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United States Department of State

Washington, D.C.: U.S. Government Printing Office, 1905

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*Miss. Department*  
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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF THE

UNITED STATES,

WITH THE

ANNUAL MESSAGE OF THE PRESIDENT  
TRANSMITTED TO CONGRESS  
DECEMBER 5, 1905.

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## MESSAGE.

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*To the Senate and House of Representatives:*

The people of this country continue to enjoy great prosperity. Undoubtedly there will be ebb and flow in such prosperity, and this ebb and flow will be felt more or less by all members of the community, both by the deserving and the undeserving. Against the wrath of the Lord the wisdom of man can not avail; in times of flood or drought human ingenuity can but partially repair the disaster. A general failure of crops would hurt all of us. Again, if the folly of man mars the general well-being, then those who are innocent of the folly will have to pay part of the penalty incurred by those who are guilty of the folly. A panic brought on by the speculative folly of part of the business community would hurt the whole business community. But such stoppage of welfare, though it might be severe, would not be lasting. In the long run the one vital factor in the permanent prosperity of the country is the high individual character of the average American worker, the average American citizen, no matter whether his work be mental or manual, whether he be farmer or wage-worker, business man or professional man.

In our industrial and social system the interests of all men are so closely intertwined that in the immense majority of cases a straight-dealing man who by his efficiency, by his ingenuity and industry, benefits himself must also benefit others. Normally the man of great productive capacity who becomes rich by guiding the labor of many other men does so by enabling them to produce more than they could produce without his guidance; and both he and they share in the benefit, which comes also to the public at large. The superficial fact that the sharing may be unequal must never blind us to the underlying fact that there is this sharing, and that the

benefit comes in some degree to each man concerned. Normally the wage-worker, the man of small means, and the average consumer, as well as the average producer, are all alike helped by making conditions such that the man of exceptional business ability receives an exceptional reward for his ability. Something can be done by legislation to help the general prosperity; but no such help of a permanently beneficial character can be given to the less able and less fortunate, save as the results of a policy which shall inure to the advantage of all industrious and efficient people who act decently; and this is only another way of saying that any benefit which comes to the less able and less fortunate must of necessity come even more to the more able and more fortunate. If, therefore, the less fortunate man is moved by envy of his more fortunate brother to strike at the conditions under which they have both, though unequally, prospered, the result will assuredly be that while damage may come to the one struck at, it will visit with an even heavier load the one who strikes the blow. Taken as a whole we must all go up or go down together.

Yet, while not merely admitting, but insisting upon this, it is also true that where there is no governmental restraint or supervision some of the exceptional men use their energies not in ways that are for the common good, but in ways which tell against this common good. The fortunes amassed through corporate

**Corporations.**

organization are now so large, and vest such power in those that wield them, as to make it a matter of necessity to give to the sovereign—that is, to the Government, which represents the people as a whole—some effective power of supervision over their corporate use. In order to insure a healthy social and industrial life, every big corporation should be held responsible by, and be accountable to, some sovereign strong enough to control its conduct. I am in no sense hostile to corporations. This is an age of combination, and any effort to prevent all combination will be not only useless, but in the end vicious, because of the contempt for law which the failure to enforce law inevitably produces. We should, moreover, recognize in cordial and ample fashion the immense good effected by corporate agencies in a country such as ours, and the wealth of intellect, energy, and fidelity devoted to their service, and therefore normally to the service of the public, by their officers and directors. The corporation has come to stay, just as the trade union has come to stay. Each can do and has done great good. Each should be favored so long as it does good. But each should be sharply checked where it acts against law and justice.

So long as the finances of the Nation are kept upon an honest basis no other question of internal economy with which the Congress has the power to deal begins to approach in importance the matter of endeavoring to secure proper industrial conditions under which the individuals—and especially the great corporations—doing an interstate business are to act. The makers of our National Constitution provided especially that the regulation of interstate commerce should come within the sphere of the General Government. The arguments in favor of their taking this stand were even then overwhelming. But they are far stronger to-day, in view of the enormous development of great business agencies, usually corporate in form. Experience has shown conclusively that it is useless to try to get any adequate regulation and supervision of these great corporations by State action. Such regulation and supervision can only be effectively exercised by a sovereign whose jurisdiction is coextensive with the field of work of the corporations—that is, by the National Government. I believe that this regulation and supervision can be obtained by the enactment of law by the Congress. If this proves impossible, it will certainly be necessary ultimately to confer in fullest form such power upon the National Government by a proper amendment of the Constitution. It would obviously be unwise to endeavor to secure such an amendment until it is certain that the result can not be obtained under the Constitution as it now is. The laws of the Congress and of the several States hitherto, as passed upon by the courts, have resulted more often in showing that the States have no power in the matter than that the National Government has power; so that there at present exists a very unfortunate condition of things, under which these great corporations doing an interstate business occupy the position of subjects without a sovereign, neither any State government nor the National Government having effective control over them. Our steady aim should be by legislation, cautiously and carefully undertaken, but resolutely persevered in, to assert the sovereignty of the National Government by affirmative action.

