATES,
Matanzas, September 11, 1888.

I have the honor to accompany herewith a communication addressed to me by Messrs. Bea, Bellido & Co., referring to a fine imposed for 4 tierces of lard, which resulted short, upon the discharge of the American steamer *Manhattan*, in her trip of the 23th of July last. As I am informed by Messrs. Bea, Bellido & Co., the certificate of the Spanish consul at New York, proving that the said tierces were left behind in that port, is expected to arrive within a fortnight; and therefore in the name of said firm I beg you will be pleased to order the suspension of the collection of the said fine until the said consular certificate is received.

May God keep you many years.

FRANK H. PIERCE

[Inclosure 6 in No. 27 Translation.]

Mr. de Rosales to Mr. Pierce.

MATANZAS, September 13, 1888.

In answer to a communication which in the name of Messrs. Bea, Bellido & Co. you addressed me yesterday, requesting the suspension of the payment of the \$800 fine imposed on the captain of the American steam-ship *Manhattan* for deficiency of 4 tierces of lard on discharge of her trip of the 23th of July last past, I must inform you that it is impossible for this office to grant your request. The penalty was imposed in accordance with paragraph 13 of article 121 of the regulations, and this administration has no power to derogate superior orders.

May God keep you many years.

AUGUSTO DE ROSALES.

[Inclosure 7 in No. 27—Translation.]

Messrs. Bea, Bellido & Co., to Mr. Pierce.

MATANZAS, September 25, 1888.

In order that you may remove the fine imposed on the captain of the American steamer *Manhattan* for packages undelivered to this custom-house, we inclose a consular certificate stating the causes which prevented the delivery of said packages at their proper time.

We also inclose a communication from the principal administration of customs, exacting the payment of said penalty, but as we have definite orders from the agents

of the company, Messrs. James E. Ward & Co., of New York, not to pay any amount on this account, we inform you thereof for such action you may deem convenient to take.

BEA, BELLIDO & Co.

[Inclosure 8 in No. 27.—Translation.]

Mr. de Rosales to Messrs. Bea, Bellido & Co.

MATANZAS, September 25, 1888.

By virtue of the answer given by this administration to the communication forwarded in your name by the consul of the United States in this city on the 13th instant, I take the liberty of reminding you of the payment on this day of the \$800 fine imposed for the four tierces of lard, which resulted short on the discharge of the American steam-ship *Manhattan* on her trip of the 28th July last, in order to avoid judicial proceedings against you, according to the regulations of this custom-house, if you persist in refusing payment thereof.

May God keep you many years.

AUGUSTO DE ROSALES.

[Inclosure 9 in No. 27.—Translation.]

Certificate of the Spanish Consul-General at New York.

The undersigned, consul-general of Spain in New York, do hereby certify, that from the documents exhibited and from statements made by the members of the firm of Messrs. James E. Ward & Co. it appears that, due to the confusion of cargo which they had in their wharf, and which was occasioned by commencing just at that time the double working service, which they have since then established, and by an error made by the wharf clerk, four tierces of lard, marked G G, bound for Matanzas and belonging to the lot contained in bill of lading No. 25 of the manifest of cargo shipped by the steamer *Manhattan* for said port on the 21st July, were left behind on the wharf, and that the said four tierces of lard were shipped on the same steamer *Manhattan* on the 1st instant without being manifested, because they had already been declared on the manifest of the previous trip.

I further certify that the said firm of Messrs. James E. Ward & Co. enjoys a good reputation in this city and is worthy of full faith and credit.

In testimony whereof, given at New York, this 18th day of September, 1888.

[SEAL.]

MIGUEL SUAREZ.

[Inclosure 10 in No. 27.—Translation.]

Mr. Pierce to administrator of customs.

CONSULATE OF THE UNITED STATES,
Matanzas, September 26, 1888.

I have the honor to inclose for your consideration the copy of a communication from Messrs. Bea, Bellido & Co. of this city, referring to a fine imposed on the American steam-ship *Manhattan* for packages undelivered to that custom-house, as also the certificate of the Spanish consul-general at New York, to which the said communication refers.

May God keep you many years.

FRANK H. PIERCE.

[Inclosure 11 in No. 27 Translation.]

Messrs. Bea, Bellido & Co. to Mr. Pierce.

MATANZAS, December 14, 1888.

In the name of the American firm of Messrs. James E. Ward & Co., of New York, we have been defending their interests which this administration of customs has endeavored to injure in the case of the American steamer *Manhattan*, as we are ready to prove.

On the 28th of July last the American steam-ship, *Manhattan* entered this port of Matanzas from New York and Havana, and on finishing her discharge the captain observed that four tierces of lard declared in the manifest were short.

It was thought at the time, as occurs frequently, that the aforesaid four tierces had been discharged by mistake in some other port, and therefore, as it is customary, the administration was officiated claiming them, but were not remitted, as they were not discharged in the port of Havana.

In view, therefore, that the four tierces of lard were not received, the custom-house of Matanzas imposed on the captain of the *Manhattan* a fine of \$800—say \$200 for each package undelivered.

In the course of the proceedings for the collection of the fine, we received a certificate from the Spanish consul-general residing in New York, in which it appeared that the four tierces of lard, which were short in the manifest of Matanzas, had not been shipped at that port, and would be forwarded by the same vessel on her following trip, and were received by the custom-house of Matanzas, as appears in the documents of the case.

It seemed logical, Mr. Consul, that the cause of the non-delivery of the tierces being explained, and there not being the least indication of an attempt to commit a fraud; that the proceedings for the collection of an unreasonable penalty should be suspended. But we find with surprise, that in the present case, the custom-house of Matanzas, notwithstanding that tariff duties had been collected on a merchandise received and acknowledged, persists in the collection of the fine of \$800 for the tierces that were not delivered on the first trip, and the extra penalty of double duties to the same, which were left unshipped in New York.

In all countries the repression of fraud has two principal objects. The first is no other than the energetic campaign that is actually maintained by his excellency the governor-general in defense of the interests trusted him by his government; the second, the relief of the public morality.

Now, Mr. Consul, which is in this case the fraud pretended to be punished, which the offense inferred to the public morality? Are not the undelivered packages in possession of the administration?

The penalty of \$200 for each package is applied to packages which do not appear, but never to those which are delivered, as they are declared in the manifest.

What is then the law—the legal principle in which the administration bases such a collection?

If such principle is adopted hereafter, what would become of captains of vessels, who, as a general rule, on their discharges report a surplus or a deficit, because in the ports they touch they sometimes discharge more or less of their cargoes without a fine being imposed, unless there is an absolute deficiency of packages?

If the reasons stated are not sufficient to show the groundlessness of the fine, ought not credit be given to an official of the Spanish Government, as is the consul of New York, and does not the certificate stating the facts, added to the documents in the case, answer the purposes for which it was drawn?

Lastly, is it not ordered that fines imposed on captains remain in suspense and can only be applied in cases in which a fraud is proved?

We address you as the representative of American interests in this city, in order that you may undertake the defense of Messrs. James E. Ward & Co., as our efforts have been exhausted, and we are judicially proceeded against to make payment of the fines imposed on the American steam-ship *Manhattan*, belonging to Messrs. James E. Ward & Co., of New York.

In the meantime, while the facts are cleared, before the efforts that that consulate may establish, we consider convenient to request his excellency the governor-general to order that all judicial proceedings against us, as consignees, be suspended by this administration of customs.

Very respectfully, etc.,

BEA, BELLIDO & Co.

[Inclosure 12 in No. 27.]

Mr. Pierce to Mr. Williams.

CONSULATE OF THE UNITED STATES,
Matanzas, December 18, 1888.

SIR: I have the honor to inclose copy of a communication received from Messrs. Bea, Bellido & Co., of this city, relating to a fine imposed on the American steam-ship *Manhattan*, in which the facts, as I understand, are correctly stated.

I am informed by Messrs. Bea, Bellido & Co., that the certificate referred to from the Spanish consul at New York, as well as other papers relating to the case, were forwarded to the administration central de aduanas in Havana, where they now are.

Respectfully, etc.,

FRANK H. PIERCE.

[Inclosure 13 in No. 27.]

Mr. Williams to Mr. Pierce.

CONSULATE-GENERAL OF THE UNITED STATES,
Havana, December 22, 1888.

SIR: I have to acknowledge receipt of your letter of the 18th instant, inclosing the copy of a communication addressed to you by Messrs. Bea, Bellido & Co. of Matanzas, informing you of the fine of \$800 imposed on the American steamer *Manhattan* for the non-delivery of 4 tierces of lard, on her voyage to Matanzas, the 28th of last July. I called yesterday in relation to this matter at the office of the intendencia-general. Both the intendente-general and administrador central de aduanas were very attentive in giving me information upon this subject; but I found that the case had already been passed upon and decided two months ago, by the predecessor of the present incumbent, who, you will readily understand, can not now, under the law, revoke the sentence. I would suggest, for the information of Messrs. Bea, Bellido & Co., that in cases where consular interference is invoked, it be done at the proper time and stage of the proceedings.

Respectfully, etc.,

RAMON O. WILLIAMS.

[Inclosure 14 in No. 27.]

Mr. Williams to Mr. Pierce.

CONSULATE-GENERAL OF THE UNITED STATES,
Havana, December 26, 1888.

SIR: After writing my letter to you on the 22d instant in relation to the fine of \$800 imposed on the steamer *Manhattan* for the alleged 4 tierces of lard not delivered according to manifest, I had a visit from and an interview upon the subject with Capt. Frank Stevens, the commander of that steamer, and he tells me that he delivered his cargo all right that trip, and that the dispute pending originated in a private matter of Messrs. Bea, Bellido & Co. As this is a question of a fine imposed upon an American ship in your consular district, and the information of it having been communicated by you to this office for the first time five months after it occurred, and as in the regular course of business it must be reported to the Department of State, you will please communicate to me whatever facts are on record at your office tending to exculpate the steamer

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 15 in No. 27.]

Mr. Pierce to Messrs. Bea, Bellido & Co.

CONSULATE OF THE UNITED STATES,
Matanzas, January 9, 1889.

GENTLEMEN: I have to acknowledge the receipt of your letter of the 14th ultimo referring to the fine imposed by the customs authorities at this port upon the American steam-ship *Manhattan* on her voyage of July 28 last, for the non-delivery of 4 tierces of lard, and also stating that you had been defending the interests of Messrs. James E. Ward & Co., of New York, but your efforts proving futile, you now request this consulate to undertake the defense, and pending such action as it might deem convenient to take in the matter, to endeavor to have the governor-general of the island order the suspension of proceedings against you as consignees of the said steamer.

I beg to inform you that I transmitted a copy of your letter aforesaid, on the 18th

ultimo to the United States consul-general at Havana, with a statement of the case, asking his intervention before the superior authorities of the island.

The consul-general in reply informs me that he has called personally upon the intendente-general de hacienda and administrador central de aduanas, and has found that the case had already been passed upon and decided some two months ago by the predecessor of the present incumbent, who could not now reverse the decision.

Respectfully, etc.,

FRANK H. PIERCE.

[Inclosure 16 in No. 27.]

Messrs. James E. Ward & Co. to Mr. Bayard.

NEW YORK, January 25, 1889.

SIR: We would respectfully call your attention to the annoyance and constant small fines to which our ships are subjected in Cuba by the absurd position taken by the customs authorities there, whereby they claim, after our manifest has been certified and accepted by the Spanish consul in New York, that they are entitled to fine us when such generally accepted terms as "drugs" and other similar ones are used in the description of contents of packages. The Spanish laws require that our manifest should be an exact copy of the bills of lading signed by the master or agent of the vessel, and our manifests are so made and certified by the Spanish consul in New York, and it would be absolutely impossible in the time which is allowed for our preparing these documents to specify on them all the minutiae of the contents of a case of druggist's materials, for instance.

We inclose for your information copy of the protest entered in Santiago de Cuba before the United States consul by Captain Lodge Colton, of the steam-ship *Cienfuegos*, and would respectfully request that instructions be issued by your Department to the consul-general at Havana that he may endeavor to come to some arrangement with the authorities at that port whereby we may be relieved from similar annoyances in the future.

We respectfully submit that the whole commercial world is in the habit of signing bills of lading as drugs, merchandise, or any similar vague term, and that it is generally understood that it becomes the duty of the customs officials, in the various ports, to require of the consignees of goods, and not of the ship, a detailed account of the contents of each package. If the Spanish idea is to prevail, it would seem that our captains and officers are to be employed as custom-house officials of the Spanish Government. Respectfully urging upon you the importance of the matter in question and the necessity of prompt action, in the interest not only of our own ships but of all American vessels trading with ports in the Island of Cuba,

We remain, etc.,

JAMES E. WARD & CO.

[Inclosure. 17 in No. 27.]

Protest of Captain Colton.

By this public instrument be it known that on this 18th day of January, before me, Otto E. Reimer, consul of the United States at Santiago de Cuba and dependencies thereof, duly commissioned and sworn, personally appeared Lodge Colton, master of the steamer called the *Cienfuegos*, of the burden of 1,630 tons, now lying in the port of Santiago de Cuba, and said that his vessel is trading between this port and New York in regular voyages. On arriving at this port he has, in conformity with the custom-house regulations of this port, always duly presented the manifest of his cargo, certified to by the Spanish consul at New York. Under paragraph 26, article 3 of the general orders to be observed by captains of vessels trading between foreign ports and the Island of Cuba, issued by Spanish royal decree on May 1, 1881, the collector of customs at this port has imposed on various dates, to wit, July 13, 1888, \$30; June 13, 1888, \$10, and January 18, 1889, \$10, fines for using the word "drugs" in the manifest presented, claiming that such term is a vague term, and as such the employing of the word "drugs" is punishable by a fine under the latter part of the paragraph article before quoted. Whereas this paragraph does not define the word "drugs" as a vague term, and such word is a commercial term in use among all nations, and has been used to express the contents of cases or packages of medicine for a number of years on the Island of Cuba, and as such has, up to the time of imposing of the above mentioned fine, been accepted by the Spanish custom-house authorities, he says and

claims that the word "drugs" is not a vague term, and is consequently not punishable by a fine under above quoted orders.

Furthermore, in certifying the manifest of the cargo the Spanish consul in New York accepts the term "drugs" as sufficient to fill the requirements of Spanish laws and regulations.

Again, he says that the master of a vessel by commercial laws indorses on the bills of lading he signs "weight and contents unknown," and it is an absolute impossibility to minutely describe the contents of a package or case of drugs. The bills of lading stating the word "drugs," this word has been copied on the manifest, and he now enters with me, the said consul of the United States, this protest against the Government of Spain for imposing the fines before mentioned, holding said Government of Spain responsible for all losses and damages that may hereafter accrue, and for the amount of the fines, with interest, as imposed by the custom-house authorities of this port.

In testimony whereof the said master has hereunto subscribed his name, and I, said consul, have to these presents set my hand and affixed seal of this consulate the day and year next above written.

[SEAL.]

OTTO E. REIMER,
Consul.
LODGE COLTON,
Master steam-ship *Cienfuegos*.

[Inclosure 18 in No. 27.]

Mr. Williams to Mr. Rives.

No. 912.]

CONSULATE GENERAL OF THE UNITED STATES,
Havana, January 30, 1889.

SIR: I have the honor to transmit herewith the copy of a letter dated the 25th instant, received from Messrs. Hidalgo & Co., leading merchants of this city, and agents here of the "Ward" line of American steamers trading between New York and several ports of this island. As will be noticed this letter refers to the fine of \$300 imposed by the customs authorities of Matanzas on the steamer *Manhattan* for the alleged non-delivery of four tierces of lard on her trip there the 28th of July last, which was reported to the Department by our consul at that port, Mr. Pierce, in his dispatch No. 87, of the 22d instant. I also accompany a copy in Spanish, and a translation in English of the memorial of the said firm presented on the 31st of October last to the intendant general of finance, stating the circumstances of the occurrence, and petitioning him, in case he should not consider himself authorized to rescind the fine, to order the proceedings of the investigation made here to be remitted to Madrid for the consideration of the home government.

My first knowledge of this case was communicated to me by Mr. Pierce in his letter of the 28th of December last. I called as soon after as possible upon the intendant-general and central collector of customs, and found that it had already been adjudged two months before by the previous intendant. The present incumbent of the intendency informed me that he had no authority to annul or revoke the sentence of his predecessor; and that it only could be done by the minister of the colonies. But, in the mean time, the sentence must hold good, and that no stay of proceedings could be allowed to delay the collection of the fine. I communicated the substance of this interview to Mr. Pierce in my letter to him dated on the 22d of that month. I wrote to him again on the 26th of December, informing him of the substance of an interview held in the consulate with Captain Stevens, the commander of the steamer; and in addition, asked him to communicate to me whatever facts there were on record in his office tending to exculpate the steamer. Copy of his reply is attached hereto. I acknowledged the receipt of the latter on the 9th instant, recommending him, inasmuch as the case had occurred in his consular district, and he being familiar with all the facts to report it to the Department.

In view of the fines imposed from time to time upon American vessels for trivial and pardonable clerical mistakes resulting in the manifests presented by their masters on arrival in the foreign ports of this island, I deem the present a fitting occasion to beg most respectfully to be allowed to suggest to the Department that some provision be made for such cases by an amendment to the *modus vivendi* existing at present between the United States and Spain, with the view of favoring American vessels in the ports of the Spanish dominions and in the same sense and to the same extent to which Spanish vessels are favored in similar *bona fide* cases by the Revised Statutes of the United States, on discharging their cargoes in the United States from the ports of the Spanish dominions or from other foreign countries.

Under section 2310 of the said statutes, had the case of the American schooner *Arthur*

U. S. Woodruff, reported in my dispatch No. 907 of the 19th instant, occurred to a Spanish vessel in the United States, the vessel would not have been subjected to detention nor its owners suffered loss thereby, because of its manifest having become incorrect by mistake. Indeed, the mistake in that case was purely clerical; the cargo turned out correct both in number of feet and in weight, the error having consisted solely in misstatement of the number of the pieces of lumber.

Also in the present case of the *Manhattan*, had it, *mutatis mutandis*, occurred to a Spanish vessel in a port of the United States, the master of such Spanish vessel would have had the right, under section 2887, to have gone before the collector, naval officer, and surveyor, or in case of trial for the penalty by any court, to have explained the cause or causes of the error, and having once satisfactorily proved that the disagreement was by accident or mistake, the penalty would not have been inflicted upon the vessel by the customs officers of the United States. Parallel with this, had a Spanish vessel failed to have delivered 4 bags, 4 boxes, or 4 hogsheads of sugar in a port of the United States, that had been manifested by mistake, or which might have been subtracted from the cargo by the bad faith of a lighterman, stevedore, or of a warehouse clerk, either separately or acting collectively in a port of Cuba, the Spanish master under the said section, No. 2887, would have had the right by explanation and averment to have cleared his vessel of the responsibility towards the customs authorities of the United States.

Likewise, in the case of the American steam-ship *Cienfuegos*, reported in my dispatches 721, 727, 732, and 736, dated respectively November 10 and 26, and December 3 and 10, 1887, every attending circumstance, and all the evidence adduced, showed conclusively that the master and owners of this steamer were in no manner, whatever, consenting or privy parties to the fraud attempted against the customs revenue of the Island of Cuba in the clandestine shipment of the eight boxes of opium on board that steamer by parties in New York in collusion with others on board and in Havana. The smugglers were justly punished, by the confiscation of the opium; but the owners, whom the evidence proves had neither part nor art in the affair, were fined to the extent of \$3,412, gold. Now, had this occurred to a Spanish vessel in a port of the United States, the Spanish owners, under the law quoted in my dispatch No. 736, from Wynkoop's work on the clearance and entrance of vessels in the United States, would not have suffered for an illegal act committed by others, and to which they were neither consenting nor privy parties.

Again, it will be seen in my dispatch No. 888, of December 6, 1888, that tonnage loading dues amounting to \$396.94 were charged for the second time on the cargo of sugar belonging to Messrs. F. O. Mathieson & Weichers, of New York, landed from the disabled bark *Proteus*, by the collector of Caibarien, upon its reshipment in the American schooner *John E. Bergen* for New York, and that, too, right in the face of article 10 of the treaty of 1795, which fully covers the case.

I beg also to present to the attention of the Department in connection with the consideration of this subject the fiscal moiety system ruling in this island as an exciting cause in bringing about, to some extent, the imposition of fines upon American vessels for such innocent mistakes in manifests as are condoned by the Revised Statutes of the United States, especially as the intent and spirit of the present *modus vivendi* between the United States and Spain manifestly require that American vessels in Spanish ports shall be treated in the same measure of justice that is accorded to Spanish vessels in the ports of the United States.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 19 in No. 27.]

Messrs. Hidalgo & Co. to Mr. Williams.

HAVANA, January 25, 1889.

SIR: On July 31, 1888, Messrs. Bea, Bellido & Co., agents for the New York and Cuba Mail Steam-ship Company at Matanzas, communicated to us that the steam-ship *Manhattan*, of the said line, arrived on June 28, had failed to deliver besides of other packages, 4 tierces of lard which belonged to her manifested cargo, and differently from the said other packages had not appeared among the Havana cargo. On September 27, 1888, we received further notice from them that the Matanzas customs had imposed a fine of \$200 each, or say of \$800 in Spanish gold for the four packages, which resulted short-landed.

Investigation of the case proved that 4 tierces of lard had been found afterwards on the New York pier, whence they were reshipped, with a certificate of the Spanish consul there, and in due course discharged and delivered unto the custom-house authorities at Matanzas.

Under our instructions and to obtain condonation of the fine, Messrs. Bea, Bellido & Co. presented a petition to the custom-house, at the same time we ourselves visited the intendant and administrator central on various occasions, besides presenting a supplementary address in writing, of which we have the honor to submit you the copy.

Having heard that his excellency the intendant had decided unfavorably and that the custom-house has notified the intention of proceeding towards collection of the \$800 fine, we beg to lay the facts before you, that if you should deem it expedient, the case should be submitted through your Government to his excellency the ministro de ultramar, as being the only authority in power to condone the fine aforesaid.

We beg, etc.,

HIDALGO & Co.

[Inclosure 20 in No. 27.—Translation.]

Messrs. Hidalgo & Co. to the Intendente General of Finance.

HAVANA, October 31, 1888.

The undersigned, Hidalgo & Co., merchants and agents in this city for the line of steamers owned by Messrs. James E. Ward & Co., of New York, at the request of Messrs. Bea, Bellido & Co., merchants and agents in Matanzas for the said owners, have the honor to memorialize your excellency herewith as follows:

That whereas the steamer *Manhattan* having on one of her trips to the aforesaid port of Matanzas delivered 4 tierces of lard short of her manifest, they having, owing to the great accumulation of cargo on the New York pier been left behind; and which, upon discovery of the mistake, were brought to Matanzas, but not manifested because accompanied with the certificate of the Spanish consul-general in New York; and whereas the custom-house of Matanzas, having opened an investigation of the case, proceedings of which being now in possession of the central collector of customs, and it appearing therefrom that the second chief officer reported, in view of the certificate of the said Spanish consul-general, in favor of the condonation of the fine imposed on the steamer; but notwithstanding which the central collector of customs still insists upon the collection; wherefore, we are compelled to present the case to the consideration of your excellency with the petition that if your excellency should not deem yourself authorized to decree the rescindment of the fine, that the said proceedings of investigation be remitted for revision to the Government of His Majesty, a grant which we are confident to obtain from the known correct judgment which characterizes your excellency.

God preserve, etc.,

HIDALGO & Co.

[Inclosure 21 in No. 27.]

Mr. Pierce to Mr. Williams.

MATANZAS, January 7, 1889.

SIR: I have the honor to acknowledge the receipt of your letters of the 22d and 24th ultimo, in answer to mine of the 18th of the same month, in reference to the fine imposed by the customs of Matanzas upon the American steamer *Manhattan* on her trip to this port in the latter part of last July.

I note from your letter of the 22d that you had called upon the intendente-general de hacienda, and the administrator central de aduanas and had been informed that the case had already been passed upon and decided two months ago, by the predecessor of the present incumbent and you suggest, for the information of Messrs. Bea, Bellido & Co., that, in cases where consular interference is invoked, it be done at the proper time and stage of the proceedings.

From your second letter it appears that Captain Stevens, of the *Manhattan*, had informed you that he delivered his cargo all right upon the trip in question, and qualified the dispute pending regarding the fine as having originated in a private matter of Messrs. Bea, Bellido & Co. You further instruct me to furnish whatever facts there may be on record in this consulate tending to exculpate the steamer.

The alleged defect in the manifest of the steamer *Manhattan*, being 4 tierces of lard short and not delivered, for which a fine of \$800 was imposed upon the captain of the steamer *Manhattan*, occurred in this port on her trip from New York, touching at Havana and arriving here July 28, last.

At this time I was absent in the United States on leave, but returned to my post and resumed charge of my consulate on the 1st of September.

The *Manhattan*, since the date of the imposition of the fine for alleged non-delivery of cargo, had already made one regular round trip, and her second arrival at Matanzas was on August 18. I then learned from conversation and common report the fact of the steamer having been fined, but was informed, in the same manner, that the consignees, Messrs. Bea, Bellido & Co., had taken steps to arrange the difficulty with the custom-house and expected to obtain the cancellation of the fine.

Notwithstanding this, I received from Messrs. Bea, Bellido & Co. on the 11th September a letter informing me for the first time of the imposition of the fine, and inclosing two communications from the custom-house authorities to them, dated respectively 1st and 10th September, notifying them that the fine was still pending and demanding its immediate payment.

I learned from Messrs. Bea, Bellido & Co. that the short delivery of four tierces of lard for which fault the fine had been imposed, had occurred by the said four tierces having been left behind on the wharf in New York at the time of shipment of her cargo for that trip, as would be satisfactorily proved to the custom-house by a document from the Spanish consul at New York, which was shortly expected; and they for the first time called upon my official services in the interest of the vessel to request from the collector the delay of a fortnight within which to present the certificate referred to.

I therefore addressed a communication to that effect to the collector of customs dated the 11th September, and in their name as consignees of the steamer requested him to suspend the collection of the fine until the receipt of the consular document referred to by Messrs. Bea, Bellido & Co.

In reply to this I received a communication from the administrador principal de hacienda to the effect that it was impossible to grant my request, and I communicated the same verbally to Messrs. Bea, Bellido & Co.

Under date of the 25th September, Messrs. Bea, Bellido & Co., again addressed me, inclosing for my information an official notification to them of that date from the administrador principal de hacienda, exacting payment of the fine; and also, for transmission, the certificate received from Spanish consul at New York, showing the causes which gave rise to the non-delivery at the proper time of the four packages referred to. This certificate, together with a copy of the letter of Messrs. Bea, Bellido & Co., to me, I transmitted to the administrador under date of the 26th September.

From this latter date I have received no communication whatever from the customs authorities, not even the acknowledgment of my official communication to them, nor did I hear anything further in the matter until the 14th December, when I received a letter from Messrs. Bea, Bellido & Co. I had supposed during this interval that the matter was settled and I was waiting to receive some intimations to that effect in order to report the case to the Department of State.

Messrs. Bea, Bellido & Co., in their letter of 14th December, relate the circumstances which gave rise to the fine, and state that they had been defending the interests of Messrs. James E. Ward & Co., of New York, which the custom-house here had fined in the case of the steamer *Manhattan*, and for the first time call upon me as the representative of American interests in this city to take up the defense of Messrs. James E. Ward & Co., the owners of said steamer, as all their efforts had been exhausted, and they were being proceeded against for the immediate payment of the said fine imposed upon the *Manhattan*, and they stated further, they consider that, pending such action as this consulate might deem convenient to take, his excellency the governor-general, should be asked to order this customs authority to suspend all proceedings against them as consignees.

In consequence of this letter, I addressed you on the 18th ultimo, transmitting a copy of the letter and begging your intervention in the matter before the superior authorities of the island.

I will add that with respect to Captain Stevens' statement that he delivered the cargo all right, and that the difficulty was one of a private nature of Messrs. Bea, Bellido & Co., I have no knowledge.

It would appear that Messrs. Bea, Bellido & Co. trusted to their own efforts to settle the matter of the fine, and presumably considered it disposed of by the presentation of the certificate procured from the Spanish consul in New York, and therefore did not ask for the intervention of this consulate until they found their representations were useless and their efforts in vain.

I inclose herewith copies of such correspondence with this office as has not already been forwarded to you.

I am, etc.,

FRANK H. PIERCE.

[Inclosure 22 in No. 27.]

*Mr. Rives to Messrs. James E. Ward & Co.*DEPARTMENT OF STATE,
Washington, January 31, 1889.

GENTLEMEN: I have to acknowledge the receipt of your letter of the 25th instant, with its inclosure, relative to the annoyance to which American vessels are subjected by Cuban customs officials by the imposition of fines for the use of general terms in their manifests in giving the contents of packages.

In reply, I have to say that the matter has been referred to the consul-general at Havana, with instructions to bring it as soon as possible to the attention of the proper Cuban authorities with a view of obtaining, if practicable, some arrangement whereby American vessels may be relieved from the petty and vexatious annoyance of the kind described.

The Department is very sensible of the constant difficulties to which American vessels are subjected by reason of the minute requirements of the customs laws of Cuba and Porto Rico, and the frequently arbitrary and capricious modes of enforcing them. Instructions have been repeatedly addressed to the United States consuls in those islands directing them to protest in such cases, and to render every possible assistance to masters of vessels, and it is believed the efforts of our representatives have resulted beneficially to American commerce.

As soon as a report is received from the consul-general, on this subject, you will be further informed.

I am, etc.,

G. L. RIVES.

[Inclosure 23 in No. 27.]

Mr. Rives to Mr. Williams.

No. 427.]

DEPARTMENT OF STATE,
Washington, January 31, 1889.

SIR: I send you inclosed a copy of a letter from Messrs. James E. Ward & Co., agents of the New York and Cuba Mail Steamship Company, dated the 25th instant, in which they complain of the annoyance caused American vessels by the customs authorities in Cuba, in the shape of fines imposed upon such vessels for the use of such general terms as "drugs" in their manifests, in describing the contents of packages, instead of giving a detailed statement of the kind of "drugs" in said packages. Messrs. Ward & Co. claim that the use of such terms as "drugs" and "merchandise" in bills of lading and manifests is general throughout the whole commercial world, and that it is impossible for them to give a less vague description in their manifests. They ask that an effort be made through you to obtain relief from such annoyance.

You are instructed to bring the matter as soon as possible to the attention of the proper Cuban authorities with a view to obtaining, if practicable, some arrangement whereby American vessels may be relieved from the petty and vexatious annoyances of the kind described by Messrs. Ward & Co., and to report fully the result of your efforts.

I am, etc.,

G. L. RIVES.

[Inclosure 24 in No. 27.]

Mr. Rives to Mr. Williams.

No. 431.]

DEPARTMENT OF STATE,
Washington, February 5, 1889.

SIR: The consul at Matanzas has reported in his No. 87 of the 22d ultimo the circumstances of the imposition of a fine of \$800 by the customs officers of that port on the steamer *Manhattan*, owned by Messrs. James E. Ward & Co., of New York. He also stated that he has reported the facts to you and incloses a copy of your letter of the 22d of December, 1888, wherein you take the position that, as the case was disposed of by the predecessor of the present intendant general of finance, the latter can not under the law reopen it.

The Department thinks your acquiescence in the decision of the Havana officials that they can not reverse the decision of a predecessor was rather hasty.

The facts are very simple: On the 23th of July, 1888, the steam-ship *Manhattan* delivered her cargo at Matanzas, but was four tierces of lard short. She was thereupon fined \$800. This, although probably quite indefensible, morally or equitably, was technically within the competence of the officials. They did not, however, collect the fine, but delayed enforcing it. In the mean time the owners procured and sent to Havana a certificate showing that the four tierces had been accidentally left behind in New York, and hence there was no intention to defraud. This evidence was not before the predecessors of the present officials when they decided to fine the ship. Therefore there appears to be no reason why they should not now remit this uncollected money.

The case, as stated, is one of that numerous class of provoking technical punishments which appear to be so congenial to the customs authorities of Cuba and Porto Rico, and are so exasperating to American merchants and so injurious to commerce. The singular impolicy of these practices should be apparent to the insular authorities, and should be strongly represented to them by our consuls on every suitable occasion.

Your letter of the 26th Decemberto the consul at Matanzas contains statements by the captain of the *Manhattan* which seem at variance with the documentary evidence. An explanation of this discrepancy is desired.

I am, etc.,

G. L. RIVES.

[Inclosure 25 in No. 27.]

Mr. Rives to Mr. Pierce.

No. 39.]

DEPARTMENT OF STATE,
Washington, February 5, 1889.

SIR: I have to acknowledge the receipt of your dispatch No. 87 of the 22d ultimo, with its inclosures, relative to the fine imposed by customs authorities of the port of Matanzas on Messrs. James E. Ward & Co.'s steam-ship *Manhattan*.

As a reply thereto I send you inclosed a copy of the Department's instruction No. 431 of this date to the consul-general at Havana on the subject. From this you will see that the Department does not regard the case as having been disposed of by the predecessors of the present customs authorities.

I am, etc.,

G. L. RIVES.

[Inclosure 26 in No. 27.]

Messrs. James E. Ward & Co. to Mr. Rives.

NEW YORK, February 6, 1889.

DEAR SIR: We beg to acknowledge receipt of your much valued favor of the 31st ultimo and to thank you for your prompt attention to our request, and also for the fact that the matter has been referred to the consul-general at Havana, with instructions to bring it as soon as possible to the attention of the Cuban authorities in order that our vessels shall be relieved from the annoyances of the case described.

We appreciate fully the action taken by your Department and trust shortly to realize material benefit from the efforts made. In connection with the case reported to you under date of ours of the 25th ultimo, we now beg to hand you original and translation of a protest made in Santiago de Cuba by our agent there, which is duly certified and which more thoroughly describes the case than does our previous correspondence, as also the captain's certificate to the same effect duly certified, which we forwarded in ours of the 25th ultimo.

Asking for these documents the same prompt consideration which you extended to our previous communication, we are,

Very truly, yours,

JAMES E. WARD & Co.

[Inclosure 27 in No. 27.—Translation.]

Protest of the Hon. José Bueno y Blanco.

In the city of Santiago de Cuba, on the 19th of January, 1889, before me, a notary public of the jurisdiction of Puerto Principe, residing and officiating in aforesaid city, personally appeared the Hon. José Bueno y Blanco, a citizen and merchant of this city,

married, of legal age, and landowner, and having certificate of third grade granted on the 23d of November, 1887, by the officer of the district under number 741, and who, as managing partner of the firm of J. Bueno & Co., deposes that he is agent for the American steam-ship *Cienfuegos*, of New York, Captain L. Colton, belonging to the house of James E. Ward & Co., of New York, and that, being in the exercise of sound mind and under his legal rights, says that the custom-house of this port, under dates of the 8th and 12th instant, has sent his house communications announcing that the captain of said steam-ship *Cienfuegos* has infringed the regulations of the revenue, and has therefore been fined in the sum of \$55, with the 10 per cent. additional in consequence of having manifested in the present voyage, and also others in previous voyages, contrary to the rules established by section 3 of article 26 of the custom-house regulations; that in using the word "drugs" to designate contents of packages manifested which has given cause for the aforesaid fines, the master has simply copied from the bill of lading presented by the shipper, it being the custom for him to sign such bills of lading in the same way that masters sign manifests, *i. e.*, with the reservation of weight and contents unknown, said manifest made out in that form being presented to and accepted and certified by the Spanish consul at New York, from which time all further responsibility of the matter should cease in conformity with the ninth section of said article 26, which says: "Consuls will see, under their responsibility, that no manifest is certified in which any of the conditions previously expressed may be wanting; will save by notes over their signatures any alterations or changes made in said document; will fill up the spaces left in blank, and will number and seal every page, notifying the Treasury Department on the same day that they so certify." Therefore, once the responsibility is assumed by the consul against any errors that it may contain by negligence or mistakes of the shippers, he can not admit that the captain can be held; should this be done the fine or punishment should be inflicted on the consul, or, in the last resort, on the shippers and never on the master, because of his positive clause of ignoring contents and because he can only take data for the manifests from his bills of lading, and this is done based on the present law; if any different law has been established, such alterations should have been properly announced in foreign lands through the respective consuls for general knowledge, so that no faults might be committed. That in said manifests the words "notions," "hardware," "stationery," and other similar ones could be objected to same as in "drugs," for which the master of the *Cienfuegos* is now fined, and yet these manifests with such words are generally accepted by our custom-house, and when the master in this case used the word "drugs" he simply followed closely the bill of lading and the manifest duly signed and certified by the consul in New York; and that inasmuch as the regulations prescribe that in case of a refusal to pay from the master, the Treasury proceed against the consignees and shippers. The exponent believes that there is no just reason to fine the master, who has not omitted any published rule, and desires to protect the owners of the ship, giving them time and opportunity to claim against such rulings, and therefore he protests before me, in accordance with the law and usage, and requests that the general administration be notified, and that I grant him the necessary document, etc., which I accede.

So said in the presence of witnesses, José Lasso and José Elias Silva, both being present and residents of this city.

I hereby testify that I am acquainted with the aforesaid José Bueno and the witnesses who in my presence have signed.

JOSÉ LASSO,
JOSÉ ELIAS DE SILVA.

J. BUENO & Co.

RAFAEL RAMIREZ,
Notary Public.

NOTE.—On same date and at the request of the complainant I notified Mr. José Trujillo, collector of the port, leaving in his hand a copy of the foregoing protest, he signing receipt José Trujillo.

A copy of the original, which remains on file in this office, granted at the request of Messrs. J. Bueno & Co., and written in stamped paper of twelfth order on the date aforesaid.

RAFAEL RAMIREZ.

UNITED STATES CONSULATE,
Santiago de Cuba, January 24, 1889.

I, Otto E. Reimer, consul of the United States at Santiago de Cuba, do hereby certify that the signature of Rafael Ramirez, notary public, at the foot of the paper hereunto annexed, is his true and genuine signature, and that the said Rafael Ram-

irez is personally known to me as notary public for the city and province of Santiago de Cuba.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at Santiago de Cuba, this day and year next above written, and of the independence of the United States the one hundred and thirteenth.

[SEAL.]

OTTO E. REIMER.

Mr. Bayard to Mr. Belmont.

No. 31.]

DEPARTMENT OF STATE,
Washington, March 1, 1889.

SIR: Referring to my instruction to you, No. 27, of the 20th ultimo, relative to the fines imposed by the Spanish customs officials in Cuba and Porto Rico upon American shipmasters for trivial errors in the manifests of their vessels, and referring particularly to the mention therein made of the fines imposed upon the steamer *Cienfuegos*, of the James E. Ward & Co. line, I inclose herewith for your information a copy of a dispatch from the United States consul at Santiago de Cuba, dated the 8th ultimo, transmitting to the Department and commenting intelligently upon the protest of Captain Colton, of the *Cienfuegos*, and mentioning, as you will observe, by way of illustration of the vexatious character of the system of penal fines complained of, the recent case of the schooner *H. J. Cottrell*, upon which the authorities of Santiago sought to impose a fine because her manifest had been irregularly made out by the Spanish consul at Mobile.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 31.]

Mr. Reimer to Mr. Rives.

No. 209.]

UNITED STATES CONSULATE,
Santiago de Cuba, February 8, 1889.

SIR: I beg to acknowledge receipt of your dispatch No. 111, dated January 18, contents of which I have duly noted. Inclosed I have the honor to hand you a protest made on January 18 by Capt. Lodge Colton, of the steamer *Cienfuegos*, of New York. This protest I did not send you before this, only giving a copy to Captain Colton, as that gentleman desired, before instructing me to send it through its proper channel, to consult with his owners, Messrs. James E. Ward & Co. This firm, I understand, has already sent you a copy.

The fine in question is a nominal one, and relates to the use of the word "drugs" in the manifests of the cargo of the steamer. This term the custom-house authorities here judged a "vague" term, and consequently liable to a fine under article 26, paragraph 3, of general orders to captains of vessels trading between foreign ports and the Island of Cuba. The grounds for this protest I based principally on title 3, section 2, article 26 of the "Ordenanzas generales de la Renta de Aduanas de la Isla de Cuba," and it would here be well to state to you the exact text of said "ordenanza."

"El manifesto servirá de base para todas las operaciones ulteriores y deberá necesariamente expresar." (Translation:) The manifest shall serve as a base for all subsequent operations, and must necessarily express—then giving general instructions as to the making out of the manifest.

Article 3 states: Número, clase, marcas, numeración y peso bruto de todos los bultos que trae a bordo, etc., no se admitirá nunca la expresión de mercancías ú otra de la misma vaguedad. (Translation:) Number, class, or kind—marks, numerals, and gross weight of all the packages brought on board, etc. Never will the expression merchandise or terms of the same vagueness be admitted.

Article 9 states: Los Consules cuidaran bajo su responsabilidad de no visar los manifestos en que falta alguno de los requisitos antes expresados, salvaran por nota autori-

zada y sellada, cuantas alteraciones, etc., dando aviso á la Dirección-General de Hacienda de haberlo visado el mismo dia en que efectuen. (Translation :) The consuls will take care under their responsibility not to visé the manifest in which are wanting any of the beforementioned requirements, calling attention by authorized and stamped memorandum to any alterations, etc., giving notice to the Dirección-General de Hacienda of having viséed the same day on which such act was performed.

As you will see this clearly places the responsibility on the shoulders of the Spanish consul in New York with whose visé the manifest was provided, and the custom-house authorities here have performed an illegal act in fining the vessel. Besides this, the word "drugs" can not be considered a vague term according to commercial usage.

The question of fining vessels, very often for a mere orthographical or careless mistake in the manifests is becoming a very serious one, which is damaging our commerce with the Island of Cuba to an extent which can not be over estimated, and steps should be taken to force Spain to abolish this, I might almost say ridiculous sytem, and place the question of imposing fines and the discretionary powers of the officials on a sound common sense basis. The case which forms the object of this protest is only one of the many I have to deal with. I have fortunately been able so far to avoid the payments of fines and have always been met with courtesy and respect by the officials when contesting the payments of fines imposed. The whole fault lies with the Spanish law, which, if not speedily, will, and at present does, severely injure our commerce with this island.

The schooner *H. J. Cottrell* arrived here on January 26 from Mobile and brought a manifest of lumber for the making out of which the captain paid \$5 to the Spanish consul at Mobile, and on presenting his manifest here, the custom-house authorities attempted to fine him for not having his manifest properly made out; to this, however, I most strenuously objected and no fine was imposed. Where there is no intention to defraud or intentional disregard of the law no fine should be imposed.

I have, etc.,

OTTO E. REIMER.

Mr. Belmont to Mr. Blaine.

No. 12.]

LEGATION OF THE UNITED STATES,
Madrid, April 10, 1889. (Received April 23.)