This is only in form an innovation. In substance it is merely a restoration; for from the earliest time such regulation of industrial activities has been recognized in the action of the law-making bodies; and all that I propose is to meet the changed conditions in such manner as will prevent the Commonwealth abdicating the power it has always possessed, not only in this country but also in England before and since this country became a separate Nation.

It has been a misfortune that the national laws on this subject have hitherto been of a negative or prohibitive rather than an affirmative kind, and still more that they have in part sought to prohibit what could not be effectively prohibited, and have in part in their prohibitions confounded what should be allowed and what should not be allowed. It is generally useless to try to prohibit all restraint on competition, whether this restraint be reasonable or unreasonable; and where it is not useless it is generally hurtful. Events have shown that it is not possible adequately to secure the enforcement of any law of this kind by incessant appeal to the courts. The Department of Justice has for the last four years devoted more attention to the enforcement of the antitrust legislation than to anything else. Much has been accomplished; particularly marked has been the moral effect of the prosecutions; but it is increasingly evident that there will be a very insufficient beneficial result in the way of economic change. The successful prosecution of one device to evade the law immediately develops another device to accomplish the same purpose. What is needed is not sweeping prohibition of every arrangement, good or bad, which may tend to restrict competition, but such adequate supervision and regulation as will prevent any restriction of competition from being to the detriment of the public—as well as such supervision and regulation as will prevent other abuses in no way connected with restriction of competition. Of these abuses, perhaps the chief, although by no means the only one, is overcapitalization—generally itself the result of dishonest promotion—because of the myriad evils it brings in its train; for such overcapitalization often means an inflation that invites business panic; it always conceals the true relation of the profit earned to the capital actually invested, and it creates a burden of interest payments which is a fertile cause of improper reduction in or limitation of wages; it damages the small investor, discourages thrift, and encourages gambling and speculation; while perhaps worst of all is the trickiness and dishonesty which it implies—for harm to morals is worse than any possible harm to material interests, and the debauchery of politics and business by great dishonest corporations is far worse than any actual material evil they do the public. Until the National Government obtains, in some manner which the wisdom of the Congress may suggest, proper control over the big corporations engaged in interstate commerce—that is, over the great majority of the big corporations—it will be impossible to deal adequately with these evils.

I am well aware of the difficulties of the legislation that I am suggesting, and of the need of temperate and cautious action in securing it. I should emphatically protest against improperly radical or hasty action. The first thing to do is to deal with the great corporations engaged in the business of interstate transportation. As I said in my Message of December 6 last, the immediate and most pressing need, so far as legislation is concerned, is the enactment into law of some scheme to secure to the agents of the Government such supervision and regulation of the rates charged by the railroads of the country engaged in interstate traffic as shall summarily and effectively prevent the imposition of unjust or unreasonable rates. It must include putting a complete stop to rebates in every shape and form. This power to regulate rates, like all similar powers over the business world, should be exercised with moderation, caution, and self-restraint; but it should exist, so that it can be effectively exercised when the need arises.

The first consideration to be kept in mind is that the power should be affirmative and should be given to some administrative body created by the Congress. If given to the present Interstate Commerce Commission or to a reorganized Interstate Commerce Commission, such commission should be made unequivocally administrative. I do not believe in the Government interfering with private business more than is necessary. I do not believe in the Government undertaking any work which can with propriety be left in private hands. But neither do I believe in the Government flinching from overseeing any work when it becomes evident that abuses are sure to obtain therein unless there is governmental supervision. It is not my province to indicate the exact terms of the law which should be enacted; but I call the attention of the Congress to certain existing conditions with which it is desirable to deal. In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts. It sometimes happens at present, not that a rate is too high but that a favored shipper is given too low a rate. In such case the Commission would have the right

to fix this already established minimum rate as the maximum; and it would need only one or two such decisions by the Commission to cure railroad companies of the practice of giving improper minimum rates. I call your attention to the fact that my proposal is not to give the Commission power to initiate or originate rates generally, but to regulate a rate already fixed or originated by the roads, upon complaint and after investigation. A heavy penalty should be exacted from any corporation which fails to respect an order of the Commission. I regard this power to establish a maximum rate as being essential to any scheme of real reform in the matter of railway regulation. The first necessity is to secure it; and unless it is granted to the Commission there is little use in touching the subject at all.