SIR: Referring to Department's No. 271, of February 28, 1888, and No. 279, of April 2, 1888, in reference to discrimination made by the Cuban officials against American vessels, in disregard to the provisions of the existing *modus vivendi* with Spain, I have the honor to inclose copy and translation of a note from the minister of state in reply to the notes of this legation of March 14 and April 20 last, copies of which are also inclosed, stating that orders have been given to the customs authorities of the Island of Cuba to pay strict attention to the terms of the existing agreement and that the excess of tonnage dues collected from the schooner *Uranus* would be returned.

I have, etc.,

PERRY BELMONT.

[Inclosure 1 in No. 12.]

Mr. Curry to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, March 14, 1888.

EXCELLENCY: I have been instructed to call the attention of the Government of Her Majesty the Queen Regent to what appears to be a serious infringement of the principle of perfect equality between American and Spanish vessels plying between the United States and ports of the Island of Cuba which is assumed to have been established by the present *modus vivendi*.

During the correspondence which led to the signing of the agreement of October 27, 1886, I had the honor, on the 10th of April of the same year, to submit to your

excellency a memorandum, of which the following, translated and printed on page 12 of the Spanish Red Book, is an extract:

"In continuation of the representation which my Government has heretofore made, and regrets to be under the necessity of repeating, on the practice of Cuban authorities, adverse to the established agreements between Spain and the United States, I may state that Spanish vessels arriving at Cuban ports from Spain, not exceeding twenty days out, and sailing from Cuba with cargo to the ports of the United States, are exempt in clearing from all tonnage duties in Cuban ports, while American steamers, sailing from Cuba with cargo to the ports of the United States, are required to pay, on clearing from Cuban ports, 62½ cents per ton on their cargoes, if mail steamers or \$1.35 if not such. Spanish sailing vessels arriving from Spain at Cuban ports and clearing from Cuba, with cargo to the ports of the United States pay in Cuban ports 25 cents per ton on their cargoes destined for the United States, while American sailing vessels clearing from Cuba with cargo to the ports of the United States pay in Cuban ports \$1.35 per ton on their cargoes. Thus discriminating or countervailing duties on tonnage are levied upon vessels of the United States in Cuban ports."

The other causes of complaint mentioned in that memorandum have since been removed, but I regret to state that the one described in the paragraph above quoted still exists, to the serious injury of American vessels plying between the United States and Cuba, and to the great dissatisfaction of owners of those vessels.

The pith of the objection made by my Government is simply this: That as a result of certain regulations of which article 5 of the Cuban tariff may be taken as an example, a Spanish vessel making the trip between the Antilles and the United States, perhaps side by side with an American vessel, has certain material advantages in tonnage dues which the American vessel has not, because some port in the Peninsula was the original point of departure of the Spanish vessel, which had made a voyage from Spain to Cuba before undertaking the voyage from Cuba to the United States.

Two illustrations will give a clear idea of the injustice to which American vessels are subjected: 1. An American sailing vessel of 500 tons *pro forma* net register pays tonnage on inward and outward cargoes in the ports of Cuba at the rate of \$1.35 per ton, or \$675.

A Spanish sailing vessel of the same tonnage coming from Spain to Cuba pays on inward cargo, at 37½ cents, \$187.50, and on leaving Cuba for the United States pays on the 500 tons net register at the rate of 25 cents per ton, or \$125, or \$312.50 inward and outward.

The difference in favor of the Spanish sailing vessel is therefore \$362.50.

2. A Spanish regular trading steam-ship, coming loaded from Spain to Cuba in less than twenty days, brought 1,460 tons of cargo and then took out 2,100 tons of cargo for the United States, without paying any tonnage dues, while a regular American steamer would, when the joint inward and outward cargo does not exceed its register tonnage, suffers an inequality of \$2,225.

Your excellency will at once see that the "perfect equality" called for by the agreement does not exist, and that Spanish vessels competing with the vessels of the United States in the trade between the United States and the Antilles, or between these two countries and any foreign port, must be placed on equal terms with the American vessels, irrespective of the point of departure, which is entirely irrelevant to the terms of the agreement. As long as this condition of equality does not exist the agreement itself fails to execute the purposes for which it was framed. Judging, therefore, from the promptness with which Her Majesty's Government has in the past remedied just demands based on existing agreements, it is the belief my Government that these illegal discriminations will be speedily suppressed.

Hoping that the matter will receive from your excellency at an early date the attention which its importance deserves, I gladly avail, etc.,

J. L. M. CURRY.

[Inclosure 2 in No. 12.]

Mr. Curry to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, April 20, 1888.

EXCELLENCY: On the 14th of last month I had the honor to call your excellency's attention to a serious infringement of the present *modus vivendi* between Spain and the United States by a material discrimination in tonnage dues in favor of vessels of the former country where a voyage has been made from some Antillean or Spanish port before the voyage from Cuba to the United States.

A case of this unjust discrimination has just occurred at Cienfuegos, where the American schooner *Uranus*, of about 346 tons burden, came in ballast from Ponce,

Porto Rico, to Cienfuegos, loaded molasses for the United States at the latter port, and was compelled to pay 37 cents per register ton duty on her outward cargo.

A Spanish vessel would have paid under the same circumstances only 25 cents per ton.

I am instructed to bring this case to the attention of the Government of Her Majesty the Queen Regent, and to request that the money representing the amount of the discrimination thus improperly exacted may be returned.

With an expression also of the hope that an early reply from your excellency to my above-mentioned note of March 14 will enable me to inform my Government of the prompt and satisfactory disposal of this cause of complaint,

I avail, etc.,

J. L. M. CURRY.

[Inclosure 3 in No. 12.—Translation.]

Marquis de la Vega de Armijo to Mr. Belmont.

MINISTRY OF STATE,
Palace, March 1, 1889.

EXCELLENCY: In reply to the notes dated March 14 and April 20 last, I have the honor to inform your excellency that, in accordance with information conveyed to me by my colleague the minister of the colonies on February 26 last, the governor-general of Cuba was on said date notified that in view of the claims growing out of the excess of tonnage dues collected from American when compared with those collected from Spanish vessels, and the result being that by such collection there has been an infringement of the provisions of the commercial agreement of May 26, 1888, between Spain and the North American Republic, since that agreement established absolute equality between national vessels and those of said Republic, orders have been given that the Treasury authorities, and more particularly the collectors of customs of that island, should in the collection of dues to be paid by American vessels pay attention to said agreement, and that the sum in excess collected from the brig *Uranus* by the Cienfuegos custom-house be refunded to that vessel.

I avail, etc.,

MARQUIS DE LA VEGA DE ARMIJO.

Mr. Belmont to Mr. Blaine.

No. 13.]

LEGATION OF THE UNITED STATES,
Madrid, April 10, 1889. (Received April 23.)

SIR: Referring to the Department's No. 27, of February 20, 1889, calling attention to the vexatious treatment of American vessels by the Spanish colonial officials and instructing me to submit certain propositions for incorporation in the existing *modus vivendi* for the purpose of removing the causes of complaint resulting therefrom, I have the honor to report that immediately on the reception of the instructions, March 6, I had a long interview with the minister of foreign affairs on the subject, and left with him a memorandum of the articles proposed. The propositions were received with favor by the minister himself, who stated that he would present the subject for the consideration of his colleagues. Having received no communication from him in reference to the matter, I again called his attention to it in another interview on the 7th instant, and was informed that he had consulted with his colleagues on the subject, and that the difficulty in the way of the Spanish Government acceding to the proposed addition to the *modus vivendi* was that it involved an entire change in the method of administration, which the Government was not at present prepared to undertake.

I have, etc.,

PERRY BELMONT.

Mr. Blaine to Mr. Belmont.

No. 39.]

DEPARTMENT OF STATE,
Washington, May 1, 1889.

SIR: I have to acknowledge with satisfaction the receipt of your No. 12, of the 10th ultimo, whereby you acquaint me with the favorable action of the Government of Her Majesty the Queen Regent, upon the complaint heretofore urged by this Government, that in the collection of tonnage dues on the entrance and clearance of vessels in the Island of Cuba the customs authorities of that island had persisted in a serious discrimination against vessels of the United States as compared with Spanish vessels, in that the latter were favored, by reduction of or exemption from tonnage dues because of a previous or subsequent voyage between Cuba and the peninsula.

It is gratifying to observe the statement of the Marquis de la Vega de Armijo, in his note to you of the 1st of March last, a translation of which accompanies your dispatch of the 16th ultimo, that on the 26th of February, 1889, the governor-general of Cuba was notified that it had been found that in the collection of this class of duties there had been an infringement of the stipulations of the existing commercial agreement and a failure to observe the "absolute equality" with which Spain engaged to treat the vessels of the United States and those under her own flag. It has not been at any time doubted that the sense of justice of the Spanish Government would recognize the force of the considerations heretofore presented by this Department in its instructions to your predecessor. The result now reached is welcome as removing a notable obstacle to the full and natural interchanges of the United States with their nearest and most productive neighbors of the West Indies.

The note of the Marquis de la Vega de Armijo only mentions orders of refund having been given in the solitary case of the *Uranus*, which was brought forward as an illustration of the inequality complained of in the Department's instruction of February 23, 1888, rather than as the occasion of that complaint. It appears from the reply of his excellency that the subject is broadly dealt with, to the end of settling the important principles involved; and it is therefore assumed that the orders given to the governor-general of the Island of Cuba are ample to remedy other cases of erroneous and excessive collection of tonnage dues which may be duly shown, to the disadvantage of American vessels engaged in the same or similar voyages with favored Spanish vessels. You will make inquiry on this point, and if it should appear that the reparation announced in the note of the minister of state only extends to the case of the *Uranus* you will ask that steps be taken to make the remedy effective in all proper cases of like unwarrantable exactions.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Palmer.

No. 8.]

DEPARTMENT OF STATE,
Washington, May 27, 1889.

SIR: Referring to instruction No. 262, of the 24th of January, 1888, and to instruction No. 266, of February 11, following, I now transmit a copy of a further letter from Mr. John W. Kane, master of the brig

J. W. Parker, touching his claim for the remission of an excess of tonnage dues required of him by the customs authorities at Zaza, Cuba, December 27, 1887.

The Department will be glad to hear what action has been taken in the case, and the result thereof.

I am, etc.,

JAMES G. BLAINE.

[Inclosure to No. 8.]

Mr. Kane to Mr. Blaine.

NEW YORK, May 21, 1889.

DEAR SIR: I paid tonnage dues, \$1 per ton on my vessel register, 361 $\frac{1}{100}$ tons, at Zaza (Cuba), December 27, 1887. The facts of the case, together with protest and documents attached, I forwarded to the State Department on my arrival in New York, in January, 1888, and received a reply that a demand had been made on the Spanish Government for the refund of my tonnage dues, \$361.14, since which date I have received no information from your Department touching this matter. These tonnage dues were exacted from me some three months after the conclusion of the treaty between Spain and the United States suspending all discriminating tonnage dues between the two countries and their dependencies.

Will you please inform me at your earliest opportunity what action has been taken in my behalf? If you require evidence or particulars of the case will you please so inform me?

I am, etc.,

JOHN W. KANE.

Mr. Palmer to Mr. Blaine.

No. 4.]

LEGATION OF THE UNITED STATES,

Madrid, June 21, 1889. (Received July 8.)

SIR: Referring to the Department's No. 8, of the 27th instant, I have the honor to report that in the absence of a reply on the part of the Spanish Government to a note of the legation of February 8, 1888, presenting the claim for the return of tonnage dues illegally collected from the American brig *J. W. Parker*, I have addressed a note of this date to the minister of state, requesting action on the case. As soon as I receive his reply the entire correspondence will be forwarded to the Department.

I have, etc.,

T. W. PALMER.

Mr. Palmer to Mr. Blaine.

No. 8.]

LEGATION OF THE UNITED STATES,

Madrid, July 11, 1889. (Received July 29.)

SIR: Referring to the Department's No. 13, of the 22d ultimo, I have the honor to report that, in the absence of a reply on the part of the Spanish Government to a note of the legation of May 7, 1888, presenting the claim for the remission of excessive duties imposed at Havana in 1884, on coffee shipped by Messrs. Calixto, Lopez & Co., of New York, I addressed a communication of the 9th instant to the minister of state, requesting early action on the claim.

On yesterday I received from the foreign office a note, dated the 9th instant, and written, apparently, before the receipt of my note of the same date, communicating a royal order, providing for the return of the amount of duty in question to Messrs. Lopez & Co. The entire correspondence is transmitted.

I have, etc.,

T. W. PALMER.

[Inclosure 1 in No. 8.]

Mr. Curry to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, May 7, 1888.

EXCELLENCY: I am instructed by my Government to invite your attention to the following facts and to ask for such action as will be adequate to the relief of the injured parties.

The commercial agreement entered into at Madrid between Spain and the United States on February 13, 1884, had for its object the abolition of the differential duties on the part of Spain and the retaliatory duties on the part of the United States, mutually imposed prior to that time on the trade between the United States, Cuba, and Porto Rico, and conversely between those islands and the United States. Such was the original interpretation and execution of the agreement. The United States promptly removed the retaliatory duty of 10 per. cent. *ad valorem* which had been imposed since 1834 upon the products of and articles proceeding from the islands of Cuba and Porto Rico, in Spanish vessels, placing them on an equal footing with American vessels in the ports of the United States. On the part of Spain, it was likewise simultaneously enforced in the islands, and the customs authorities began to collect import duties, as stipulated in said agreement under the third column of the Cuban tariff, on all cargoes brought to the islands either in American or Spanish vessels from the United States regardless of national origin. As a consequence, merchandise, the product of other countries which had been carried to the United States and entered there in bond, and had been trans-shipped afterwards to Cuba, paid only the same rates of tariff duties as those collected upon the natural products of the United States.

Messrs. Calixto, Lopez & Co., of the city of New York, under the impression, very naturally, that the agreement would be executed in accordance with the interpretation above mentioned, on the 16th of February, 1884, shipped in the port of New York on board the American steam-ship *Saratoga*, bound for Havana, 286 bags of Venezuelan coffee. On the landing of this coffee, the custom house authorities of Cuba, a sudden change having been made in their original interpretation, exacted a differential duty, collecting under the fourth instead of under the third column, and thus compelled an excess of payment of \$67.56 Spanish bank bills, and \$608.11 Spanish gold, over and above what would have been paid if the coffee had been imported from New York in a Spanish vessel.

Complaint against this discrimination being made to the United States consul at Havana, and all the necessary proofs being made he remonstrated before the governor-general, and asked that the error be corrected. On the refusal of the Cuban authorities to remit the excess the case was reported to the Government of the United States, but action was suspended in consequence of the pendency of negotiations to secure a harmonious construction of the *modus vivendi*. It would be quite superfluous to enter into the old and adjusted controversy over the word, "procedencias," or to renew the argument of the right of a signatory power to change an interpretation of an agreement without the assent of, or consulting with, the other party. The protocol signed by your excellency and myself, in December last, confirming and continuing the agreement previously made in Washington, has brought the two governments into oneness of view on the disputed points. The vessels of both nations in the carrying of cargoes from the United States to Cuba are placed upon an equal footing.

The submission of the claim of Messrs. Calixto, Lopez & Co. to have refunded the excess paid by them is made to your excellency with complete confidence, because the amendments since made to the vague language of the *modus vivendi* of February, 1884, have settled the principle. It would seem, therefore, both equitable and just, that cases which arose pending the controversy as to the construction of the agreement, should be decided in accordance with the principles which both governments have sanctioned.

I feel well assured that your excellency and myself can readily dispose of this,

claim in a satisfactory manner, and that the Spanish Government will not deny to a vessel of the United States the favor accorded to a Spanish vessel making a like voyage and carrying the like merchandise under the same conditions.

I avail, etc.,

J. L. M. CURRY.

[Inclosure 2, in No. 8.]

Mr. Palmer to Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, July 9, 1889.

EXCELLENCY: I have been instructed to recall to the attention of the Government of Her Majesty the claim of Messrs. Calixto, Lopez & Co., of New York, for the return of \$67.56 Spanish bank bills, and \$608.11 Spanish gold, excess of duty paid on 286 bags of coffee shipped from that city for Havana on the American steam-ship *Saratoga*, in February, 1884.

The facts and details of this claim were presented at length in the note of this legation of May 7, 1888, to which no reply has been received, and to which I now beg to call your excellency's attention.

At the same time I will request your excellency to urge upon the ministry of ultramar an early and favorable settlement of the case, which, like several others growing out of this same cause, has been for a long time pending in that department.

I avail, etc.,

T. W. PALMER.

[Inclosure 3 in No. 8.—Translation.]

Marquis de la Vega de Armijo to Mr. Palmer.

MINISTRY OF STATE,
Palace, July 9, 1889.

EXCELLENCY: I have the honor, in reply to your note of May 7, 1888, to transmit, to your excellency the royal order of June 26 last, which has been sent to me by the minister of the colonies.

"Considering the documents of the case prepared in consequence of the note of the representative of the United States which was transmitted to this Department by the ministry of state with the royal order of the 18th of last May, in reference to the erroneous interpretation of the Havana custom-house of the commercial agreement between Spain and the United States in applying the fourth instead of the third column of duties to a shipment of 286 bags of Venezuelan coffee, imported into Cuba in February, 1884, by Messrs. Calixto, Lopez & Co. Considering the agreement referred to and the royal orders of November 22, 1886, and of March 12, 1887, the first declaring that the amount of duty credited the treasury from 1884, the date of the first agreement, in consequence of the application of the third column of the tariff instead of the fourth, by which the duty ought to have been assessed, should be regarded as an accomplished fact, and as giving no right to reclamation (on the part of the Government), and the second, providing that merchandise imported in American vessels into the islands of Cuba and Porto Rico, should pay duty by the third column, irrespective of the place whence they proceed, the King (whom may God protect) and in his name the Queen regent has decided that the amount of duty be returned to Messrs. Calixto, Lopez & Co., which was paid by them on account of the application of the fourth instead of the third column of the tariff to the coffee imported."

By royal order I transmit this to your excellency for your information and that you may notify the representative of the United States.

I avail, etc.,

EL MARQUIS DE LA VEGA.

SWITZERLAND.

Mr. Winchester to Mr. Bayard.

No. 224.]

LEGATION OF THE UNITED STATES,
Berne, June 30, 1888. (Received July 14.)

SIR: I am gratified to be able to say that the question of a naturalization treaty with Switzerland has at last assumed a more favorable aspect, and one which it is believed will ultimately lead to its negotiation. It is the custom for the federal council to make a comprehensive report at the close of each calendar year, covering the work done by the several cabinet departments, with suggestions for needed legislation by the federal assembly. This report is examined by a commission, appointed alternately from the two branches of the federal assembly, and submitted to these bodies with an expression of opinion on the action and suggestions of the federal council.

The report of this commission made to the federal assembly, now in session, referring to the "right of citizenship," says:

The United States of America proclaims and practices the principle that an American citizen can not belong to another nationality, and therefore, one wishing to obtain American citizenship must abjure his former nationality. From this has arisen in the international relations of that Republic with other countries, serious conflicts in regard to the state or home right, and a constant danger of resulting in *Heimatlosigkeit*, homeless people. Different states, and among them the German Empire, has found it necessary some years since to conclude a convention with the United States, by which Germans in America are Americans, and so with Americans in Germany (when naturalized under the laws of these countries). The same inconvenience and trouble has happened to Switzerland in its relations to the United States, and the report of the federal council attests the existing difficulties. To correct these inconveniences the United States have repeatedly proposed to Switzerland the remedy employed by other states, the conclusion of a convention. But so far the federal council has been of the opinion that these overtures could not be entertained. This they have been impelled to in view of Article 41 of the federal constitution, which prescribes that no canton shall deprive a citizen of his Swiss citizenship; and in view of the positive Swiss states right according to which a Switzer can only by his own free act renounce his Swiss nationality, there was no power to change these principles by a treaty.

Lately on account of new occurrences and reconsideration the federal council appears to be disposed under the circumstances named to enter into a consideration of the convention proposed by the United States Government, and the commission would request the federal council to carry out this purpose and to have the question from this point of view considered.

A copy of the report of the commission is this day transmitted to the Department, under separate cover, as printed matter. Whilst an amendment to the constitution will be required precedent to any formal or immediate effort for the negotiation of a naturalization treaty, the question is in much better shape than at any time heretofore, and with the support of the federal council and assembly as indicated by the report there is every reasonable prospect of its final consummation.

I am, etc.,

BOYD WINCHESTER.

Mr. Bayard to Mr. Winchester.

No. 144.]

DEPARTMENT OF STATE,
Washington, July 26, 1888.

SIR: Your dispatch No. 224, of the Diplomatic Series, dated the 30th ultimo, has been received.

It affords me much gratification to observe, from the language of that part of the annual report of the high federal council to the federal assembly which you quote for my information, that the Swiss Government is awaking to the inconveniences of the continual want of accord between it and the Government of the United States in respect to the status of persons of Swiss origin who have become duly naturalized in this country in conformity with the statutes of the United States; and that it is desirous of bringing about such amendment of the municipal code of the confederation as will enable the negotiation of a convention with the United States in recognition and confirmation of the citizenship so acquired.

I trust that you will discreetly, as occasion may offer, testify the interest which this Government feels in the conventional adjustment of this question, and its earnest hope that the course now taken by the high federal council will be successful in leading to a complete understanding between the two countries, by removing the obstacles which have heretofore impeded negotiations to the desired end.

I am, etc.,

T. F. BAYARD.

Mr. Winchester to Mr. Bayard.

No. 236.]

LEGATION OF THE UNITED STATES,
Berne, December 1, 1888. (Received December 17.)

SIR: Mr. Hertenstein, President of the Swiss Confederation, died at 3 o'clock the morning of the 27th ultimo, from the effects of a surgical operation (the amputation of his leg, rendered necessary by a stoppage in the veins) which he underwent on the Saturday previous. The interment took place yesterday, being, it is said, one of the most imposing civil and military demonstrations on a funeral occasion that has ever been made in Switzerland. Mr. Hertenstein was sixty-three years of age, and had been President since January, 1888. He has been a member of the Swiss federal council since 1879, and previous to that had served in both branches of the federal assembly. He obtained the highest rank—that of colonel in the Swiss army—having rendered gallant service in 1848, and was also chief of artillery in the Canton of Zurich, where he resided.

Prior to his appearance in national public life he had made his mark in the Canton of Zurich as a member of the Cantonal Government, and specially in the forestry service, in which his ability and efficiency were most conspicuous. At the time of his death, in addition to the executive functions, he was chief of the federal department of military affairs. He was a man of simple manners and methodic habits, of quiet, sedate manner, and grave countenance. His spirit of equity was in such high repute that he was constantly asked to arbitrate difficulties, and it is related that it was a person against whom he decided in an affair of this kind who first thought of putting him forward as candidate for a seat in the federal assembly. He was noted for his strict

probity, attention to business, and watchfulness over the smallest details of all public trusts placed in his hands.

Outside of Switzerland, to most readers the announcement of the death of the Swiss President will, for the first time, convey the news of his name. The Swiss have a way of keeping their current history to themselves, or the outside world has a way of not asking for it, which is much the same thing. They are unique among civilized people for the extreme modesty of their claim upon the attention of mankind. This might imply the highest qualities or the lowest; but no one who knows anything of the little Republic will doubt to which of them it is to be assigned. Certainly Switzerland seems to have attained to that quietism which is one attribute of perfection. It lives, moves, and works without fuss or friction, and is constantly solving in its own way some of the hardest problems of politics; maintaining perfect peace between diverse races and conflicting creeds, and, the most difficult feat of all, has even made the plebiscitary system a working provision of a written constitution.

During the illness of Mr. Hertenstein nearly all the foreign ministers accredited to Berne received instructions from their respective governments to testify their anxiety for his recovery, and at his death instructions were received for a formal expression of condolence by their ministers on behalf of their governments, and the president of the French Republic sent a personal representative to attend the funeral.

On my arrival here last Sunday, and hearing of Mr. Hertenstein's critical condition I hastened to express the most profound sympathy, both for my Government and self; and when officially notified of the President's death, conveyed to the federal council, on behalf of the President of the United States and personally a proper expression of condolence. This I felt constrained to do, not awaiting any special instructions from the Department. I observe in a London paper of yesterday a telegram from New York that "President Cleveland had sent a telegram of condolence to the Swiss Government on the occasion of the death of the president of the Confederation."

Mr. Hammer, the vice-president, succeeds to the presidency. An election of a new president by the federal assembly takes place during its session this month, and his term will begin January 1, 1889.

I am, etc.,

BOYD WINCHESTER.

Mr. Bayard to Mr. Winchester.

No. 152.]

DEPARTMENT OF STATE,
Washington, December 18, 1888.

SIR: I have read with much interest and appreciation your No. 236, of the 1st instant, informing me of the death of Mr. Hertenstein, president of the Swiss Confederation, on the 30th ultimo, from the effect of a surgical operation, and speaking in such just terms of the many noble qualities of the deceased statesman, and the high consideration in which he was held by his fellow countrymen.

The news of the operation performed on the late president, and subsequently of his sad death, was communicated to the Department under date of the 24th and 27th ultimo, by the courtesy of the Swiss minister here, and I at once acknowledged Mr. de Olaparède's note, and likewise

telegraphed to the chancellor of the Swiss Confederation the sympathy of the people of the United States in the great national loss which Switzerland had sustained. I inclose you copies of the correspondence with the Swiss legation referred to* for the files of your legation.

I am, etc.,

T. F. BAYARD.

Mr. Winchester to Mr. Bayard.

No. 241.]

LEGATION OF THE UNITED STATES,
Berne, December 19, 1888. (Received January 2, 1889.)

SIR: The legation is in receipt of a note from the chief of the Swiss federal department for foreign affairs, in which he conveys on behalf of the high federal council, with the request that it may be made known to the Government of the United States, their high appreciation of the expression of condolence offered by this legation on the death of Mr. Hertenstein, the President of the Confederation, and by the official presence of the United States minister at the obsequies; by which the federal council is said to have been touched and gratified.

I am, etc.,

BOYD WINCHESTER.

Mr. Winchester to Mr. Bayard.

No. 242.]

LEGATION OF THE UNITED STATES,
Berne, December 22, 1888. (Received January 7, 1889.)

SIR: Soon after my assumption of the duties of this post I submitted to the Department the pressing needs for urging upon the Swiss Government the negotiation of a naturalization treaty, and in doing so it was stated that, among other evils resulting from the absence of such a treaty, and the Swiss contention as to Swiss citizenship in spite of the fact of a Swiss being invested under our naturalization laws with all the rights and privileges of an American citizen, one of the most serious and common was the detention of property claimed by Switzers naturalized and residing in the United States—this detention and refusal to surrender property to the legal and equitable owner being done under the cover of most flimsy and frivolous pretexts by the local authorities and tribunals.

Through the intelligent and energetic efforts of our consul at Zurich (Mr. Catlin) a case involving considerable property was appealed from the cantonal to the federal tribunal, the Swiss supreme court, and an opinion obtained which probably is the most decisive judicial pronouncement on one very characteristic feature of such cases, and gives some assurance that the local contentions heretofore held and expressed, if properly submitted to this tribunal, must be reversed as this has been. A copy of the opinion is inclosed.

I am, etc.,

BOYD WINCHESTER.

[Inclosure in No. 242.]

Judgment of the Swiss Federal Court.

In the matter of Carl Heinrich Weber, of Zurich, in Philadelphia, State of Pennsylvania, North America, appellant, represented by Lawyer Hagggenmacher,* of Zurich, concerning waiver of Swiss citizenship, the following facts appear from the documents presented, viz:

A.—Carl Heinrich Weber, of Zurich, born in 1845, emigrated in 1873 to the United States of America; he was, at the time of emigrating, and has been ever since, under guardianship in Zurich. In 1879, Weber, having acquired United States citizenship, applied for release from his rights as a Swiss citizen. His sister Maria, and his guardian, as well as the orphans' court of Zurich, then instituted proceedings against his release on the ground that the identity of the applicant with the Zurich citizen C. H. Weber was not proven, and because the said C. H. Weber was under guardianship, and therefore, as not being competent to transact business on his own account, could not waive his Swiss citizenship.

The federal court by a decision dated September 27, 1879, rejected the latter objection as unfounded, but, on the other hand, deferred any judgment, in so far as the question of the identity of Carl H. Weber with the applicant was concerned, until sufficient further evidence could be produced. Therefore, the judge of instruction of the federal court repeatedly accorded the applicant a period of time for filing new means of proving his identity with C. H. Weber. Inasmuch as during these periods the applicant appealed merely to a comparison of handwritings which, however, the federal court held to be insufficient, the court decreed on the 10th of July, 1880, that the appellant's application be rejected.

B.—In an application dated March 27, 1888, Lawyer Hagggenmachert of Zurich renewed in the name of Carl Heinrich Weber a demand on the government council of the canton of Zurich for said Weber's release from Swiss citizenship, furnishing proof of the fact that C. H. Weber had been an actual resident of the State of Pennsylvania since 1873; that, under the laws there in force he is competent to transact business, and that he had acquired the rights of citizenship of the United States of America. On the 29th of March, 1888, the government council of the canton of Zurich referred this application to the district council of Zurich for its own information, and for transmission to the city council of Zurich, and to all persons otherwise concerned, for action under article 7, abst. I, of the federal law of 1876. The district council in turn, March 31, 1888, referred the application, in a similar sense to the city council of Zurich, which after calling upon the guardian of C. H. Weber for a written opinion upon the subject, raised objection in a document dated May 5, 1888, to the sought-for release from citizenship, advancing the following reasons, viz, that Weber had never received his guardian's permission to emigrate; consequently, he could not have lawfully removed his domicile from Zurich, and is therefore, according to article 6, litt. a. of the federal law of June 3, 1876, not entitled to the right of waiver of his Swiss citizenship. The government council of the canton of Zurich, by decree of June 2, 1888, referred this objection, together with the papers in the case, to the federal court for its decision.

C.—On the 31st of July, 1888, the attorney for C. H. Weber filed with the federal court an application, demanding that the objection raised against the waiver of citizenship by Carl Heinrich Weber, resident in Philadelphia, be dismissed, and that instructions be given to the proper cantonal authorities to pronounce C. H. Weber's release from his Zurich state (cantonal,) and town citizenship. He (the attorney), goes on to state that neither Weber's near relations in Zurich, nor his guardian there, but simply and alone the city council of Zurich, have raised objection. But the said city council's objection was offered too late, inasmuch as it was not offered within the four-weeks limit provided by art. 7, abst. I, of the federal law of June 3, 1876, and is therefore not entitled to any further consideration. There is, moreover, no reason presented for not granting the release applied for; the appellant satisfies every requirement of the federal law of June 3, 1876; he has no longer any domicile in Switzerland, has acquired citizenship in the United States, and is also competent to transact business under the laws of the State in which he resides. It is not correct that the appellant did not receive his guardian's consent to emigrate.

He gave his then guardian, from his then place of residence, Munich, notice of his intention to emigrate, and the latter offered no opposition, but, on the contrary sent him, shortly before his departure, 400 francs, to enable him to provide himself with new clothing. Shortly after his arrival at Philadelphia, the appellant informed his guardian of his address, but received no answer thereto; he also, though at intervals,

* For George L. Catlin, U. S. consul at Zurich, attorney for appellant.

† Representing Mr. Catlin, U. S. consul at Zurich, attorney for Carl H. Weber.

corresponded with his relatives at Hirslanden.* At no time during the entire period of his stay in Philadelphia was he summoned by his guardian, by the orphan's court or by any other authority whatsoever, to remove his domicile to his home township (*Heimath-Gemeinde*) or to any other place whatsoever. This certainly implies the guardian's consent to his being where he at that time was. In the former proceedings relative to the appellant's release from Swiss citizenship, ground was never taken that he had emigrated without his guardian's consent, and his present guardian sent him, by consent of the orphan's court, a sum of money he had asked for, for the purpose of making a transient visit to his former home.

D.—The government council of the canton of Zurich transmitted the view taken by the city council of Zurich of this complaint. The city council states as follows: The appellant's guardian, in his report to the city council, advised the dismissal of the proceedings for release; the views of Weber's relatives had not been consulted. But the guardianship authorities and the guardian are entitled to raise objections, even without assistance from the relatives. Article 7 of the federal law of June 3, 1876, couples no menace with the fixing of a period of four weeks for the filing of objections. It would therefore be inadmissible to declare inoperative an objection filed after the expiration of such period, and all the more so, as the right to file objections serves simply for the protection of the public interests.

The fixing of a limit of time is therefore simply a rule of order. The consent of not only the guardian, but also of the guardianship authorities (the orphan's court), if not, indeed, that of the district council, was requisite to a lawful change of domicile by the ward. What communications the appellant made to his former guardian can not now be ascertained, as said former guardian is deceased. It is certain, however, that the orphan's court has at no time been approached for a consent to a change of domicile. If said orphan's court never summoned the appellant to return to Zurich, such fact is entirely unimportant, for the reason that the said court could not have compelled such return; moreover, indeed, Weber himself states that the orphan's court allowed the money necessary for his return journey to be sent to him.

The federal court takes into consideration the following:

I. The city council of Zurich is undoubtedly entitled to present objections to the release of C. H. Weber, a citizen of the town of Zurich, from his citizenship. Its objections, moreover, can not be ruled out on account of delay in filing them. It is true that such objections did not ensue within a period of four weeks, reckoned from the time when the application for release was communicated to the city council. But the limit provided in article 7 of the federal law of June 3, 1876, is not one (according to the beginning, duration and end of a limit exactly prescribed by law) to the neglect of which the law would attach preclusive consequences. The law rather leaves the fixing of the limit of time for filing objections in individual cases to the cantonal governments, inasmuch as it simply decrees that the limit to be fixed shall not exceed four weeks; it does not further prescribe that the neglect to observe such fixed limit shall result in rendering the right of objection inoperative. In this position of the case the limit is simply to be regarded as a limit of order, and this all the more since the question whether the legal conditions incident to a waiver of Swiss citizenship exist, must in any event be examined into officially by the authorities.

II. It is established that the appellant has, in point of fact, resided in Philadelphia since 1873; that under the laws there in force he is competent to transact business, and that he has acquired United States citizenship. The city council of Zurich contests his competence to waive his Swiss citizenship, simply because he, as a ward, without consent from the guardianship authorities, could not legally change his domicile. Now, as a question of principle, it is correct that a ward can not lawfully change his domicile without his guardian's consent. On the other hand, it is not requisite that such a consent be expressly outspoken; it can rather occur tacitly, and thus be concluded by actual circumstances. If, especially, both the guardian and the guardianship authorities simply allow a change of the ward's residence, they being cognizant of it, to take place without their protesting against it, and calling upon the ward to return, it is at all events, as a rule, to be presumed that they have consented to said ward's removal to his new place of residence. So far as the guardianship authorities consider the change of residence as prejudicial to the ward's interests, it is certainly their duty, where possible to prevent it or thwart it. If, therefore, they remain silent in regard to a change in his place of residence by the ward, they being cognizant of the same, it is certainly to be regularly presumed that such change takes place because they have no opposition to offer against it. The circumstances that in a case of emigration to a foreign country, especially to those beyond the sea, the guardianship authorities are not in position directly to compel the ward to return does not affect the question at all. Even though the said authorities may lack any power of coercion over the person of the ward, they can yet ultimately bring an influence to bear upon his course, as for instance by

* A suburb of Zurich.

granting him the enjoyment of his fortune only in so far as he complies with his guardian's instructions in regard to his choice of his place of residence. Now, in the present case, it may safely be presumed that the guardianship authorities consented to the appellant's emigrating; at no time did either guardian or guardianship authorities, notwithstanding that the ward's place of sojourn was known to them, express, in any way whatever, their disapproval of his emigrating: in particular, during the former proceedings for the appellants release from citizenship it was not even alluded to from any quarter, that said appellant had emigrated in an unlawful way, without his guardian's consent; the appellant's right of waiver of his Swiss citizenship was at that time contested on entirely different grounds.

The federal court has accordingly recognized as follows:

(1) The objections of the city council of Zurich against the release of Carl Heinrich Weber of Zurich, born 1845, from his right of citizenship, are dismissed, and the government council of the canton of Zurich is requested to confer upon the appellant a release from his Swiss cantonal and town citizenship.

(2) The fees, amounting to 11 francs for drawing up this decision, and the charges for postage, are to be charged to the objector.

(3) This decision is to be communicated in writing to the appellant, as well as to the government council of the canton of Zurich for its own information and for transmission to the city council of Zurich.

Lausanne, October 19, 1888.

In the name of the Swiss federal court.

[SEAL.]

A. RAPP, *President.*
ROTH, *Court Clerk.*

A true translation and copy.

[SEAL.]

GEORGE L. CATLIN,
United States Consul.

Mr. Bayard to Mr. Winchester.

No. 157.]

DEPARTMENT OF STATE,
Washington, January 10, 1889.

SIR: Your dispatch No. 242, dated 22d December ultimo has been received.

You therewith inclose a copy of a judgment pronounced by the Swiss federal tribunal in the case of Carl Heinrich Weber *versus* the city council of Zurich, touching Mr. Weber's renunciation of and release from Swiss citizenship and cantonal guardianship, by reason of his having become by naturalization a citizen of the United States and having acquired a domicile here.

The decision in question has been read with much interest, and I have pleasure in expressing to you, and through you to Mr Catlin, the United States consul at Zurich, the Department's appreciation of the care and ability shown in bringing the case to a final satisfactory issue and to approve your report of the incident.

It is hoped that this decision of the federal tribunal will tend to remove the obstacle heretofore found in the laws and regulations of the cantons to the conclusion of a naturalization treaty between the United States and Switzerland, and thus contribute toward the solution contemplated in the recommendation made by the federal council to the federal assembly, as reported in your dispatch No. 224 of 30th June, 1888.

I am, etc.,

T. F. BAYARD.

Mr. Winchester to Mr. Bayard.

No. 254.]

LEGATION OF THE UNITED STATES,
Berne, January 24, 1889. (Received February 5.)

SIR: The cablegram synopsis of the report made by the Immigration Investigation Committee of the House of Representatives states that the report adduces evidence to show that criminals are shipped to the United States by the officials of foreign Governments, and names Switzerland as one of two countries whose officials "persist in that course even after they have been requested to desist." I am surprised to see this statement, and am anxious to know upon what information it was made. It is a grave charge, and certainly has been based upon what was believed, at least by the committee, to be reliable information. It must be confessed that during the nearly four years since filling this post nothing has come to the knowledge of this legation or in any way occurred to give even color to a suspicion of such conduct on the part of the Swiss officials, federal or cantonal. And it has been a subject which has not escaped the proper and careful watchfulness, so far as practicable, of this legation and consulate-general.

The legation has occasion now to regret very much that the series of questions presented by the committee of the House of Representatives, relating to the importation of convicts, paupers, etc., into the United States, inclosed in your No. 227, of August 8, 1888, was received at a time when it was impossible to comply with its request, for reasons given in my No. 227; and the legation was compelled, as all that was possible under the circumstances, to beg that the translation of the revised emigration law of Switzerland which had been shortly before transmitted by it in No. 225, be accepted as its answer to the circular letter aforesaid. It was believed that the important changes and additions therein made showed an earnest desire on the part of the Swiss federal assembly to suppress the shipping as emigrants of all objectionable classes; and it is doubtful if any other country can produce a statute so fully meeting this evil, so far as it can be compassed by legislation, and investing its execution with more detail and thoroughness of police and judicial powers. And this legation has had no sufficient reason to doubt but that this law is sought to be enforced by the Swiss officials in perfect good faith. Previous to 1881 there existed some complaint of objectionable and assisted emigration from certain local communities in Switzerland to the United States, but after the enactment in that year of a federal law forbidding the "forwarding of persons to whom the laws of the country to which they proposed to emigrate, prohibited entry," the practice was regarded as altogether abandoned. The Swiss are not an emigrating people, and the number of emigrants is much smaller than ten years ago. As a rule the Swiss immigrants received by the United States are in every respect desirable and fitted to make the best of citizens. They are ambitious, energetic, industrious men, with muscle and enterprise seeking to better their condition in a great and growing country. There are no foreign colonies in the United States which have given more satisfaction and more willingly and sincerely become identified with the country, its people, and institutions than those composed of the Swiss. The Swiss Government does not desire to see her people emigrate—she is not overcrowded in a European sense—there is no extreme destitution, no unreasonable public burdens, but much general comfort and contentment, with a very small idle and vicious class. It may be said that Switzerland positively obstructs emigration in re-

fusing to negotiate with any foreign power a naturalization treaty, and when one of her citizens emigrates and acquires other domicile and citizenship, however distant he may be, however long his separation from her, she still clings to him, watching him with maternal solicitude, ever ready to receive him back into the fold with all his rights intact, until he has been released from his citizenship and surrendered these rights upon his own formal and specific request. When printed the legation would be pleased to have a copy of the report of the committee, and especially any statement submitted to it in reference to the shipment of criminals from Switzerland.

I am, etc.,

BOYD WINCHESTER.

Mr. Winchester to Mr. Bayard.

No. 259.]

LEGATION OF THE UNITED STATES,
Berne, February 1, 1889. (Received February 12.)

SIR: The conferences held at Berne in 1885 and 1886 for the purpose of establishing an international union for the protection of literary and artistic property, to which I was accredited as a consultative delegate on the part of my Government, first led me to consider the peculiar and advantageous position of the neutral State of Switzerland with regard to all such unions. Several international unions have their seat in Berne; the number is gradually increasing, and it is conferring upon Switzerland, in the eyes of the world, a peculiar position of honor, distinction, and usefulness. It may not be uninteresting to give a short summary of the history of the rise and progress of these international unions.

The neutrality of Switzerland was guaranteed by the powers represented at the Congress of Vienna. The object of this guaranty was primarily strategical. It was felt to be essential that steps should be taken to prevent any one power from gaining possession of the line of the Alps upon the breaking out of a fresh war, and as to Switzerland herself, it was considered she could not come under any suspicion of political ambition or territorial aggrandizement. She was thus mapped out to be a neutral state, and the neutrality then acquired, and her central position in Europe, were in themselves sufficient to recommend her, when occasion offered, to be selected as the seat of an international union of any kind. Convenience of communication with the principal European capitals, and a reasonably presumed freedom from the fear of untoward complications or "entangling alliances," resulting from war or foreign occupation, are distinct and all-important advantages enjoyed by Berne.

Again, besides their neutral position, the Swiss possess perhaps the most marked genius of any people for the administration of an office. The Swiss Federal Government itself is surely the most laborious, the least pretentious, the most economical, yet as systematic and thorough as any that can be named. The same sobriety of demeanor, conscientious discharge of duty and painstaking, patient labor at their desks pervade the entire Swiss bureaucracy.