Illegal transactions often occur under the forms of law. It has often occurred that a shipper has been told by a traffic officer to buy a large quantity of some commodity and then after it has been bought an open reduction is made in the rate to take effect immediately, the arrangement resulting to the profit of the one shipper and the one railroad and to the damage of all their competitors; for it must not be forgotten that the big shippers are at least as much to blame as any railroad in the matter of rebates. The law should make it clear so that nobody can fail to understand that any kind of commission paid on freight shipments, whether in this form or in the form of fictitious damages, or of a concession, a free pass, reduced passenger rate, or payment of brokerage, is illegal. It is worth while considering whether it would not be wise to confer on the Government the right of civil action against the beneficiary of a rebate for at least twice the value of the rebate; this would help stop what is really blackmail. Elevator allowances should be stopped, for they have now grown to such an extent that they are demoralizing and are used as rebates.

The best possible regulation of rates would, of course, be that regulation secured by an honest agreement among the railroads themselves to carry out the law. Such a general agreement would, for instance, at once put a stop to the efforts of any one big shipper or big railroad to discriminate against or secure advantages over some rival; and such agreement would make the railroads themselves agents for enforcing the law. The power vested in the Government to put a stop to agreements to the detriment of the public should, in my judgment, be accompanied by power to permit, under specified conditions and careful supervision, agreements clearly in the interest of the public. But, in my judgment, the necessity for

giving this further power is by no means as great as the necessity for giving the Commission or administrative body the other powers I have enumerated above; and it may well be inadvisable to attempt to vest this particular power in the Commission or other administrative body until it already possesses and is exercising what I regard as by far the most important of all the powers I recommend—as indeed the vitally important power—that to fix a given maximum rate, which rate, after the lapse of a reasonable time, goes into full effect, subject to review by the courts.

All private-car lines, industrial roads, refrigerator charges, and the like should be expressly put under the supervision of the Interstate Commerce Commission or some similar body so far as rates, and agreements practically affecting rates, are concerned. The private-car owners and the owners of industrial railroads are entitled to a fair and reasonable compensation on their investment, but neither private cars nor industrial railroads nor spur tracks should be utilized as devices for securing preferential rates. A rebate in icing charges, or in mileage, or in a division of the rate for refrigerating charges is just as pernicious as a rebate in any other way. No lower rate should apply on goods imported than actually obtains on domestic goods from the American seaboard to destination except in cases where water competition is the controlling influence. There should be publicity of the accounts of common carriers; no common carrier engaged in interstate business should keep any books or memoranda other than those reported pursuant to law or regulation, and these books or memoranda should be open to the inspection of the Government. Only in this way can violations or evasions of the law be surely detected. A system of examination of railroad accounts should be provided similar to that now conducted into the national banks by the bank examiners; a few first-class railroad accountants, if they had proper direction and proper authority to inspect books and papers, could accomplish much in preventing willful violations of the law. It would not be necessary for them to examine into the accounts of any railroad unless for good reasons they were directed to do so by the Interstate Commerce Commission. It is greatly to be desired that some way might be found by which an agreement as to transportation within a State intended to operate as a fraud upon the Federal interstate commerce laws could be brought under the jurisdiction of the Federal authorities. At present it occurs that large shipments of interstate traffic are controlled by concessions on purely State business, which of course amounts to an evasion of the law. The Commission should have



power to enforce fair treatment by the great trunk lines of lateral and branch lines.

I urge upon the Congress the need of providing for expeditious action by the Interstate Commerce Commission in all these matters, whether in regulating rates for transportation or for storing or for handling property or commodities in transit. The history of the cases litigated under the present commerce act shows that its efficacy has been to a great degree destroyed by the weapon of delay, almost the most formidable weapon in the hands of those whose purpose it is to violate the law.

Let me most earnestly say that these recommendations are not made in any spirit of hostility to the railroads. On ethical grounds, on grounds of right, such hostility would be intolerable; and on grounds of mere national self-interest we must remember that such hostility would tell against the welfare not merely of some few rich men, but of a multitude of small investors, a multitude of railway employees, wage-workers; and most severely against the interest of the public as a whole. I believe that on the whole our railroads have done well and not ill; but the railroad men who wish to do well should not be exposed to competition with those who have no such desire, and the only way to secure this end is to give to some Government tribunal the power to see that justice is done by the unwilling exactly as it is gladly done by the willing. Moreover, if some Government body is given increased power the effect will be to furnish authoritative answer on behalf of the railroad whenever irrational clamor against it is raised, or whenever charges made against it are disproved. I ask this legislation not only in the interest of the public but in the interest of the honest railroad man and the honest shipper alike, for it is they who are chiefly jeopardized by the practices of their dishonest competitors. This legislation should be enacted in a spirit as remote as possible from hysteria and rancor. If we of the American body politic are true to the traditions we have inherited we shall always scorn any effort to make us hate any man because he is rich, just as much as we should scorn any effort to make us look down upon or treat contemptuously any man because he is poor. We judge a man by his conduct—that is, by his character—and not by his wealth or intellect. If he makes his fortune honestly, there is no just cause of quarrel with him. Indeed, we have nothing but the kindest feelings of admiration for the successful business man who behaves decently, whether he has made his success by building or managing a railroad or by shipping goods over that railroad. The big railroad men and big