In 1863 the first step was taken which has since resulted in a general consensus as to the superior inducements presented by Switzerland for international bureaus. In that year a private committee, the members of which belonged to different nationalities, assembled at Geneva and

drew up a plan for the protection of the wounded in battle, the inadequacy of official means to meet the humane requirements of sick and wounded soldiers in great wars having long been felt. It will always redound to the honor of Switzerland that upon her soil the first international conference was held with a view to the mitigation of some of the horrors of war. On that occasion the institution of national aid societies was established, and a few Swiss gentlemen were formed into an international committee for the purpose of acting on their neutral territory as a link between the aid societies of all countries. This committee then requested the Federal Council, as the central government of the country in which they had held their sittings, to propose to the other governments that a diplomatic conference should be held in Switzerland in order further to discuss and formulate this humane and important question. The Federal Council accepted the task; the appeal was made, and met with a generous response. Many powers accepted the invitation and sent delegates to a conference which was held in Geneva the following year, which was brought to a successful conclusion by the signing of the memorable "Geneva Convention of the 22d August, 1864," by the representatives of sixteen governments. Within four months it was signed by eight European states, and at the present time it has been accepted by thirty-three states. The treaty embraces a wide field of practical philanthropy, being designed to remove soldiers, when sick or wounded, from the category of combatants, and to afford them relief and protection without regard to nationality. This protection is also extended to all persons officially attached to hospitals or ambulances, and to all houses, so long as they contain invalid soldiers. Inhabitants of a country occupied by a belligerent army, and who may be engaged in the care of the sick and wounded, enjoy the same privileges. Provision is also made for the return of invalid soldiers to their respective homes. The gun-carriage bears its death-dealing burden across the battle-field, but in the ruts which rushing artillery wheels have torn up follow promptly the ambulance wagons supplied by this Christian brotherhood, bringing hope and succor to the wounded. The distinctive mark of hospitals and ambulances is the Swiss flag with its colors reversed, a red cross on a white ground, and individuals wear a white armband with a red cross, and every red-cross flag must be accompanied in time of war by the national flag of those using it. It is one of the wisest and best systems of philanthropic work, a grand educator, embodying the best principles of social science, and that true spirit of charity which counts it a sacred privilege to serve one's fellow-men in time of trouble. To supply material wants is only a small part of its ministry. It seeks to carry to men's hearts the message of universal brotherhood and unite the links with "Peace on earth, good will to men," as its ensign. Certainly it is no mean distinction for the Swiss Confederation that the national emblem has been so intimately and exclusively associated with a most conspicuous work of charity and humanity. The United States Government gave its adherence to the treaty in July, 1882, and in the international conventions held since that date, among the large number of delegates composed of royalties, nobilities, and military and scientific celebrities, no one commanded more attention and wielded a greater influence than a lone American woman who was accredited as a delegate from her country. Clara Barton, whose name is known the world over in connection with the burning cross on a white ground, the only feminine delegate in the assemblage, carried resolutions and amendments that materially enlarged the scope of red-cross activities and tended to assimilate its workings in Europe to plans

already put in execution in the United States. She had been chiefly instrumental in the conception and practical application of these plans, having done good service during our civil war, and subsequently, during the Franco-German war, followed the German army into Paris, working faithfully in French and German camps. She then came home, resolved to do her best to have the United States put alongside other civilized nations, which, largely due to her influence, was accomplished, as above stated, in 1882.

In 1865, one year after the signing the treaty of the Red Cross, the birth was witnessed of the International Telegraph Union through the signature of the Convention of Paris. For a short time the Union dispensed with a central administration, but the urgency of the need soon asserted itself and found expression at the second conference, which was held at Vienna in 1868. It was then agreed that there should be a permanent seat of administration, and the Swiss Confederation was requested to give it shelter. The office of the International Union, the first of its kind, was formed at Berne without delay, the staff for the first year consisting of a director, one secretary, and a clerk. Correspondence was at once opened with thirty-seven telegraph administrations, twenty-six of which belonged to the contracting states, and eleven to private companies. The expenses for the first twelve months did not reach 29,000 francs, or less than \$6,000. The last report from the bureau director shows the total number of state administrations corresponding with the central office to be forty; in addition to these are ten cable, or submarine, and eleven (land) telegraphic private companies. The budget for 1888 estimated the total expense at 84,000 francs, or about \$16,500, not a large sum for so complicated and extensive an organization. The bureau issues an official journal, a monthly publication known as "Le Journal Télégraphique."

Next came the Postal Union, in 1874, and immediately upon the exchange of ratifications of the convention, a year later, the central office of this Union was likewise constituted at Berne. It comprised a director, two secretaries, two clerks, and a translator. Correspondence opened with twenty-one postal administrations and an annual expense of 62,000 francs (\$12,500). From the report of the director for 1888, it appears that fifty-seven administrations and groups of administration had acceded to the Union, with an annual expense of 78,959 francs (\$15,700), and the contributive share of a first-class State, 3,375 francs (\$650), a most valuable and efficient service at a remarkably small cost. A journal in three languages, English, German, and French, called "L'Union Postale," is conducted by the bureau and has quite a large circulation.

Passing mention may be made here of two more limited but very important international conventions concluded in Switzerland, the one against Phylloxera and the other for the regulation of the transport of goods by railway. The first took its origin at a conference of persons interested in the culture of the vine, held at Lausanne in 1877, and a convention to establish it was signed at Berne in 1878 by several states, with the object of promoting joint protection against a disease which had already been the cause of such serious losses to wine-growers. Berne was agreed upon as the seat of future meetings, and this union, which has obtained further adhesions, continues in steady and beneficial operation. The Railway Transport Union is from the nature and difficulty of the questions involved, one of slow evolution, but conferences are still held and will ultimately result in the text of a convention with a central bureau at Berne. Its interests will be confined in great part to continental states.

The next important event was the union for the protection of industrial property, which after ten years' negotiation was concluded at Paris in 1883, with a supplemental protocol signed at Rome in 1886. Under the terms of the convention, Switzerland became liable for the management of the central administration, and the bureau joins the others at Berne. There are sixteen states in the union, the last accession being that of the United States on the 30th May, 1887.

The last international union and one very properly following the protection of industrial property, was the union for the protection of literary and artistic property, concluded at Berne in 1886. Ratifications were exchanged and the treaty put into force on 5th December, 1887, with ten states in the union. It was also placed under the high authority of the Swiss Confederation, and acts under its supervision with the central bureau in Berne. Like the others this bureau publishes a valuable monthly journal "*Le Droit d'Auteur*." The failure of the United States to join this union was regarded as depriving the convention of much of its value. Let us hope that so just a cause as that of international copyright may be within measurable distance of triumph in our country and that it will not be long before the reproach will be removed by the request that a place be made for us in the union.

It must be borne in mind that these international offices are practically the only ones which the world has to show; for the Bureau "*du Mètre*," established near Paris, the only institution in another country partaking of an international character, can not be reckoned in the same category, and is moreover scientific and not commercial. It is difficult when passing through the quiet streets of Berne to realize the extent and importance of the operations which are being so unobtrusively carried on, or the world-wide scope of the interests involved. Yet it can not be doubted that these interests form a more effectual guaranty for the preservation of Switzerland as an independent state than any other that could be devised. This position she has gained by the study of the conveniences of mankind, or, in other words by making herself useful to every one while offending none. It is noteworthy as evidence of the high consideration paid to these international unions by the Swiss public men, that the directorship of the central postal-office was from the outset accepted by an eminent member of the federal council, who thus resigned his political career, together with the certainty of succeeding to the Presidency of the Confederation, in order to undertake this laborious duty; with a very moderate salary; and the name of one of the most distinguished members of the present federal council is associated with the directorship of another union. The acquisition by a single state of these great unions, which can not fail to be productive of a progressively improving understanding among those states joining; enabling their several systems to be compared, useful discoveries shared, legislations simplified and assimilated, the science of statistics accelerated, and efforts not merely for the development of commercial but also of the intellectual needs of their respective people wisely directed and stimulated; such beneficent and far-reaching results can but prove a real and solid advantage to the state furnishing the safe and common ground upon which they can be peaceably and harmoniously prosecuted, and elevate her to an exceptional position of importance and security, commanding the gratitude of posterity in every country.

It will not do to close this summary of international organizations and movements in Switzerland without a reference to the first great international court of arbitration which had its seat in Geneva under the treaty of Washington in 1872 to settle the Alabama claims. Over this

most memorable court a Swiss was called to preside. Since that time the Swiss high federal council has been frequently addressed and its aid solicited in promoting a permanent international high court of arbitration, a court permanently established for the settlement of international disputes, to take its place beside the other highly useful and successful international courts established at Berne. That the realization of this aspiration and hope would be of almost incalculable benefit must be allowed on all hands. It is a project that must commend itself to every publicist. It may be true that grave difficulties stand in the way, yet the project of independent nations submitting their disputes to some body of impartial arbitrators for decision and denouncing the arbitrament of war is not a new one. It is as old as history. As a principle it has received the approval of sovereigns and statesmen, parliaments, and congresses. The chief powers of Europe gave their sanction to it by the treaty of Paris in 1856, but unfortunately have permitted it to remain a dead letter. Our own Government has upon more than one occasion given its approval to measures having for their object the establishment of arbitration as a permanent means of settling international controversies. And there is a peculiar fitness in the United States taking the initiative in such a movement. From their location, sentiments, traditions, and interests they do not excite the jealous apprehension of the other powers by the advocacy of such a measure. Their international relations are universally pacific, their policy non-aggressive. The relation of the several States to each other, under the General Government, is of itself a living attestation of the possibility of governments independent of each other to a great extent yielding the right of settling controversies between themselves to a body of arbitrators outside of themselves, without in any way detracting from their dignity or their prosperity. A civilized people fights because it can not help it, not because it likes it. Barbarians and early people fight because they like it, as the chivalrous Maoris did, and the Norsemen, and the ancient Greeks. The romance and poetry of such people are all about war; it is their sport, their industry, their occupation. There is no other way to wealth and the heart of woman. The ancient Teutonic regarded war as a great international lawsuit, and victory as the judgment of God in favor of the victor. But there is a growing consciousness that, considered in the abstract, and unconnected with all views of the cause for which it may be undertaken, war is an evil, and no one but a misanthrope could fail to rejoice in the day when it shall yield to a procedure for settling international differences, more just and more worthy of an advanced humanity. For though war has its great conquests, its pomps, its proud associations and heroic memories, there is murder in its march, and humanity and civilization and genius were things to blush for, if progress can not be accomplished by some nobler means. The trend of events is towards a better understanding between nations. National temperaments are now being leveled by the ease of intercourse and by increased knowledge of languages. The world is more and more assimilating to a condition like that of a great family, in which the individual nations, as members, are linked together by interests which quarrels resulting in wars only impair and can not benefit. They are so dependent upon each other for commercial prosperity that a condition of war is a serious blow to that prosperity. Unconquerable time itself works on increasingly bringing the nations nearer to one another in the natural and orderly development of close international intercourse, awakening the universal consciousness of the community of mankind. Numerous new means of

communication serve this end, and none more so than international conventions and unions. The whole science of modern times follows this impulse, and the hindrances and barriers that lay between nations are gradually but certainly disappearing. Even at the present day every part of the civilized world feels any disturbance in a particular state as an evil in which it has to suffer, and what happens at the extremest limits immediately awakens universal interest. The spirit of modern times turns its regards to the circuit of the globe and to an aspiration in which international law and relation will attain a higher form and a more assured existence, with no purpose to interfere with particular states and oppress nations, but the better to secure the peace of the one and the freedom of the other. The best political arrangements can not completely insure the world against civil war. Justice never attains its ideal, but in the best cases only approximates it.

Whilst it would be vain to look for the political millennium; for the day when the "only battle-field will be the market open to commerce and the mind opening to new ideas;" when nations shall enjoy the boundless blessings offered them in the perfect freedom of human industry, and in the establishment of a perpetual peace—

When the war-drum throbs no longer, and the battle-flags are furled
In the parliament of man, the federation of the world,—

we must be content if a stronger organization of international law and a better regulation of international differences makes war rarer.

I am, etc.,

BOYD WINCHESTER.

P. S.—In converting francs into our currency, no attempt has been made at exactness, but the sums are given approximately in round numbers.

Mr. Winchester to Mr. Blaine.

No. 280]

LEGATION OF THE UNITED STATES,
Berne, April 15, 1889. (Received April 27.)

SIR: On the 10th instant the United States consul at Basle, Mr. George Gifford, conveyed to this legation certain information furnished him by a confidential correspondent, whose name he did not feel at liberty to disclose, as follows:

I hereby notify you that on next Thursday morning forty persons, forwarded by the emigrant agents Moore and Rommel, start from here (Hof in Meiringen) for Berne, leaving the latter place for New York, by way of Havre, on Friday morning. Nearly all of these persons are forwarded on the credit system, as I learn; for instance, the three families Streich, who are said to emigrate in this way. Among them is a certain Bossli, who is said to have been arrested for debt last Friday, but was released on giving bond.

Whilst Consul Gifford did not give the name of his informant, there was in his letter an implied indorsement as to his credibility, sufficient to justify the legation to make an exception, of submitting to the Swiss foreign office a complaint or report, and requesting an investigation, without at the same time giving the authority for the same; further than that, the information had come through the United States consul at Basle, as a well-authenticated report.

Immediately on the receipt of Consul Gifford's letter the legation laid the facts before the chief of the emigration division of the Swiss foreign office, with the request that the matter be promptly investigated and if found to be true, the necessary steps be taken to stop the shipment of these emigrants. The chief very cheerfully assented to do all in his power, and within twenty-four hours the legation received the following note from the foreign office:

The federal department of foreign affairs has made known to the director of police of the canton of Berne the facts stated in the letter of the United States consul at Basle, with the request to give the matter attention, and if the complaint was found to be true, to detain the said emigrants. The investigation made by the prefect of Berne showed the complaint to be unfounded. The chief of the federal bureau of emigration, who accompanied the train conveying the emigrants, advised the federal department of foreign affairs that he had closely examined the emigrants in question, and was satisfied that none of them would be classed as paupers or have had money advances made to them for purposes of emigration. Some have negotiated loans, as many emigrants do, but not from the commune, to supplement their already considerable property. Most of them are going to join relations and friends who are established in the United States, and represent a thrifty and robust class of persons. As to Bossli, he was not arrested, but simply requested to settle a bill for wood due to his commune. There could be discovered no ground to detain these persons or in any way interfere with their emigration. The complaint doubtless was inspired by the jealousy of some competing emigration agency.

The legation has been led to report this occurrence, otherwise inconsequential, from the fact that during the four years of the present incumbency no complaint had been made of the shipment of any objectionable and prohibited class of emigrants from Switzerland, and there had not arisen the slightest cause to doubt the honest desire and active effort of the Swiss officials, federal and cantonal, fully and in good faith to execute the law of 1831, forbidding the "forwarding of persons to whom the laws of the country to which they propose to emigrate prohibited entry," and these facts had been with considerable gratification, in several dispatches, made known to the Department of State. Therefore the legation was surprised some time since to observe that the Immigration Investigation Committee of the House of Representatives, in the report submitted last January, had specified Switzerland as one of the countries from which criminals and prohibited emigrants were shipped "even after they had been requested to desist," and in dispatch to the Department, No. 254, expressed this surprise, coupled with a desire to know upon what evidence the committee had based this statement. The case herein given in detail is reported merely to confirm what has heretofore been said, and as evidence that on the very first occasion when the intervention of the Swiss officials has been desired in reference to suspected, improper, and prohibited emigrants, it has been promptly and cheerfully exercised.

I am, etc.,

BOYD WINCHESTER.

CORRESPONDENCE WITH THE LEGATION OF SWITZERLAND AT WASHINGTON.

Mr. de Claparède to Mr. Bayard.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, November 24, 1888. (Received November 25.)

MR. SECRETARY: Knowing the special interest which the Government of the United States of America takes in everything relating to the Swiss Confederation and its government, I have the honor to inform you of a telegram which I have this moment received and of which the following is the text:

BERNE, *November 24, 1886.*

It is our painful duty to inform you that President Hertenstein was this morning compelled to undergo the operation of having his left leg amputated above the knee, as the result of gangrene. The sufferer is as well as could be expected after so serious an operation, although there still exists cause for uneasiness.

DEPARTMENT OF FOREIGN AFFAIRS.

Be pleased, etc.,

ALFRED DE CLAPARÈDE.

*Mr. Bayard to Mr. de Claparède.*DEPARTMENT OF STATE,
Washington, November 26, 1888.

SIR: I received yesterday at my residence, with the sincerest concern and distress, the melancholy announcement of the serious amputation to which President Hertenstein had been subjected.

The President of the United States instructs me to convey an expression of his sympathy, and his hopes that President Hertenstein is rapidly recuperating from the operation, which he trusts may restore him to his usual health.

Accept, etc.,

T. F. BAYARD.

Mr. de Claparède to Mr. Bayard.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, November 27, 1888. (Received November 27.)

MR. SECRETARY: In pursuance of instructions received from my Government, I have the honor to inform you that Mr. Hertenstein, President of the Swiss Confederation, last night succumbed to the effects of the operation performed on Saturday last.

Begging you, Mr. Secretary, to communicate the intelligence of this sad and painful event to the President of the United States of America, I avail, etc.,

A. DE CLAPARÈDE.

Mr. Bayard to Mr. de Claparède.

DEPARTMENT OF STATE,
Washington, November 28, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, in which you convey the sad intelligence of the death of his excellency President Hertenstein on the preceding day.

I instantly communicated by telegraph to the chancellor of the Swiss Confederation the sorrow experienced by the people of the United States in the loss of the honored head of the Swiss Confederation.

Accept, etc.,

T. F. BAYARD.

Mr. de Claparède to Mr. Blaine.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, May 17, 1889. (Received May 21.)

SIR: My Government has recently been informed that the Commissioners of Immigration at Castle Garden have refused to permit the landing of five Swiss citizens, who, it is supposed, were considered as emigrants engaged by contract, in violation of the provisions of the United States laws of February 26, 1885, and of February 23, 1887. The names of but three of those immigrants are known to my Government. They are: Albert Bornhauser, of Weinfeld, Thurgovia; Jacob Fricker, of Läuelfingen, Bâle; Jacob Grieder, of Renneberg, Bâle.

These three persons were sent back by the *Gascogne*, in the month of April last. The two other immigrants, whose names are not known, were on board of the same steamer, and had been sent by Zwilchenbart's agency at Bâle.

The Swiss Federal Council, which is always desirous of securing the strictest enforcement of the legal provisions in force in Switzerland relative to emigration, and particularly of those relating to the operations of emigration agencies, has instructed me to have recourse to your kind mediation, Mr. Secretary of State, for the obtainment of as full information as possible with regard to the circumstances which caused the five emigrants in question to be sent back to Europe. In bringing this desire of my Government to your notice, I have the honor to inform you that the Federal law of March 22, 1888, relative to the operations of emigration agencies, provides in article 11, paragraph 4, that emigration agencies shall not (under the penalties provided in that law) ship to foreign countries any persons who are not allowed to enter there by the laws in force in those countries. It is therefore important for my Government to know, in all cases that have arisen or that may arise hereafter, the exact reasons that have occasioned the non-admission of a Swiss emigrant, to the end that the Swiss Federal Council may be able to take such measures as may be called for by the law and the circumstances against those emigration agencies that have violated the aforesaid legal provisions.

I should consequently be very much obliged to you, Mr. Secretary of State, if you would be pleased to apply to the competent American authorities not only for information concerning the five immigrants above

referred to, but also for such as may be obtained hereafter, in case other Swiss emigrants shall not be permitted to land in the United States. Perhaps, moreover, you will think as I do, that it would be to the interest of the Castle Garden Commissioners, as well as to that of immigrants to whose admission there might be objections, for the Swiss consul at New York to be informed of the particular case before it should be decided to send the objectionable parties home, so that he might be enabled to complete the inquiry as to the responsibility of the emigration agencies established in Switzerland, and to aid his countrymen with his advice and good offices, as is done by the representatives of foreign societies, who are admitted within the inclosure at Castle Garden.

Hoping to be favored with a reply, I beg, etc.,

ALFRED DE CLAPARÈDE.

Mr. Blaine to Mr. de Claparède.

DEPARTMENT OF STATE,

Washington, May 27, 1889.

SIR: Acknowledging the receipt of your note of the 17th instant, concerning the action of the authorities of this country in sending certain Swiss immigrants back to Europe, I have the honor to inform you that inquiries have been made in the proper quarters in relation to the matter and that the replies will be duly communicated to your legation when received.

Accept, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Kloss.

DEPARTMENT OF STATE,

Washington, June 18, 1889.

SIR: Referring to Mr. de Claparède's note of the 17th ultimo, relative to the case of certain emigrants from Switzerland who were sent back as having been engaged by contract, I have the honor to inform you that I have received a letter from the Board of Commissioners of Immigration at New York, stating that Mr. de Claparède's note will be considered by the Board at its next meeting.

Accept, etc.,

JAMES G. BLAINE.

Mr. Wharton to Mr. Kloss.

DEPARTMENT OF STATE,

Washington, August 5, 1889.

SIR: Referring to Mr. de Claparède's note of the 17th of May last, relative to the case of certain Swiss citizens who were not allowed to land at the port of New York upon the ground, as Mr. de Claparède states, that they were immigrants under contract, I now have the honor to transmit to you herewith, for your information, a copy of a letter from the Secretary of the Treasury, from which it appears that the immi-

grants in question were not rejected as immigrants under contract, but for other reasons as explained in the letter.

Calling attention to the statement in the Treasury letter to the effect that hereafter the Swiss consul at New York will be informed when objections are made to the landing of Swiss immigrants at that port,

I beg, etc.,

WILLIAM F. WHARTON.