shippers are simply Americans of the ordinary type who have developed to an extraordinary degree certain great business qualities. They are neither better nor worse than their fellow-citizens of smaller means. They are merely more able in certain lines and therefore exposed to certain peculiarly strong temptations. These temptations have not sprung newly into being; the exceptionally successful among mankind have always been exposed to them; but they have grown amazingly in power as a result of the extraordinary development of industrialism along new lines, and under these new conditions, which the lawmakers of old could not foresee and therefore could not provide against, they have become so serious and menacing as to demand entirely new remedies. It is in the interest of the best type of railroad man and the best type of shipper no less than of the public that there should be governmental supervision and regulation of these great business operations, for the same reason that it is in the interest of the corporation which wishes to treat its employees aright that there should be an effective employers' liability act, or an effective system of factory laws to prevent the abuse of women and children. All such legislation frees the corporation that wishes to do well from being driven into doing ill, in order to compete with its rival, which prefers to do ill. We desire to set up a moral standard. There can be no delusion more fatal to the Nation than the delusion that the standard of profits, of business prosperity, is sufficient in judging any business or political question—from rate legislation to municipal government. Business success, whether for the individual or for the Nation, is a good thing only so far as it is accompanied by and develops a high standard of conduct—honor, integrity, civic courage. The kind of business prosperity that blunts the standard of honor, that puts an inordinate value on mere wealth, that makes a man ruthless and conscienceless in trade and weak and cowardly in citizenship, is not a good thing at all, but a very bad thing for the Nation. This Government stands for manhood first and for business only as an adjunct of manhood.

The question of transportation lies at the root of all industrial success, and the revolution in transportation which has taken place during the last half century has been the most important factor in the growth of the new industrial conditions. Most emphatically we do not wish to see the man of great talents refused the reward for his talents. Still less do we wish to see him penalized; but we do desire to see the system of railroad transportation so handled that the strong man shall be given no advantage over the weak man. We wish to insure as fair treatment for the small town as for the

big city; for the small shipper as for the big shipper. In the old days the highway of commerce, whether by water or by a road on land, was open to all; it belonged to the public and the traffic along it was free. At present the railway is this highway, and we must do our best to see that it is kept open to all on equal terms. Unlike the old highway it is a very difficult and complex thing to manage, and it is far better that it should be managed by private individuals than by the Government. But it can only be so managed on condition that justice is done the public. It is because, in my judgment, public ownership of railroads is highly undesirable and would probably in this country entail far-reaching disaster, that I wish to see such supervision and regulation of them in the interest of the public as will make it evident that there is no need for public ownership. The opponents of Government regulation dwell upon the difficulties to be encountered and the intricate and involved nature of the problem. Their contention is true. It is a complicated and delicate problem, and all kinds of difficulties are sure to arise in connection with any plan of solution, while no plan will bring all the benefits hoped for by its more optimistic adherents. Moreover, under any healthy plan, the benefits will develop gradually and not rapidly. Finally, we must clearly understand that the public servants who are to do this peculiarly responsible and delicate work must themselves be of the highest type both as regards integrity and efficiency. They must be well paid, for otherwise able men can not in the long run be secured; and they must possess a lofty probity which will revolt as quickly at the thought of pandering to any gust of popular prejudice against rich men as at the thought of anything even remotely resembling subserviency to rich men. But while I fully admit the difficulties in the way, I do not for a moment admit that these difficulties warrant us in stopping in our effort to secure a wise and just system. They should have no other effect than to spur us on to the exercise of the resolution, the even-handed justice, and the fertility of resource, which we like to think of as typically American, and which will in the end achieve good results in this as in other fields of activity. The task is a great one and underlies the task of dealing with the whole industrial problem. But the fact that it is a great problem does not warrant us in shrinking from the attempt to solve it. At present we face such utter lack of supervision, such freedom from the restraints of law, that excellent men have often been literally forced into doing what they deplored because otherwise they were left at the mercy of unscrupulous competitors. To rail at and assail

the men who have done as they best could under such conditions accomplishes little. What we need to do is to develop an orderly system; and such a system can only come through the gradually increased exercise of the right of efficient Government control.

In my annual Message to the Fifty-eighth Congress, at its third session, I called attention to the necessity for legislation requiring the use of block signals upon railroads engaged in interstate commerce. The number of serious collisions upon unblocked roads that have occurred within the past year adds force to the recommendation then made. The Congress should provide, by appropriate legislation, for the introduction of block signals upon all railroads engaged in interstate commerce at the earliest practicable date, as a measure of increased safety to the traveling public.

Through decisions of the Supreme Court of the United States and the lower Federal courts in cases brought before them for adjudication the safety-appliance law has been materially strengthened, and the Government has been enabled to secure its effective enforcement in almost all cases, with the result that the condition of railroad equipment throughout the country is much improved and railroad employees perform their duties under safer conditions than heretofore. The Government's most effective aid in arriving at this result has been its inspection service, and that these improved conditions are not more general is due to the insufficient number of inspectors employed. The inspection service has fully demonstrated its usefulness, and in appropriating for its maintenance the Congress should make provision for an increase in the number of inspectors.

The excessive hours of labor to which railroad employees in train service are in many cases subjected is also a matter which may well engage the serious attention of the Congress. The strain, both mental and physical, upon those who are engaged in the movement and operation of railroad trains under modern conditions is perhaps greater than that which exists in any other industry, and if there are any reasons for limiting by law the hours of labor in any employment, they certainly apply with peculiar force to the employment of those upon whose vigilance and alertness in the performance of their duties the safety of all who travel by rail depends.

In my annual Message to the Fifty-seventh Congress, at its second session, I recommended the passage of an Employers' Liability Law for the District of Columbia and in our navy-yards. I renewed that

recommendation in my Message to the Fifty-eighth Congress, at its second session, and further suggested the appointment of a commission to make a comprehensive study of employers' liability, with a view to the enactment of a wise and constitutional law covering the subject, applicable to all industries within the scope of the Federal power. I hope that such a law will be prepared and enacted as speedily as possible.

**Employers'  
Liability Law.**

The National Government has as a rule but little occasion to deal with the formidable group of problems connected more or less directly with what is known as the labor question, for in the great majority of cases these problems must be dealt with by the State and municipal authorities and not by the National Government. The National Government has control of the District of Columbia, however, and it should see to it that the City of Washington is made a model city in all respects, both as regards parks, public playgrounds, proper regulation of the system of housing so as to do away with the evils of alley tenements, a proper system of education, a proper system of dealing with truancy and juvenile offenders, a proper handling of the charitable work of the District. Moreover, there should be proper factory laws to prevent all abuses in the employment of women and children in the District. These will be useful chiefly as object lessons, but even this limited amount of usefulness would be of real national value.

**Labor.**

There has been demand for depriving courts of the power to issue injunctions in labor disputes. Such special limitation of the equity powers of our courts would be most unwise. It is true that some judges have misused this power; but this does not justify a denial of the power any more than an improper exercise of the power to call a strike by a labor leader would justify the denial of the right to strike. The remedy is to regulate the procedure by requiring the judge to give due notice to the adverse parties before granting the writ, the hearing to be ex parte if the adverse party does not appear at the time and place ordered. What is due notice must depend upon the facts of the case; it should not be used as a pretext to permit violation of law, or the jeopardizing of life or property. Of course, this would not authorize the issuing of a restraining order or injunction in any case in which it is not already authorized by existing law.

I renew the recommendation I made in my last annual Message for an investigation by the Department of Commerce and Labor of general labor conditions, especial attention to be paid to the condi-

tions of child labor and child-labor legislation in the several States. Such an investigation should take into account the various problems with which the question of child labor is connected. It is true that these problems can be actually met in most cases only by the States themselves, but it would be well for the Nation to endeavor to secure and publish comprehensive information as to the conditions of the labor of children in the different States, so as to spur up those that are behindhand, and to secure approximately uniform legislation of a high character among the several States. In such a Republic as ours the one thing that we can not afford to neglect is the problem of turning out decent citizens. The future of the Nation depends upon the citizenship of the generations to come; the children of to-day are those who to-morrow will shape the destiny of our land, and we can not afford to neglect them. The legislature of Colorado has recommended that the National Government provide some general measure for the protection from abuse of children and dumb animals throughout the United States. I lay the matter before you for what I trust will be your favorable consideration.