[Inclosure.]

Mr. Batcheller to Mr. Blaine.

TREASURY DEPARTMENT,
Washington, July 31, 1889.

SIR: On the 29th of May last, in acknowledging the receipt of your letter of May 27, inclosing a copy of a note from the Swiss legation, dated May 17, requesting information in regard to the deportation in April last of certain Swiss immigrants, etc., you were informed that the commissioners of emigration at New York had been called upon for the desired information, and that further advices would be promptly sent to you upon receiving their answer.

I now have the honor to say that their answer has just been received, and that the information which they give in regard to said immigrants is as follows, viz:

"That those immigrants did not come here in violation of the provisions of the labor contract law, but were rejected for the following reasons:

"Albert Bornhauser, Jacob Fricker, and Jacob Grieder, alien immigrants, who arrived April 7, 1889, on steam-ship *La Gascogne*, from Havre, were on April 9 adjudged by the Castle Garden committee of the board of commissioners of immigration to be persons unable to take care of themselves without becoming a public charge, and by the decision of the collector of the port, made under date of April 11, 1889, the said immigrants were not permitted to land.

"The cases of the other immigrants, referred to by the Swiss legation, were as follows:

"Catharine Bucher, a native of Switzerland, aged forty years, who arrived April 7, 1889, on steam-ship *La Gascogne*, and who had been convicted of crime in Switzerland and had served a term of imprisonment. She was adjudged by the commissioners of immigration to be a convict, and unable to take care of herself without becoming a public charge, and by the decision of the collector of the port, made on April 11, 1889, she was not permitted to land.

"Victor Fluri and his two children, natives of Switzerland, arrived April 7, 1889, on steam-ship *La Gascogne*. He had abandoned his wife in Switzerland, had but 55 francs in money, and on April 9, 1889, this immigrant and his children were adjudged by the commissioners of immigration to be persons unable to take care of themselves without becoming a public charge. Under the decision of the collector of the port, dated April 11, 1889, Victor Fluri and his children were prohibited from landing.

"The board of commissioners of immigration have, as suggested by the Swiss legation, given instructions that hereafter the Swiss consul at New York be informed of all cases of Swiss immigrants prohibited from landing at this port."

Respectfully, etc.,

GEO. S. BATCHELLER,
Acting Secretary.

Mr. Kloss to Mr. Blaine.

[Translation.]

LEGATION OF SWITZERLAND,
Washington, August 13, 1889. (Received August 14.)

SIR: I have the honor to acknowledge the receipt of your esteemed note of the 5th instant, in which you were so kind as to inclose a copy of a report of July 31 from the Secretary of the Treasury concerning the refusal of the competent authorities at New York to allow certain Swiss citizens to land there.

While I have the honor to thank you warmly for the trouble which you have taken, I take the liberty of requesting you to convey my best thanks to the Secretary of the Treasury also for the kind interest which he has taken in the investigation of the case. I am, furthermore, much obliged to him for having given the necessary instructions, as appears by the said report, in order that all future cases of the same kind, in which Swiss citizens are concerned, may be promptly communicated to the Swiss consul at New York.

Accept, etc.,

K. KLOSS.

Mr. Wharton to Mr. Kloss.

DEPARTMENT OF STATE,
Washington, August 19, 1889.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, referring to the letter of the Treasury Department concerning certain Swiss immigrants who were not allowed to land at New York, and expressing your thanks to the Secretary of the Treasury for his courteous action in the premises, and to inform you that the Department has communicated the contents of your note to the Secretary of the Treasury.

Accept, etc.,

WILLIAM F. WHARTON.

[Inclosure in No. 147.—Translation.]

Permit to Pennsylvania University to make excavations in the Vilayet of Baghdad.

PERMIT.

Upon the request of the legation of the United States of America, which made application on behalf of the trustees of Pennsylvania University in America for permission to excavate antiquities at Nemrod, district of Hilé, and at Telufer, district of Divanié, both in the province of Bagdad, the present permit has been granted for two years in the name of the said trustees, and in accordance with the law respecting antiquities. The necessary investigations having been made and the formalities having been complied with, according to the terms of said law, which provides that all the antiquities excavated shall belong to the government museum; that all the antiquities which may be discovered shall be retained, under the supervision of the official who will be appointed, in a secure place, so that the excavators shall not be able to take possession of them. The excavators will be authorized to commence working after they have delivered to the authorities of Bagdad the topographical plans of the localities whereon they wish to dig. They shall not trespass beyond the limits indicated in those plans, and before having completed the excavations in one locality they shall not commence upon the other.

Conformably with the regulations, should the work by reason of any objections be temporarily stopped, the excavators will have no right to claim any damages or indemnity on that account, and at the termination of the term of permit, if the excavations in said localities should not have been begun, or if begun they shall not have been completed, the excavators are bound to get a new permit for said localities. At the termination of this permit or before, if they give notice that the excavations are completed, and if it is shown that they have conformed to the rules and regulations, the money they have deposited as security shall be returned to them.

Should the excavators not commence work within three months from the day the permit is handed to them by the governor-general of the province, or having commenced they shall stop work for the period of two months without any reason, the permit will be canceled.

The permit can not be transferred or sold to any other persons.

They shall pay the salary of the official who will be assigned to them by the department, and in all matters conform strictly with the said law.

Of the antiquities discovered, if there are any, which, in the opinion of the authorities of the imperial museum, are not needed, upon their value being assessed by mutual agreement between the two parties and with the consent of the Sublime Porte, such articles may be sold to said excavators.

Rebbi-al-ewel 26 1306.
Tesh-nui Saui 19 1304.

KIAMIL, *Grand Vizier.*
MUNIZ,
Minister of Public Instruction.

Mr. Straus to Mr. Bayard.

No. 151.]

LEGATION OF THE UNITED STATES,

Constantinople, December 22, 1888. (Received January 7, 1889.)

SIR: I have the honor to report that the Bible House has for several months past been seeking permission from the minister of public instruction to print in Turkish thirty-five thousand Bible tracts, consisting of the Psalms the Proverbs, the four Gospels, and the Acts.

The minister of public instruction having declined to give the authorization, the matter was referred to the legation by the Bible House.

Yesterday I succeeded in having the grand vizier give orders for the necessary authorization.

I have, etc.,

O. S. STRAUS.

Mr. Straus to Mr. Bayard.

No. 156.]

LEGATION OF THE UNITED STATES,
Constantinople, January 10, 1889. (Received January 28.)

SIR: Referring to your instruction No. 131, of September 12, 1888, I have the honor to transmit a copy of a note verbaie addressed to the Sublime Porte by Mr. King when chargé, under date of October 18, requesting that the Imperial Medical College be directed duly to recognize the diplomas of physicians graduated at the Bellevue Hospital Medical College in the city of New York.

The occasion of this note was a refusal on the part of the Imperial Medical College to license a graduate of the Bellevue Hospital Medical College, who is a Turkish subject, without first submitting to a thorough examination as to his fitness and learning, which he declined to do.

The Porte has sent a reply, accompanied by a report of the council of the administration of civil medicine, a translated copy of which I inclose for the information of the Department.

The sense and substance of such report in brief is the following:

When the applicant to practice his profession in this Empire produces a diploma of a State institution, where the State guaranties, as it were, by a *staats examen*, as in Germany, the sufficiency of the studies pursued and the examination, then such applicant, upon making proof of the fact that the diploma has been conferred upon him and submitting to a mere formal colloquium or medical conversation, is granted a certificate permitting him to practice his profession in this Empire.

On the other hand, if the applicant produces a diploma that is not of the grade above specified, that is to say, if the diploma is not from a State or Government institution, as above specified, then the applicant, in order to have the right to practice his profession in the Empire, must undergo a thorough examination, as is prescribed, to entitle him to a diploma from the medical college here.

This subject it seems presented itself in 1878, when the Porte first attempted to enforce with some degree of system the general law regulating the practice of medicine (see Legislation Ottomane, Vol. III, page 105.)

The matter was referred by the consul-general to the Department, and in its instruction to the consul-general No. 50, of 29th April, 1878, it incloses a report from the Commissioner of Education, which says:

The United States Government formally recognizes the diplomas of no medical school of this country or any other as affording any evidence of medical capacity, but surgeons of the United States Army and Navy, Marine Hospital Service, etc., are subject to a rigid examination before appointment.

In the light of your instructions first above referred to I assume you have no further instructions to give in this matter.

I have, etc.,

O. S. STRAUS.

[Inclosure 1 in No. 156.]

Mr. Straus to the Sublime Porte.

LEGATION OF THE UNITED STATES,
Constantinople, October 18, 1888.

The legation of the United States learns that the Imperial Medical College refuses to recognize the diplomas of physicians issued by the Bellevue Hospital Medical College of New York, and therefore requests the ministry of foreign affairs to inform the Imperial Medical College that the above-mentioned American college is one of excellent standing, and its diplomas should receive due recognition.

[Inclosure 2 in No. 156.—Translation.]

*The Sublime Porte to Mr. Straus.*MINISTRY OF FOREIGN AFFAIRS,
Constantinople, December 25, 1888.

In reply to the *note verbale* the legation of the United States kindly addressed on the 18th October last, the ministry of foreign affairs has the honor to transmit herewith copy of a report of the administrative council of civil medical affairs concerning the diplomas of physicians granted by the college of the Bellevue Hospital at New York.

[Inclosure 3 in No. 156.—Translation.]

*Report of the administrative council of civil medical affairs.*MINISTRY OF THE INTERIOR, ADMINISTRATION OF CIVIL MEDICAL AFFAIRS
Constantinople, November 23, 1888.

The council has taken cognizance of the *note verbale* addressed to the imperial ministry of foreign affairs by the legation of the United States of America, and in which this legation requests that the administration of medical affairs duly recognize the diplomas of physicians granted by a medical college of New York called "College of the Bellevue Hospital." In this connection the council has the honor to remind the ministry that according to the Ottoman law any person who calls himself a physician or apothecary and who claims to have studied in a faculty of medicine or in a school of pharmacy abroad, and demands to practice medicine or pharmacy in Turkey must—

1st. Prove his studies and his medical or pharmaceutical knowledge by showing a diploma.

2d. He must pass an examination giving proof that the diploma he exhibits belongs to him. This prescription of the law is formal and does not admit of any exception.

The examinations to which are subjected physicians and apothecaries who have prosecuted their studies in Europe, are of two kinds, according to the category to which the certificate of studies belongs.

If the certificate of studies is a diploma of doctor of medicine and surgery, or of master in pharmacy emanating from a faculty or a university placed under the immediate and effective supervision of the government of the country in which this faculty or university is located, and of which the government guaranties the examination to which the candidate is submitted, then a mere colloquium or medical conversation is required. If, on the contrary, the school which has granted the certificate of studies or the diploma is a school which the government of the country where it is located does not guaranty, or if it is not a university or a faculty but a secondary school, then the examination the candidate is submitted to, is not a colloquium, but a rigorous examination for a doctorate; and if he passes satisfactorily he receives, not a permit to practice, but a doctor's diploma or an apothecary's diploma. By this method control of the title on capacity of physicians and apothecaries is effected over such who have prosecuted their studies abroad and who seek to practice their profession in Turkey. Let us come now to the special case. The honorable legation of the United States of America declares that the medical college of the Bellevue Hospital of New York is enjoying a good reputation and therefore the Ottoman medical administration should accept the diploma of that college.

The medical administration has no desire to contest the rank the Bellevue Hospital College enjoys in America, and it does not refuse to accept the certificates of medical studies granted by that college. But that college is not under the control of the Government of the United States, and is not held responsible therefore except for its existence; its reputation it does not guaranty in any other way. Consequently the diplomas granted by that institution and by a number of other institutions not under the guaranty of the Government in the United States of America, can not be placed exactly on the same footing as the diplomas granted by the universities and faculties conducted under and guarantied by the governments of the different countries. Thus the medical administrations formerly classified with the latter, and this also as a special concession, only such diplomas as were granted by institutions of North America bearing the title of university. However, as it now appears from the information received, corroborated by the declaration of the legation of the United States, that the Government of that Republic does not come forward as a guarantor for any of the medical schools to be found on its territory, whether they are universities or colleges, that the United States Government never receives in its service physicians coming from those schools, whatever the title may be,

unless they are submitted to a rigorous examination of admission, and lastly, from the report of the minister of the Sublime Porte at Washington, which has been communicated to us by the imperial ministry of foreign affairs on the 22d of October, 1304, under No. 319, from which it appears that the requirements and regulations regarding the granting of diplomas of physicians in North America are so various, that it differs so much in the several States, that the ministry of foreign affairs of the United States has been unable to furnish him exact and sufficient information on the question, and in order to get the various regulations of the different States forming the Federative Union of North America it needs a long time. Hence, as we said, by reason of this formal declaration and of this official information, the administration of the medical affairs of Turkey finds itself under the necessity not to make an exception any longer, not even as to the diplomas of the American universities, but to accept as certificates of studies in medicine all the diplomas from the American schools, be they universities or colleges, on a footing of a perfect equality, and it assimilates them with the diplomas of the European schools which are not controlled or guaranteed by the governments, by subjecting the persons who have studied in such schools to the rigorous examination of doctorship; examinations such as those to which the United States Government itself subjects its own physicians.

We do not think that the United States legation will have any objections to make against a measure in force in its own country. If the honorable legation replies to this that the United States Government subjects to such an examination only the physicians and apothecaries it takes in its service, we will answer that our Government makes no distinction between the physicians serving the population and those serving the State, and that any physician in possession of a permit to practice freely his profession among the population can enter the medical or pharmaceutical service of the State, without his being submitted to any new test.

In Turkey, as in nearly all the countries of Europe, the practice of medicine is not a free profession like that of a merchant or an artisan; it is subjected to the immediate supervision of the authorities and under specific regulations provided by the law of every country.

The Ottoman government can not place the lives of its people in the hands of the first comer without ascertaining the real capacities of those who claim to attend the sick. Finally, or rather summing up our answer:

The Ottoman medical administration has provided two classes of proofs for physicians who, having studied in a foreign medical school, wish to practice in Turkey; that is to say, a proof by colloquium for physicians showing a diploma from a university or faculty controlled and guaranteed by the government of the country within which these institutions are located, and the proof by the doctorship's examination for those who have a diploma from a secondary school of medicine, or from a university, faculty, or a school not guaranteed by the government of their respective countries; the diplomas of the universities, schools, and colleges of the United States of North America, will all be accepted upon a footing of equality; but as none of these schools are supervised or guaranteed by the Government of the Union, the persons who present these diplomas shall be subjected to the same examinations as those who have studied in the schools of other countries which are not guaranteed by the governments, viz: they shall be subjected to the rigorous examinations for the doctorship.

For the Council.

The Secretary-General:

ZOEROS.

Mr. Straus to Mr. Bayard.

No. 161.]

LEGATION OF THE UNITED STATES,
Constantinople, January 21, 1889. (Received February 6.)

SIR: Referring to my No. 151, of December 22, 1888, respecting the printing of the Bible in Turkish, I inclose a copy of a note from the Porte, giving the desired permission. I have furnished a copy thereof to the Bible house in Stamboul.

I have, etc.,

C. S. STRAUS.

[Inclosure in No. 161.—Translation.]

*Saïd Pasha to Mr Straus.*MINISTRY OF FOREIGN AFFAIRS,
Constantinople, January 19, 1889.

SIR: In response to the note your excellency kindly addressed to me, dated June 16 last, I have the honor to inform you that the necessary communications have been made to the ministry of public instruction, so that no impediment shall be made to the printing of the Bible.

Please accept, etc.,

SAÏD.

Mr. Bayard to Mr. Straus.

No. 180.]

DEPARTMENT OF STATE,
Washington, January 21, 1889.

SIR: I transmit herewith a copy of a letter from Messrs. La Forme and Frothingham, merchants of Boston, dated the 7th instant, stating that the municipal authorities of Smyrna have under consideration a plan to compel all importations of refined petroleum to be stored in a public warehouse in the city, and that by its operation, if determined upon, they will be put to great and heavy expense.

This is the revival of a question which we had hoped had been finally settled on a previous occasion.

In 1882 a similar complaint was made by the above-mentioned and other firms to the Department. Concessions had been granted to parties at Smyrna and other Turkish ports for the erection of warehouses for petroleum, and this authority of law was invoked to support the private monopoly by prohibiting its storage elsewhere. The charge then made was 8 per cent., thus doubling the rate of duty established by the treaty of 1862. This fact, and the loss which would result to our merchants, being represented to the Government of the Sultan, the concessions were promptly revoked.

It would now appear that another attempt to establish a monopoly in the storing of petroleum is contemplated. It is not alleged that the grant is to private persons, yet it is not the less a monopoly though the warehouses belong to the municipality of Smyrna or the Turkish Government.

It can not be pretended, which would alone justify this measure, that it is necessary for the safety of the inhabitants of Smyrna. I willingly admit the right of a municipality to make all reasonable regulations to provide against accident from the handling and storing of dangerous substances. But refined petroleum of the usual standard fire-tests is non-explosive, not liable to spontaneous ignition, and when stored in sealed tin cases but slightly inflammable. In this country, where millions of cases are constantly handled for export, the origination of a fire in a petroleum storage warehouse is almost unknown. Besides, the warehouse of Messrs. La Forme and Frothingham is outside the city limits. In 1873 the storing of petroleum within the limits of the city of Smyrna or within two kilometers thereof was prohibited, and Messrs. La Forme and Frothingham erected at an expense of \$20,000 a stone building for the reception of their shipments in the suburb of Cordelio. Indeed, if the step which the authorities of Smyrna are said to have under consideration be for the sake of greater security it will have exactly the opposite effect to that intended. The storage of large quantities of petroleum in a thickly-

built city, where fires originating in surrounding buildings are frequent, is attended with danger. This is shown by the difficulty of obtaining insurance under such circumstances and the high rates asked, which adds an unnecessary charge upon merchants not imposed when isolated suburban storage is resorted to.

Petroleum is one of the most important products of this country, and large sums of money have been invested in the commerce with Turkey. Turkey is not herself a large producer, and can have no reason for unnecessarily hampering its importation. I see no argument which can be now adduced for any such restriction that was not fully met in 1882, while the proposed action of the authorities at Smyrna of entailing an arbitrary and monopolistic tax for storage would be held, as it was then, contrary to tariff stipulations and international law.

I am persuaded that the Turkish Government is as yet unaware of this matter. You will therefore bring it to their attention, and use such endeavors as in your discretion may seem proper against the unreasonable restrictions on the trade in American petroleum, and especially any regulations which, like this complained of by Messrs. La Forme and Frothingham, operate as a practical discrimination against the interests of American importers, who, having at great expense effectively complied with the previous requirements of municipal law, have acquired with the full sanction of the authorities rights which may be regarded as vested and confirmed, and of the enjoyment of which they may not equitably be deprived without compensation.

In this connection I beg to refer you for your information to the Department's Nos. 11, 42, and 65, to Mr. Wallace's of September 4, 1882, January 16, and March 24, 1883, respectively; and Mr. Wallace's Nos. 98, of June 9, and 129, of September 30, 1882, published in Foreign Relations for 1882 and 1883, which contain the correspondence then had with our legation on this subject. You would do well to consult also Mr. Heap's report, contained in Mr. Cox's No. 34, of October 20, 1885, on the regulation of imports of petroleum in Turkey.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 180.]

Messrs. La Forme and Frothingham to Mr. Bayard.

BOSTON, January 7, 1859.

SIR: We are advised by Messrs. Reggio and Belhomme, our correspondents and representatives in Smyrna, Turkey, that the municipality of Smyrna has under consideration a scheme to compel all importations of refined petroleum to be stored in a public warehouse of the city, a scheme which would involve unusual and heavy expenses upon our shipments of petroleum to that port.

In the year 1873 the local authorities of Smyrna decided to prohibit the storage of petroleum in large quantities within the limits of the city, and in consequence we immediately caused to be erected in the suburbs of the city at Cordelio, situated on the harbor and opposite the city, a stone warehouse, at an expense of about £4,000 sterling for the storage of our petroleum. The scheme now under consideration would make this warehouse useless and would involve a heavy loss for us.

Our representatives, Messrs. Reggio and Belhomme, have protested before the local authorities against their scheme, and have appealed to the United States legation in Constantinople and to the United States consul in Smyrna for their interference to protect us against the injustice and loss with which we are threatened.

We would now respectfully request that your Department may instruct the United States minister at Constantinople and the United States consul in Smyrna to recognize Messrs. Reggio and Belhomme as our representatives until further notice, and to do all in their power to maintain our rights in the premises.

Yours, very respectfully,

LA FORME AND FROTHINGHAM.

Mr. Bayard to Mr. Straus.

No. 183.]

DEPARTMENT OF STATE,
Washington, January 31, 1889.

SIR: Your dispatch, No. 156, of the 10th inst., in further reference to the mode of permitting the practice of medicine in Turkey under a foreign diploma, which formed the subject of my instruction No. 131, of the 12th September last, has been received.

Your present report shows that the necessity of a full examination in medicine, according to the Turkish requirements, depends, in the case of a person holding a foreign medical diploma, on the fact whether the institution granting such diploma is maintained by and under the guaranty of the State, or is a private concern.

The medical institutions in the several States of the United States are chartered under State laws, and regulated thereby. While it would be perfectly practicable, in case inquiry were made of us by the Government of the Porte, to obtain from the executive of any sovereign State a certificate of the status of any designated chartered institution of learning within such State, which would probably satisfy the reported Turkish requirement, there is no general official knowledge on the part of this Department, or on your part, that would enable you to certify under the seal of your legation to the status of American medical colleges, of which the diplomas might be presented to you.