The Department of Commerce and Labor should also make a thorough investigation of the conditions of women in industry. Over five million American women are now engaged in gainful occupations; yet there is an almost complete dearth of data upon which to base any trustworthy conclusions as regards a subject as important as it is vast and complicated. There is need of full knowledge on which to base action looking toward State and municipal legislation for the protection of working women. The introduction of women into industry is working change and disturbance in the domestic and social life of the Nation. The decrease in marriage, and especially in the birth rate, has been coincident with it. We must face accomplished facts, and the adjustment to factory conditions must be made; but surely it can be made with less friction and less harmful effects on family life than is now the case. This whole matter in reality forms one of the greatest sociological phenomena of our time; it is a social question of the first importance, of far greater importance than any merely political or economic question can be; and to solve it we need ample data, gathered in a sane and scientific spirit in the course of an exhaustive investigation.

In any great labor disturbance not only are employer and employee interested, but also a third party—the general public. Every considerable labor difficulty in which interstate commerce is involved should be investigated by the Government and the facts officially reported to the public.

The question of securing a healthy, self-respecting, and mutually sympathetic attitude as between employer and employee, capitalist and wage-worker, is a difficult one. All phases of the labor problem prove difficult when approached. But the underlying principles, the root principles, in accordance with which the problem must be solved are entirely simple. We can get justice and right dealing only if we put as of paramount importance the principle of treating a man on his worth as a man rather than with reference to his social position, his occupation, or the class to which he belongs. There are selfish and brutal men in all ranks of life. If they are capitalists their selfishness and brutality may take the form of hard indifference to suffering, greedy disregard of every moral restraint which interferes with the accumulation of wealth, and cold-blooded exploitation of the weak; or, if they are laborers, the form of laziness, of sullen envy of the more fortunate, and of willingness to perform deeds of murderous violence. Such conduct is just as reprehensible in one case as in the other, and all honest and farseeing men should join in warring against it wherever it becomes manifest. Individual capitalist and individual wage-worker, corporation and union, are alike entitled to the protection of the law, and must alike obey the law. Moreover, in addition to mere obedience to the law, each man, if he be really a good citizen, must show broad sympathy for his neighbor and genuine desire to look at any question arising between them from the standpoint of that neighbor no less than from his own; and to this end it is essential that capitalist and wage-worker should consult freely one with the other, should each strive to bring closer the day when both shall realize that they are properly partners and not enemies. To approach the questions which inevitably arise between them solely from the standpoint which treats each side in the mass as the enemy of the other side in the mass is both wicked and foolish. In the past the most direful among the influences which have brought about the downfall of republics has ever been the growth of the class spirit, the growth of the spirit which tends to make a man subordinate the welfare of the public as a whole to the welfare of the particular class to which he belongs, the substitution of loyalty to a class for loyalty to the nation. This inevitably brings about a tendency to treat each man not on his merits as an individual, but on his position as belonging to a certain class in the community. If such a spirit grows up in this Republic it will ultimately prove fatal to us, as in the past it has proved fatal to every community in which it has become dominant. Unless we continue to keep a quick and lively sense of the great fundamental

truth that our concern is with the individual worth of the individual man, this Government can not permanently hold the place which it has achieved among the nations. The vital lines of cleavage among our people do not correspond, and indeed run at right angles to, the lines of cleavage which divide occupation from occupation, which divide wage-workers from capitalists, farmers from bankers, men of small means from men of large means, men who live in the towns from men who live in the country; for the vital line of cleavage is the line which divides the honest man who tries to do well by his neighbor from the dishonest man who does ill by his neighbor. In other words, the standard we should establish is the standard of conduct, not the standard of occupation, of means, or of social position. It is the man's moral quality, his attitude toward the great questions which concern all humanity, his cleanliness of life, his power to do his duty toward himself and toward others, which really count; and if we substitute for the standard of personal judgment which treats each man according to his merits, another standard in accordance with which all men of one class are favored and all men of another class discriminated against, we shall do irreparable damage to the body politic. I believe that our people are too sane, too self-respecting, too fit for self-government, ever to adopt such an attitude. This Government is not and never shall be government by a plutocracy. This Government is not and never shall be government by a mob. It shall continue to be in the future what it has been in the past, a government based on the theory that each man, rich or poor, is to be treated simply and solely on his worth as a man, that all his personal and property rights are to be safeguarded, and that he is neither to wrong others nor to suffer wrong from others.

The noblest of all forms of government is self-government; but it is also the most difficult. We who possess this priceless boon, and who desire to hand it on to our children and our children's children, should ever bear in mind the thought so finely expressed by Burke: "Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetites; in proportion as they are disposed to listen to the counsels of the wise and good in preference to the flattery of knaves. Society can not exist unless a controlling power upon will and appetite be placed somewhere, and the less of it there be within the more there must be without. It is ordained in the eternal constitution of things that men of intemperate minds can not be free. Their passions forge their fetters."



The great insurance companies afford striking examples of corporations whose business has extended so far beyond the jurisdiction of the States which created them as to preclude strict enforcement of supervision and regulation by the parent States. In my last annual Message I recommended "that the Congress carefully consider whether the power of the Bureau of Corporations can not constitutionally be extended to cover interstate transactions in insurance."

**Insurance.** Recent events have emphasized the importance of an early and exhaustive consideration of this question, to see whether it is not possible to furnish better safeguards than the several States have been able to furnish against corruption of the flagrant kind which has been exposed. It has been only too clearly shown that certain of the men at the head of these large corporations take but small note of the ethical distinction between honesty and dishonesty; they draw the line only this side of what may be called law-honesty, the kind of honesty necessary in order to avoid falling into the clutches of the law. Of course the only complete remedy for this condition must be found in an aroused public conscience, a higher sense of ethical conduct in the community at large, and especially among business men and in the great profession of the law, and in the growth of a spirit which condemns all dishonesty, whether in rich man or in poor man, whether it takes the shape of bribery or of blackmail. But much can be done by legislation which is not only drastic but practical. There is need of a far stricter and more uniform regulation of the vast insurance interests of this country. The United States should in this respect follow the policy of other nations by providing adequate national supervision of commercial interests which are clearly national in character. My predecessors have repeatedly recognized that the foreign business of these companies is an important part of our foreign commercial relations. During the Administrations of Presidents Cleveland, Harrison, and McKinley the State Department exercised its influence, through diplomatic channels, to prevent unjust discrimination by foreign countries against American insurance companies. These negotiations illustrated the propriety of the Congress recognizing the national character of insurance, for in the absence of Federal legislation the State Department could only give expression to the wishes of the authorities of the several States, whose policy was ineffective through want of uniformity.

I repeat my previous recommendation that the Congress should also consider whether the Federal Government has any power or owes any duty with respect to domestic transactions in insurance

of an interstate character. That State supervision has proved inadequate is generally conceded. The burden upon insurance companies, and therefore their policy holders, of conflicting regulations of many States, is unquestioned, while but little effective check is imposed upon any able and unscrupulous man who desires to exploit the company in his own interest at the expense of the policy holders and of the public. The inability of a State to regulate effectively insurance corporations created under the laws of other States and transacting the larger part of their business elsewhere is also clear. As a remedy for this evil of conflicting, ineffective, and yet burdensome regulations there has been for many years a widespread demand for Federal supervision. The Congress has already recognized that interstate insurance may be a proper subject for Federal legislation, for in creating the Bureau of Corporations it authorized it to publish and supply useful information concerning interstate corporations, "including corporations engaged in insurance." It is obvious that if the compilation of statistics be the limit of the Federal power, it is wholly ineffective to regulate this form of commercial intercourse between the States, and as the insurance business has outgrown in magnitude the possibility of adequate State supervision, the Congress should carefully consider whether further legislation can be had. What is said above applies with equal force to fraternal and benevolent organizations which contract for life insurance.

There is more need of stability than of the attempt to attain an ideal perfection in the methods of raising revenue; and the shock and strain to the business world certain to attend any serious change in these methods render such change inadvisable unless for grave reason. It is not possible to lay down any general rule by which to determine the moment when the reasons for will outweigh the reasons against such a change. Much must depend, not merely on the needs, but on the desires, of the people as a whole; for needs and desires are not necessarily identical. Of course no change can be made on lines beneficial to, or desired by, one section or one State only. There must be something like a general agreement among the citizens of the several States, as represented in the Congress, that the change is needed and desired in the interest of the people as a whole; and there should then be a sincere, intelligent, and disinterested effort to make it in such shape as will combine, so far as possible, the maximum of good to the people at large with the minimum of necessary disregard for the special interests of localities or classes. But in time of peace the revenue must on the average, taking

#### The revenues.

a series of years together, equal the expenditures or else the revenues must be increased. Last year there was a deficit. Unless our expenditures can be kept within the revenues then our revenue laws must be readjusted. It is as yet too early to attempt to outline what shape such a readjustment should take, for it is as yet too early to say whether there will be need for it. It should be considered whether it is not desirable that the tariff laws should provide for applying as against or in favor of any other nation maximum and minimum tariff rates established by the Congress, so as to secure a certain reciprocity of treatment between other nations and ourselves. Having in view even larger considerations of policy than those of a purely economic nature, it would, in my judgment, be well to endeavor to bring about closer commercial connections with the other peoples of this continent. I am happy to be able to announce to you that Russia now treats us on the most-favored-nation basis.