You are correct, therefore, in assuming, as you do by the light of my instruction, No. 131, of 12th September, 1888, that the Department has no further instructions to give you in the matter at present.

A copy of your No. 156 will be sent to the Secretary of the Interior for the information of the Commissioner of Education.

I am, etc.,

T. F. BAYARD.

Mr. Straus to Mr. Bayard.

No. 172.]

LEGATION OF THE UNITED STATES,
Constantinople, February 8, 1889. (Received February 25.)

SIR: In reply to your instruction No. 180 of 21st ultimo, with inclosure, copy of letter from Laforme and Frothingham, respecting the proposed action of the authorities at Smyrna concerning the storage of petroleum, I have the honor to report:

In the early part of December, 1888, this matter came before me through the office of the consul-general, and I immediately sent a note to the Sublime Porte, dated December 6, 1888, of which I inclose a copy for your information.

At the same time I spoke personally with the minister of foreign affairs, expanding my views upon the subject, as the matter seemed to be urgent, in that it was reported that the proposed action would be taken forthwith.

The minister of foreign affairs promised me that he would at once telegraph to the governor-general at Smyrna instructing him to take no action in the matter, as it was under consideration between him (the minister) and myself. He further promised that no action would be taken by the Sublime Porte until after further discussion with me, and that he would advise me of any action that might be contemplated.

I have carefully noted your explicit directions, and the matter will have my attention, should any further action on my part become necessary under the circumstances above stated.

I have, etc.,

O. S. STRAUS.

[Inclosure in No. 172.]

Mr. Straus to the Sublime Porte.

LEGATION OF THE UNITED STATES,
Constantinople, December 6, 1888.

EXCELLENCY: I herewith have the honor to bring to the attention of Your Excellency a protest made by Messrs. Reggio and Belhomme, of Smyrna, representing Messrs. Laforme and Frothingham, citizens of the United States, whose principal establishment is in the city of Boston, in the said United States.

By the inclosed protest and the report of our consul at Symrna, it appears that an attempt is being made by the vali of Aidin to compel the agents of the said Laforme and Frothingham to transfer within two weeks their petroleum from their own stores into stores provided by the municipality, and to enforce excessive payments for storage.

In view of the fact that the stores of Reggio and Belhomme, the agents of Messrs. Laforme and Frothingham, were built at a great cost pursuant to a regulation made by the vali of Symrna in 1873, the proposed present regulation is in direct conflict with vested property rights, and is arbitrary and unjust.

I deem it my duty to make a positive protest against the proposed action of the vali of Aidin, and trust your excellency will cause orders to be sent at once to Symrna with a view of preventing such action being taken.

I have not entered upon an extended argument in this note, first, because I desired to bring this official protest to your excellency's notice with as little delay as possible, and secondly, because the subject-matter is fully stated in the inclosed protest of Reggio and Belhomme.

Accept, etc.,

O. S. STRAUS.

Mr. Bayard to Mr. Straus.

No. 186.]

DEPARTMENT OF STATE,
Washington, February 13, 1889.

SIR: In connection with my No. 183 of the 31st ultimo concerning the Ottoman Government's regulations respecting foreign medical diplomas, I have now to apprise you of the receipt of a letter from the Secretary of the Interior, dated the 9th instant, inclosing one to him from the Commissioner of Education, in which he expresses his thanks for the important information reported in your dispatch No. 156 of January 10, 1889.

I am, etc.,

T. F. BAYARD.

Mr. Straus to Mr. Blaine.

[Extract.]

No 178.]

LEGATION OF THE UNITED STATES,
Constantinople, March 15, 1889. (Received March 30.)

SIR: Herewith I have the honor to inclose copy of a memorandum delivered to me on the 12th instant by the Rev. Henry O. Dwight, of the levant agency of the American Bible House, at Constantinople. By this report it appears that the Ottoman authorities in the vilayet of

Van, a province in eastern Turkey near the Persian frontier, have closed several schools of the American missionaries in that locality. The number is not stated, but I learn it is four or five. It is stated that the managers of said schools have complied with the regulations requiring the submission by them to the vilayet authorities of a list of the books used in such schools, together with the curriculum of studies, and the certificates of the teachers.

I presented the matter on yesterday to his highness the Grand Vizier, and he promptly telegraphed to the vali, or governor-general of Van, to permit the re-opening of said schools, if they have complied with the provision of the school laws above referred to. There may be some delay in having these orders promptly complied with. I am of opinion that I shall succeed in having them re-opened without unreasonable postponement.

I learn that the original cause for closing these schools was because of their managers neglecting or refusing to submit to the regulations above referred to. I surmise that even now there continues in that respect some evasion. We have long since admitted the propriety and justice of these requirements, yet there is a tendency on the part of certain managers in distant provinces to evade the law.

I have, etc.,

O. S. STRAUS.

[Inclosure in No. 178.]

Memorandum drawn up by Rev H. O. Dwight.

(1) About ten years ago (1878) the American missionaries residing at Van established a common school in the village of Agantz in the Sanjak of Arjish (vilayet of Van). The school has been carried on without objection from the local authorities, and in 1886, on receipt of the instructions contained in the letter of Mr. Pendleton King, dated December 13, 1886, it complied with the regulations there set forth, and has done nothing contrary to these regulations.

In the summer of 1887 the governor-general of the province, Halil Pasha, ordered the school to be closed. Dr. G. C. Reynolds, the American missionary responsible for the school, applied to the director of the instruction in the province for a removal of the instructions laid on this school, pointing out that it had existed for a number of years and had conformed to the law in all respects.

After long delays Dr. Reynolds received, on the 7th of February, 1889, a verbal communication from the director of instruction (Mearif Mudiri) of the province to the effect that the school could not be re-opened, since certain Armenians in the village objected to the existence of a Protestant school at Agantz.

Dr. Reynolds then pointed out that the school was opened at the request of the Protestant families residing in the village, and had violated none of the school regulations.

The director of instruction then remarked that the continuance of the school was in violation of a new school law. He, however, refused to furnish Dr. Reynolds with a copy of the law, or to give his refusal to authorize the re-opening of the school in writing.

Since it is evident that there is no law of the Empire making the continuance of the schools of Americans dependent upon the consent of the population, no one being forced to attend such schools, it is hoped that the governor-general of Van may be instructed to cease interposing his prohibition against the continuance of this school.

(2) The American missionaries residing at Urmiah, in Persia, have for many years conducted schools in several villages in the plain of Gawar, district of Hakkiari, province of Van, near the Persian frontier.

These schools were summarily closed in the early part of 1888, and on the recommendation of the United States legation care was taken to conform to section 129 of the school law. In October of 1888 the schools were re-opened without objection from the local authorities. Subsequently, however, the governor-general of Van ordered the schools to be closed, and required a fresh presentation of books and course of study to his office.

The books were presented as required, and the governor-general gave decision against the re-opening of the schools on the ground that he could not allow American citizens to open schools in this district.

Since these schools have been carried on by Americans for many years without complaint against them it is hoped that their continuance may be permitted by the Imperial Government.

Mr. Straus to Mr. Blaine.

No. 187.]

LEGATION OF THE UNITED STATES,
Constantinople, March 28, 1889. (Received April 13.)

SIR: On the 14th instant I received through the consul-general here two dispatches from our consul at Beirut, under date of March 4 and 5, reporting that the American missionaries in Beirut and Syria were in great consternation in that the Caima Kam or mayor of Baalbek, in the vilayet of Damascus, had taken action to close the American mission schools within his district, namely, in the towns of Ras Baalbek, Tulia, Shelita, Beit-Shama, Deir-ul Ghazal, Rusaya, and Burdei. He further reported that the local authorities had closed one of the American schools in the vilage of Istubigo, near Latakia, in the vilayet of Beirut.

The local authorities claimed that they were acting under stringent orders from the governors-general of their respective provinces. That the grounds for their action were two: First, because these schools had not received a permit from the local authorities, and second, because the managers of said schools declined to stipulate to exclude Moslem children. Rev. Mr. Ford, the manager of the schools referred to, reports that the governor general of Damascus stated that it was not sufficient for the schools to have complied with the school regulations, but this must be supplemented according to the terms of recent official orders from the Sublime Porte that "no Moslem pupils shall be allowed in any Protestant school, and therefore the managers must give a written pledge to admit no Moslem pupils before any schools can be sanctioned."

As to the first objection, the managers of said schools state they have long since complied with their part of the regulations, namely, they submitted (a) certificates of teachers, (b) list of text-books, and (c) curriculum of studies, but that the local authorities had neglected to issue the permit for such schools as provided by the regulations.

As to the second objection, the managers declined to enter into the stipulation not to admit Moslem children.

I decided, upon the receipt of the foregoing information, not to delay action until what appeared to be well founded fears on the part of the missionaries might be realized, but to meet the issue at once. Accordingly, on the 16th instant, I had a conference with the Grand Vizier. The matter was fully discussed. I explained to him that I could not assent to the right of the Porte to impose a stipulation upon American schools not to admit Moslem children; that aside from the fact that such an act would render the schools instruments of intolerance, I denied the right of the Ottoman Government to impose such a condition. I confined myself to the line of argument outlined in my memorandum concerning the rights of schools, inclosed with my dispatch No. 47 of December 27, 1887.

The Grand Vizier seemed fully to concur with me, and there and then telegraphed to the governors-general of Damascus and Beirut to re-open

the schools at Istubigo and not to interfere with any American schools in their respective provinces, but to refer complaints, if any, to him.

On the same day I telegraphed Mr. Bissinger, our consul at Beirut, advising him of the instructions given by the Grand Vizier. I am now in receipt of a dispatch from Mr. Bissinger of the 20th instant, of which a copy is inclosed, whereby it will be seen that the school at Istubigo, above referred to, has been re-opened and that the Grand Vizier's orders have been promptly obeyed. This will doubtless prevent any further interference as feared by the missionaries on the part of the local authorities with the schools in the said vilayets.

I anticipate that the school referred to in the inclosed dispatch at Ain Burdhei will also be re-opened.

I have, etc.,

O. S. STRAUS.

[Inclosure in No. 187.]

Mr. Bissinger to Mr. Pringle.

CONSULATE OF THE UNITED STATES,
Beirut, March 20, 1889.

SIR: I have the honor to report as the result of the honorable Mr. Straus' telegram dated Constantinople, the 16th instant, as follows:

"Grand Vizir instructed valis Beyrouth, Damascus not to disturb American schools to reopen one closed, complaints to be sent to him."

That the muchir, in his capacity as acting vali of Beirut, has promptly issued orders to the mutessarif of Latakia to allow the reopening of the recently suppressed American mission school at Istubigo.

The prompt and efficient action of the honorable minister in securing this most gratifying result for the Latakia mission school is now also invoked for the "Ain Burdhei" school, in the vilayet of Syria, closed in November, 1888 (see last part of dispatch No. 183 of March 4, 1889), as, if permitted to remain closed, it is apprehended that our apparent inaction may be interpreted as indifference on the part of the representatives of our Government to the interests of the mission and encourage the caimakam of Baalbek to renewed aggressions and obstructions.

The mission associates itself with this consulate in tendering sincere acknowledgements to their respected minister.

I am, etc.,

ERHARD BISSINGER.

Mr. Straus to Mr. Blaine.

No. 191.]

LEGATION OF THE UNITED STATES,
Constantinople, April 20, 1889. (Received May 6.)

SIR: Referring to the subject-matter of the Department's instructions Nos. 74, 107, 111, 140, 154, 168, etc., respecting the restrictions attempted to be placed upon foreign Jews resorting to Palestine, I inclose herewith for your information a copy of a memorial from the Jerushalaim Lodge of the Independent Order of B'nai B'rith at Jerusalem.

From this memorial it appears that the action taken by this legation under the Department's instruction, and by the English and French embassies, as reported in my dispatches Nos. 80 and 85, respectively, of May 19 and 28, 1888, has had the desired effect in removing such restrictions.

The original memorial is elaborately engrossed in gold and rubric and written in English and Hebrew. Considerable allowance must be made for the extravagant language in which the memorial is couched, after the manner of the East.

I have sent a reply to the memorialists, stating in substance that I was gratified to learn that the restrictions had been rescinded, and that the action I had taken in the matter was in pursuance of and in strict compliance with the Department's instructions to protect American citizens abroad in their rights and privileges as such irrespective of race and creed.

I have, etc.,

O. S. STRAUS.

[Inclosure in No. 191.—Translation.]

Memorial from Jerushalaim Lodge of the Independent Order of B'nai B'rith.

HONORABLE SIR: Deeply touched by feelings of gratitude for your generous exertions on behalf of our Russian brethren, who, in consequence of dire persecutions, were seeking a refuge in this country, the Jerushalaim Lodge of the Independent Order of B'nai B'rith, at their meeting of the 2d instant, unanimously and enthusiastically resolved to tender you these expressions of their feelings.

The efficient way in discharging your official duties of the high post you fill will secure you forever the admiration and gratitude not only of your countrymen but also of the Jewish nation throughout the universe. For, if we can boast of merchant princes and renowned names in the fields of arts and science, you, honorable sir, are the first who shed glory upon the Jewish name as a statesman.

It will always be remembered with deep satisfaction in the annals of the Jewish history that a man, chosen by the enlightened Government of the great American Republic to represent her important interests at the Sublime Porte, never forgot his suffering brethren. You not only came to Jerusalem, accompanied by your noble lady, to pay homage to the sacred memories of our glorious past, but having become acquainted with the restrictive measures taken against foreign Jewish emigrants, you used all your influence with your colleagues and with the well-intentioned Turkish Government, and succeeded in having the exceptional law repealed. It is to you that we owe no more to witness the heartrending scenes of the unhappy emigrants being mercilessly driven from our shores, and therefore our lodge only follows the commands of simple duty in expressing to you their appreciation of your noble deeds and their lasting esteem and gratitude.

Jerushalaim Lodge of the Independent Order of B'nai B'rith.

Dr. HERSBERG, *President.*
EPHRAIM COHN, *Vice-President.*
BEN ZENUDA, *Secretary.*

Mr. Straus to Mr. Blaine.

No. 194.]

LEGATION OF THE UNITED STATES,
Constantinople, May 10, 1889. (Received May 25.)

SIR: I have the honor to report that on the 11th of July, 1888, the president of Robert College under instructions, received by him from the trustees of said institution in New York, filed an application in this legation to obtain the necessary permission from the Ottoman Government for the erection of the following additional buildings on the premises now occupied by the college at Roumeli Hissar on the Bosphorus, that is to say:

First. For the erection of an additional school building to contain chemical and physical laboratories and lecture rooms, museum of natural history, geological and mineralogical collections, library, and hall for the public exercises of the college. Dimensions, 100 feet by 50 feet, 2 stories high.

Second. For the erection of a dwelling-house for the president of the college within the inclosure of the college grounds. Dimensions, 50 feet square, 2 stories high.

Upon examining the original iradé for the erection of the college and the Ottoman laws regulating the construction of buildings it was found necessary to apply for an iradé. It was necessary also to file specifications and plans, which was accordingly done.

The application being thus in form, passed through the various bureaus and office provided by law, and was finally submitted to the council of states and the council of ministers. The matter was carefully followed through all these stages by our dragoman, Mr. Gargiulo, and was finally transmitted by the Porte to His Majesty the Sultan.

On the 6th instant the Sultan's iradé was issued and the necessary formal papers or firman in pursuance thereof will be delivered to the college authorities in the course of a few days.

I have, etc.,

O. S. STRAUS.

Mr. Straus to Mr. Blaine.

No. 195.]

LEGATION OF THE UNITED STATES,
Constantinople, May 18, 1889. (Received June 3.)

SIR: I have the honor to bring to the attention of the Department the following state of facts concerning the refusal of the Ottoman Government to recognize the American citizenship of Meimaraghlou Yorghis, naturalized under the name of George Meimar:

On the 31st January last the Sublime Porte addressed a note-verbale to this legation informing it that, in a suit pending at Smyrna against the said Meimar as defendant, wherein an Ottoman subject, Kapédjioglou, is plaintiff, the said Meimar set up the plea that he was an American citizen. The Sublime Porte requested the legation to instruct its consul at Smyrna not to interfere in the matter, alleging that the said Meimar is an Ottoman subject, and that he has never legally divested himself of his nationality of origin; that while it is true that the said Meimar had gone to America and remained there for a number of years, he had never complied with the requirements of the Ottoman law relating to foreign nationality.

The further facts in the case are set forth in the dispatch of our consul, Mr. Emmet, to the consul-general, No. 90, of March 22, 1889, a copy of which is inclosed.

On the 4th April last, after I received the above dispatch of Mr. Emmet, I replied to the Porte, stating that Meimar is an American citizen, duly naturalized as such, and that therefore the action of the consul was approved by the legation, and it was hoped that, these facts appearing, the ministry of foreign affairs would instruct the authorities at Smyrna to recognize Meimar as an American citizen and accord him the rights appertaining thereto. To this answer and request the Porte made no reply; but in the mean time the court at Smyrna, to wit, March 6 last, gave judgment for the plaintiff against the defendants above named for the sum of £1,400 Turkish, the amount claimed, with interest, overruling the plea of Meimar's attorney as to the American nationality of his client. In this connection I would state that Meimar in his interview with me said that he has no property out of which the judgment can be satisfied, but that his father, co-defendant, has property. He further stated that if the Ottoman authorities could be made to recognize his American citizenship the judgment would be vacated and the plaintiff would have to begin his action anew.

This is correct, as a foreign subject has to be sued through the intervention of his consul in the mixed tribunal. In the mean time, of course, his father could, if he wished, dispose of his property. Having received no reply from the Porte to my note above mentioned, I asked for one; the minister of foreign affairs stated (verbally) that under the Ottoman nationality law of 1869 no Ottoman subject has the right to change his nationality unless with the consent of the Sultan; that said Meimar had not applied for nor obtained such consent, and that therefore he approved the decision of the court at Smyrna.

The minister of foreign affairs further stated that the Ottoman Government after long negotiations had finally consented to the treaty of naturalization proposed by our Government, with the purpose and object of avoiding the discussions and conflicts arising from disputed nationality, and that until such treaty is accepted his Government felt bound to give validity to its laws within its territory.

In this connection I have the honor to refer you to Secretary Bayard's instruction No. 30, of July 26, 1887, in reply to Mr. King's dispatch No. 323, of May 14, 1887, setting forth a number of cases of disputed nationality.

Awaiting your instructions in this matter,
I have, etc.,

O. S. STRAUS.

[Inclosure in No. 195.]

Mr. Emmet to Mr. Pringle.

CONSULATE OF THE UNITED STATES,
Smyrna, March 22, 1889.

STR: I have the honor to acknowledge receipt of your No. 85, bearing date 15th instant, with inclosures from Hon. O. S. Straus, No. 124, dated February 4, and note-verbale dated January 31 from Sublime Porte in reference to my action in protecting Mr. Meimar.

The facts of the case are as follows:

Mr. Meimarogluon Yorgh, born an Ottoman subject, left Smyrna some years ago and resided in the United States, where he became naturalized on June 28, 1888. Being summoned in great haste to attend the death-bed of his mother, he returned to Smyrna in October last without a passport, but bearing the certificate of his naturalization all in due form. Prior to his departure for America he had been in business here, and was a bankrupt when he left the country.

One of the first things to occur upon his return was the commencement of a suit to settle an outstanding claim. Mr. George Meimar (as named in his naturalization certificate) appeared at this consulate and demanded protection as an American citizen. My answer to him was that although his certificate was in proper form I doubted whether he would be recognized as an American citizen by the local authorities, inasmuch as he had left Turkey after the passage of the law of 1869 and had not obtained an imperial iradé permitting him to change his nationality; that his change of nationality did not prevent his creditors from suing for claims which existed before he left here, and that the only form of protection I could afford him would be to insist upon the presence of the consulate dragoman and a delegate to take part at the trial of his suit.

These privileges were demanded at the court, but denied when the case was called for trial, on the ground that Mr. Meimar was an Ottoman subject and not entitled to the protection of this consulate. The trial was postponed. This same view was taken by the secretary of foreign affairs and communicated to me, against which I urgently protested and claimed the right to protect Mr. Meimar by virtue of the papers held by him establishing his American citizenship.

What has become of Mr. Meimar or his case, I am unable to state, as he has not appeared at the consulate for more than a month. His stay in Turkey was to be a short one, and for that reason perhaps the local authorities desire to have undisputed control over him.

When you were in Smyrna last, you may recall meeting two lawyers at this consulate who went over the case and its merits very thoroughly.

I could not do less for Mr. Meimar under the circumstances, and at the same time everything was done in a quiet manner without sacrificing his rights or giving offense to the local authorities. I am somewhat surprised to find that the intervention of the legation has been sought.

I have, etc.,

W. C. EMMET.

Mr. Straus to Mr. Blaine.

No. 196.]

LEGATION OF THE UNITED STATES,
Constantinople, May 27, 1889. (Received June 11.)

SIR: Referring to my dispatch, No. 187, of March 28, 1889, I have the honor to report: The American missionaries throughout the Ottoman Empire have frequently complained that the chief cause of interference by the local authorities with their schools arose from the fact that while they on their side complied with the requirements of the school regulations (Legislation Ottomane, Vol. III, p. 299) the local authorities refused or neglected to perform what the regulations required of them, and the result was frequently after they had submitted their text-books, the curriculum of studies, and the certificates of teachers, these were retained by the academical council, and the authority to open the schools was withheld. After the lapse of some months the governor-general would send an inspector to examine the certificate of teachers and the authority for the opening of the school. These, of course, could not be produced, as the academical council had not taken action upon them, nor returned them. Thereupon orders by the vali would frequently be given to close the schools that had not complied with the regulations aforesaid.

The complaints of the missionaries are set forth in a recent letter, dated Beirut, Syria, April 9, 1889, from Rev. Dr. H. H. Jessup and Rev. George A. Ford on behalf of the Syrian mission of the American Presbyterian Church. A copy of so much as refers to this subject is inclosed.

My own observations confirmed the statements in this letter, and that much trouble would be avoided if the local officials could be made to comply with their part of the school law, and that a degree of permanence for the schools could be assured if the permits provided for were delivered to the schools, thereby preventing them from being subject to the caprices and changes of local officials.

On repeated occasions during the past twelve months I have presented the matter to the Porte, and insisted that orders should be given to remedy the evils complained of. On the 16th May instant a vizierial order was issued by the grand vizier, and has been forwarded to the governors-general of every vilayet wherein there are foreign schools. I succeeded in obtaining a copy, a translation whereof is inclosed.

I have sent copies of this vizierial letter to the consul-general for transmission to our consul at Beirut and for the information of our missionaries.

While considerable delay will doubtless attend the execution of the orders contained in this vizierial letter, yet it will, in the mean time, it is anticipated, enable the missionaries to protect themselves against the arbitrary acts of the local authorities in the several vilayets, and will, it is hoped, ultimately lessen the hindrances and obstructions to which American mission schools have constantly been subjected.

I have, etc.,

O. S. STRAUS.

[Inclosure 1 in No. 196.]

Messrs. Jessup and Ford to Mr. Straus.

[Extract.]

SYRIA MISSION OF THE PRESBYTERIAN BOARD OF
FOREIGN MISSIONS, UNITED STATES OF AMERICA,
Beirut, Syria, April 9, 1889.

DEAR SIR: The Syria Mission of the American Presbyterian Church would express its high appreciation of the able and efficient manner in which you have conducted the protracted negotiations with the Ottoman Government with reference to the status and the rights of American schools in this Empire.

The ground thus gained is most important.

We have furnished to the local authorities our course of study, the diplomas of our teachers, and a set of our books, according to art. 129, which also provides that the "governor-general and the academical council shall *authorize*" our schools after fulfilling these conditions.

We claim that they should give us *written permits* for these schools, as otherwise we have absolutely nothing to show as evidence that we have fulfilled the conditions of the law.

Local mudirs, kaimakams, and mutessarifs are requiring us to produce our "rukhas" or permits, maintaining that the failure to have such permits is evidence of the non-legality of our schools. We have, at great pains, done our part, and consider that we have the right to insist that the Government do its part.

It is true that we have the recent orders of the Sultan's Government that our "schools shall not be interfered with, that the closed ones be re-opened, and complaints to be sent to the grand vizier" (your dispatch of March 16, 1889); but what we now deem pre-eminently necessary, in order to save further trouble, is that we secure *permanence* to the status of our schools.

In view of this state of things, and of the fact that your thorough acquaintance with the whole subject gives you a great advantage in the matter, especially while so liberal a man as H. H. Kamil Pacha is at the head of the Government, we have felt convinced that now is the time to push our request for orders to the valis of Beirut and Damascus, and to the mutessarif of Mount Lebanon, to give us official written permits for all our schools, as evidently implied and provided for in art. 129.

HENRY H. JESSUP,
Stated Clerk of American Mission.
GEO. A. FORD,
Of the Sidon and Zahleh Stations.

[Inclosure 2 in No. 196.—Translation.]

Vizierial circular addressed to the governors-general of the Empire, dated Ramazan 16, 1306 (May 16, 1889).

The legation of the United States has made a complaint to the Porte, stating that whenever American schools are established, that while the authorities proceed to the examination of their programme (of studies) as well as the certificates of the teachers, yet no official permission in writing is granted, and the above-mentioned certificates are withheld by the authorities, and after a lapse of eight or ten years, when proceedings for the investigation for the condition of said schools are made, the said schools are closed, not because of any irregularity as regards the schools, but because the above-mentioned official permissions and the certificates of the teachers are not in their possession, and in consequence many inconveniences and difficulties are encountered in the effort to re-open the said schools.

Although it is known that some of these schools are closed for legal reasons, it can not be admitted that long-established schools should be closed as long as their status and the manner in which they are conducted are not such as to render their closing necessary for being contrary to the established regulations. Consequently, you are instructed that whenever a new school is to be established, the formalities required by the special law having been complied with, the governor-general shall grant to the directors of the schools the official permission, and the certificates of the teachers, after being examined, shall be returned to the latter and left in their possession. As regards the old existing schools, whenever any reason for their closing exists, the facts should be reported to the ministry of the public instruction, and, in accordance with the answer thus given, action shall be taken.

The same rule shall apply to the other foreign schools.

Mr. Blaine to Mr. Straus.

No. 214.]

DEPARTMENT OF STATE,
Washington, May 29, 1889.

SIR: I desire to acknowledge the receipt of your dispatch No. 194, of the 10th instant, reporting that an imperial iradé had been issued for the erection of additional buildings for the use of Robert College at Constantinople, and to express the Department's pleasure at this intelligence.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. Straus.

No. 215.]

DEPARTMENT OF STATE,
Washington, June 5, 1889.

SIR: I have to acknowledge the receipt of your No. 195, of the 18th ultimo, concerning the protection of George Meimar, a naturalized citizen of Turkish origin, in whose case the Ottoman Government joins issue on the main question of recognition of his American citizenship on the ground that he has not received an imperial iradé permitting him to assume a foreign allegiance.

The action of Mr. Emmet in behalf of Mr. Meimar is approved, and you are instructed to make energetic remonstrance against any action on the part of the Turkish Government tending in any manner to deny or abridge his just rights as such American citizen.

I am, etc.,

JAMES G. BLAINE.

Mr. Straus to Mr. Blaine.

No. 201.]

LEGATION OF THE UNITED STATES,
Constantinople, June 13, 1889. (Received July 1.)

SIR: On March 15, in my dispatch No. 178, I reported the action taken by me respecting several schools of the Presbyterian Board of Foreign Missions which were closed in the district of Gawar, Vilayet of Van, on the Persian frontier. On the 10th instant I received the letter, of which the inclosed is a copy, from Rev. Henry O. Dwight, one of the agents of the American Bible house here at Constantinople, stating that Rev. Mr. Coan, of the Presbyterian Board, writing from Urmiah, Persia, under date of May 18, reports that the schools have been re-opened and are now proceeding satisfactorily.

I have, etc.,

O. S. STRAUS.

[Inclosure in No. 201.]

Mr. Dwight to Mr. Straus.

BIBLE HOUSE, Constantinople, June 10, 1889.

DEAR SIR: Referring to previous communications from Dr. Cochrane, and also from myself, concerning certain schools of the Presbyterian Board of Foreign Missions which were closed in the district of Gawar, near the Persian frontier, I have the pleasure to inform you that the Turkish Government has allowed these schools to be re-opened.

Rev. Mr. Coan, of the above-named society, informs me from Urmiah, Persia, under date of 18th May, that the authorities in Gawar have removed the restrictions, and the schools are now proceeding satisfactorily. Mr. Coan desires me to thank you heartily for your kind efforts in behalf of these schools.

Very respectfully,

HENRY O. DWIGHT.

Mr. Blaine to Mr. Straus.

No. 217.]

DEPARTMENT OF STATE,
Washington, June 14, 1889.

SIR: I have to acknowledge the receipt of your No. 196, of May 27, 1889, concerning the vizierial letter to governors-general in Turkey respecting American schools.

I desire to offer the Department's congratulations on the success which has so far crowned your efforts in dealing with this troublesome and vexatious question, and to express the hope that now many of the hardships which have surrounded the American schools there, through arbitrary local interference, may speedily disappear in the interest of a better and more satisfactory condition of affairs.

I am, etc.,

JAMES G. BLAINE.

Mr. Straus to Mr. Blaine.

[Extract.]

No. 202.]

LEGATION OF THE UNITED STATES,
Constantinople, June 17, 1889. (Received July 2.)

SIR: In compliance with an invitation, I dined last evening with His Majesty the Sultan at Yildez Palace.

His Majesty conversed very freely at the table, and expressed great sympathy for the sufferers from the recent flood at Johnstown. He seemed to be conversant with the details of that accident, and stated that he would very much like to contribute to their relief. He asked if I would be the medium of transmitting such a sum as he might send me. I replied to him that I surely would, and that I had no doubt it would be highly appreciated as a mark of his sympathy for the people in my country. I should state in this connection that these expressions on the part of the Sultan were entirely spontaneous, as no reference by me had been made regarding the disaster. His Majesty desired me personally to express his cordial greetings to the President of the United States, and also to inform him of the regret he felt at my departure.

I have, etc.,

O. S. STRAUS.

Mr. Straus to Mr. Blaine.

[Telegram.]

PERA, June 18, 1889.

Sultan donates £200 Turkish relief flood sufferers,

STRAUS.

Mr. Blaine to Mr. Straus.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 19, 1889.

Express grateful appreciation President and Government United States for Sultan's generous relief flood sufferers.

BLAINE.

Mr. King to Mr. Blaine.

No. 33.]

LEGATION OF THE UNITED STATES,
Constantinople, October 12, 1889. (Received November 4.)

SIR: I inclose for your consideration a copy (in translation) of a note-verbale received in February last from the Sublime Porte, regarding the military service of cavasses and dragomans employed by foreign consulates. (See Legislation Ottomane, Vol. IV, page 16.)

No reply was made to the Sublime Porte, as this matter was to be considered in union with the other legations and embassies. The matter has received attention, and it has been admitted that the cavasses and dragomans are liable to this service; but there is ambiguity in the text of the regulation, and in my reply I have thought it well to make the reservation seen in the parenthesis.

I inclose a copy of my proposed reply, which, if it meet your approval, I will send to the Porte.

I have based it on the note verbale sent by the British embassy, but made it shorter and simpler without omitting (I think) any essential point.

I have, etc.,

PENDLETON KING.

[Inclosure 1 in No. 33.—Translation.]

The Sublime Porte to Mr. Straus.

[Circular note-verbale.]

MINISTRY OF FOREIGN AFFAIRS,
February 3, 1889.

As Article V of the regulation relating to the foreign consulates leads sometimes to erroneous interpretations, the ministry of foreign affairs has the honor to beg of the legation of the United States of America kindly to inform the agents placed under its jurisdiction that the period of five years contemplated in that article having expired since the 23d of Safer, 1285, any Mussulman, dragoman, or cavass, whose character of privileged employé has been recognized by the local authorities after the above-mentioned date, is bound to take up his military service if his name has been drawn.

As to the Christian employés, a distinction being made in practice between them and the Mussulman employés, the exoneration tax must be collected from the former on the same ground that the latter are subject to the conscription. But these two different applications of the law arise from an identical principle, and are equally obligatory.

[Inclosure 2 in No. 33.]

Proposed note-verbale from legation of the United States to Sublime Porte.

In reply to the note-verbal of the Sublime Porte of February 3, 1889, concerning the military service of cavasses and dragomans employed in foreign consulates, the legation of the United States (omitting for the present the discussion of the differ-

ence existing between the Turkish and the French texts of Article V of the regulation) accepts the interpretation of the Turkish texts of this article as far as regards the cavasses and dragomans employed by the American consulates of this Empire.

It consents in like manner to instruct the privileged employés of these consulates to pay the taxes for exemption from military service.

But the legation of the United States respectfully requests, as a matter of courtesy, the Sublime Porte to dispense with the service as *redifs* of the cavasses and dragomans employed at the present moment by the American consulates.

[Inclosure 3 in No. 33.]

Note-verbale from British embassy to Sublime Porte.

On the 3d of February last the Sublime Porte was good enough to address a note-verbale, No. 9, circular to Her Majesty's embassy on the subject of the liability of dragomans or cavasses employed by foreign embassies and consulates in Turkey to military service.

A careful study of this question has enabled Her Majesty's embassy to establish that the French text of article 5 of the Turkish regulation of 1863, which decides the point in question, does not agree with the Turkish text of the same article.

The latter text establishes, it is true, that during a period of five years from the date of the regulation the cavasses employed by the consuls should be exempt from military service in the "Redifs," while according to the French text this exemption would appear to have a general character, no limit of time being fixed for those who benefit by it.

Consequently, as Her Majesty's embassy can not accept a regulation entailing upon it any obligation whatever, except when thoroughly acquainted with the import of the regulation in question, it is evident that in the case in point it is the French text of the article above mentioned alone which could have been binding upon it.

However, Her Majesty's embassy is not unwilling to accept the interpretation of the Turkish text of the said article as far as regards the cavasses in the employ of the British consulates in the Empire. It consents in like manner to instruct the privileged employés of these consulates to pay the taxes for exemption from military service.

But Her Majesty's embassy does not doubt that in return for this concession the Sublime Porte will be good enough as a matter of courtesy to dispense with the service as redifs of the cavasses employed at the present moment by Her Majesty's embassy or by the consulates depending upon it.

Further, in order to prevent all difficulties and misunderstandings with the local authorities, the vali of a province should, when the appointment of a cavass is notified to him, be bound to inform the consulate interested, officially, of the exact position of the said cavass as regards his military service.

Her Majesty's embassy would therefore be much obliged if the Sublime Porte would be so good as to send the necessary instructions to the authorities concerned, in order that this formality may be carefully carried out should occasion arise.

Mr. King to Mr. Blaine.

No. 34.]

LEGATION OF THE UNITED STATES,
Constantinople, October 10, 1889. (Received November 4.)

SIR: In 1883 there was an attack made on two American missionaries, Rev. Mr. Knapp and Dr. Reynolds, which was reported to the State Department in Mr. Wallace's No 234 of June 18, 1883, and was the subject of much subsequent correspondence during 1883, 1884, and 1885.

Moussa Bey, who committed this outrage, has since that time become notorious by his many murders and outrages committed in Kurdistan, especially against the Armenians.

These outrages have attracted wide attention and have become the subject of discussion in the English Parliament. Much information rela-

tive thereto may be seen in a recent publication of the British Government:

Correspondence respecting the condition of the populations in Asiatic-Turkey, 1888-'89. (Presented to Parliament August, 1889.)

Chiefly through the influence of the British ambassador the Turkish Government caused Moussa Bey to come to Constantinople to answer these charges against him; he arrived here in June and is here yet, but he has not been put under arrest. He presented a petition to the Sultan denying the charges and asking for a trial. I inclose a copy of this petition as given in the English "Blue-Book" above spoken of.

In the course of the summer about fifty witnesses against him arrived in Constantinople, mostly Armenians, but including at least one important Mussulman witness.

Moussa Bey is yet under forty years of age, and is a man of well-known family in Kurdistan and he has many influential friends and relations in the employ of the Turkish Government; he has influential friends at the Palace (Yildez), who are trying to screen him in these matters. He has not yet been put on trial in the true sense of the word. An official was appointed to investigate the case and to hear the testimony, but the investigation was made in a manner very unsatisfactory to the witnesses against him. Finally, after long delays it was reported that the testimony against him was of little importance, and that he was not guilty; but from the representations of the British ambassador or other causes immediately another official was appointed to make a new investigation. This second "trial" has been going on for some weeks and is not yet finished.

As soon as the missionaries in Eastern Turkey learned that Moussa Bey was coming to Constantinople, they expressed a wish to have an effort made for his punishment for the outrage against Mr. Knapp and Dr. Reynolds.

Mr. D. A. Richardson, secretary of the Eastern Turkey Mission was here during the summer and I had several conversations with him and Rev. H. O. Dwight, of the Bible House, upon the subject.

Mr. Dwight and Mr. Richardson interchanged opinions with the missionaries in Eastern Turkey, and it was the general opinion that it would be well to re-open the case with the Sublime Porte.

I at first did so by conversation with the grand vizier, but later it was thought best also to send a note to the minister of foreign affairs, of which I inclose a copy.

I did not feel that after the failure of justice in this aggravated case in 1883 and 1884, that I could now secure the punishment of Moussa Bey, except under unusual circumstances, but we hope that my note will strengthen the efforts which the British ambassador, Sir William A. White is making so skilfully against him, and that if not imprisoned he will at least not be allowed to return to Kurdistan.

I have, etc.,

PENDLETON KING.

[Inclosure 1 in No. 34.]

Petition presented to the Sultan by Moussa Bey.

I, your humble servant, am one of those who from their youth up till now have shown fidelity and good service to Your Imperial Majesty both in offices and in war, even to the point of risking life.

A parcel of fabrications have been submitted to Your Majesty, making me out a brigand and a notorious rascal.

I, your servant, while purposing to come to Your Majesty's throne and submit my case and not to accept any one of these fabrications, immediately on your gracious message set out and came to take refuge in Your Majesty's justice.

Now, whoever has suffered any injustice, wrong, or oppression from your servant, let him come forward. I am ready to appeal to your imperial justice. I venture, relying on Your Majesty's clemency, to pray that, if I am found guilty of these fabricated charges I may be punished, but if I am found innocent that the authors of them may be punished for their calumnies and that any rigour may be made public.

This and all other matters depend on the iradé and firman of Your Majesty.

Your servant,

MIRZA BEY ZADE, MOUSSA BEY.

[Inclosure 2 in No. 34.]

Mr. King to Saïd Pacha.

LEGATION OF THE UNITED STATES,
Constantinople, October 7, 1889.

SIR: Permit me to recall to your excellency's attention an outrage committed on two Americans, Rev. Mr. Knapp and Dr. Reynolds, in the year 1883, near the village of Ghourie, in the region of Bitlis.

The matter was reported to the Sublime Porte, by General Wallace, United States minister, in his note, No. 167, of June 13, 1883, and in detail in his No. 179, of September 10, 1883.

Many notes were exchanged upon the subject during the years 1883, 1884, and 1885. United States legation to Sublime Porte, No. 184, November 7, 1883; No. 185, November 12, 1883; No. 190, December 13, 1883; No. 198, January 24, 1884; No. 241, February 27, 1885.

Sublime Porte to the United States legation: June 21, 1883; December 8, 1883; January 28, 1884; February 27, 1884; April 21, 1884; January 12, 1885; April 8, 1885, and others.

Mr. Knapp was severely beaten with a club, and Dr. Reynolds received ten sword cuts. They were dragged into the bushes, gagged, bound, and left to die.

It was well established, as the above notes show, that the leader of the attacking party and the person who inflicted the sword cuts on Dr. Reynolds was Moussa Bey, who has since that time become notorious through many other outrages committed by him.

Through the garbling of the record of the investigation for which the examining magistrate and the deputy imperial prosecutor were afterwards placed under judgment (see notes from H. E. Assim Pacha to General Wallace, April 21, 1884, and January 12, 1885) Moussa Bey was allowed to go free and was not again arrested.

My Government regarded "the case of Knapp and Reynolds as clearly made out and the identification of the principal assailant, Moussa Bey, as complete;" and that, because he was never punished "justice was denied," and that the last note from the Sublime Porte was "neither final nor satisfactory"; and on account of the "magnitude and cruelty of the offense" Mr. Bayard (Secretary of State) instructed this legation "again to appeal to that sense of justice which should prompt the Turkish Government to make honorable amends for this crime."

Some years have elapsed during which Moussa Bey has gone unpunished for this crime, and his presence in this city to undergo trial for murder and numerous other outrages leads me again to lay this matter before the Sublime Porte, and, while not wishing to interrupt or embarrass the progress of the trial, to request your excellency, first, to take the necessary measures to prevent this criminal from escaping from this city; and, secondly, whatever the issue of the above mentioned trial may be that at its close Moussa Bey may suffer the punishment required by law for this murderous attack on American citizens, as above recalled to your excellency's attention.

Accept, etc.,

PENDLETON KING.

Mr. Blaine to Mr. King.

No. 27.]

DEPARTMENT OF STATE,
Washington, November 8, 1889.

SIR: I have received your No. 34 of the 10th ultimo, recalling to the attention of the Department the correspondence with your legation in 1883-'85, touching the attack made in the former year on the American missionaries, Rev. Mr. Knapp and Dr. Reynolds in Kurdistan, by Moussa Bey, who, at the instance of the British ambassador, is being tried at Constantinople on charges independent of the above.

Your conclusion that, in view of the apparent miscarriage of justice in Moussa Bey's case to which the correspondence of 1883-'85 related, and the presence of the alleged criminal in Constantinople, it would be wise to re-open the matter with the Sublime Porte, seems to be justified by the details of your note of 7th ultimo, to the minister of state, of which you inclose a copy.

Your action is approved. It is hoped, as expressed in your note, that justice, however long deferred, may at last be done in respect of the well-grounded complaints of the United States Government, and its repeated and earnest appeals to the sense of justice and amity of Turkey for adequate redress for the wrongs suffered by these American citizens at the hands of a delegate of the power of the Sultan's Government.

I am, etc.,

JAMES G. BLAINE.

Mr. Blaine to Mr. King.

No. 29.]

DEPARTMENT OF STATE,
Washington, November 8, 1889.

SIR: I have received your No. 33 of the 12th ultimo, referring to a note verbale received in February last, from the Sublime Porte, regarding the military service of cavasses and dragomans employed by foreign consulates.

The terms of your proposed reply to the note of February are approved. It is hoped that the exemption sought for our employés, not being claimed as a right, will be conceded as a favor, so that the business of our officers in Turkey may not be embarrassed by the abrupt withdrawal of such experienced persons from our service.

I am, etc.,

JAMES G. BLAINE.

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