I earnestly recommend to the Congress the need of economy and to this end of a rigid scrutiny of appropriations. As examples merely, I call your attention to one or two specific matters. All

**Economy in expenditures.** unnecessary offices should be abolished. The Commissioner of the General Land Office recommends the abolishment of the office of receiver of public moneys for United States land offices. This will effect a saving of about a quarter of a million dollars a year. As the business of the Nation grows it is inevitable that there should be from time to time a legitimate increase in the number of officials, and this fact renders it all the more important that when offices become unnecessary they should be abolished. In the public printing also a large saving of public money can be made. There is a constantly growing tendency to publish masses of unimportant information. It is probably not unfair to say that many tens of thousands of volumes are published at which no human being ever looks and for which there is no real demand whatever.

Yet, in speaking of economy, I must in no wise be understood as advocating the false economy which is in the end the worst extravagance. To cut down on the Navy, for instance, would be a crime against the Nation. To fail to push forward all work on the Panama Canal would be as great a folly.

In my Message of December 2, 1902, to the Congress I said:

“Interest rates are a potent factor in business activity, and in order that these rates may be equalized to meet the varying needs of the seasons and of widely separated communities, and to prevent the recurrence of financial stringencies which injuriously affect

legitimate business, it is necessary that there should be an element of elasticity in our monetary system. Banks are the natural servants of commerce, and upon them should be placed, as far as practicable, the burden of furnishing and maintaining a circulation adequate to supply the needs of our diversified industries and of our domestic and foreign commerce; and the issue of this should be so regulated that a sufficient supply should be always available for the business interests of the country."

Every consideration of prudence demands the addition of the element of elasticity to our currency system. The evil does not consist in an inadequate volume of money, but in the rigidity of this volume, which does not respond as it should to the varying needs of communities and of seasons. Inflation must be avoided; but some provision should be made that will insure a larger volume of money during the fall and winter months than in the less active seasons of the year; so that the currency will contract against speculation, and will expand for the needs of legitimate business. At present the Treasury Department is at irregularly recurring intervals obliged, in the interest of the business world—that is, in the interests of the American public—to try to avert financial crises by providing a remedy which should be provided by Congressional action.

At various times I have instituted investigations into the organization and conduct of the business of the Executive Departments. While none of these inquiries have yet progressed far enough to warrant final conclusions, they have already confirmed and emphasized the general impression that the organization of the Departments is often faulty in principle and wasteful in results, while many of their business methods are antiquated and inefficient. There is every reason why our executive governmental machinery should be at least as well planned, economical, and efficient as the best machinery of the great business organizations, which at present is not the case. To make it so is a task of complex detail and essentially executive in its nature; probably no legislative body, no matter how wise and able, could undertake it with reasonable prospect of success. I recommend that the Congress consider this subject with a view to provide by legislation for the transfer, distribution, consolidation, and assignment of duties and executive organizations or parts of organizations, and for the changes in business methods, within or between the several Departments, that will

best promote the economy, efficiency, and high character of the Government work.

In my last annual Message I said:

“The power of the Government to protect the integrity of the elections of its own officials is inherent and has been recognized and affirmed by repeated declarations of the Supreme Court. There is no enemy of free government more dangerous and none so insidious as the corruption of the electorate. No one defends or excuses corruption, and it would seem to follow that none would oppose vigorous measures to eradicate it. I recommend the enactment of a law directed against bribery and corruption in Federal elections. The details of such a law may be safely left to the wise discretion of the Congress, but it should go as far as under the Constitution it is possible to go, and should include severe penalties against him who gives or receives a bribe intended to influence his act or opinion as an elector; and provisions for the publication not only of the expenditures for nominations and elections of all candidates, but also of all contributions received and expenditures made by political committees.”

I desire to repeat this recommendation. In political campaigns in a country as large and populous as ours it is inevitable that there should be much expense of an entirely legitimate kind. This, of course, means that many contributions, and some of them of large size, must be made, and, as a matter of fact, in any big political contest such contributions are always made to both sides. It is entirely proper both to give and receive them, unless there is an improper motive connected with either gift or reception. If they are extorted by any kind of pressure or promise, express or implied, direct or indirect, in the way of favor or immunity, then the giving or receiving becomes not only improper but criminal. It will undoubtedly be difficult as a matter of practical detail to shape an act which shall guard with reasonable certainty against such misconduct; but if it is possible to secure by law the full and verified publication in detail of all the sums contributed to and expended by the candidates or committees of any political parties the result can not but be wholesome. All contributions by corporations to any political committee or for any political purpose should be forbidden by law; directors should not be permitted to use stockholders' money for such purposes; and, moreover, a prohibition of this kind would be, as far as it went, an effective method of stopping the evils aimed at in corrupt practices acts. Not only should both the National and the several State legislatures forbid any officer of a corporation from using the

money of the corporation in or about any election, but they should also forbid such use of money in connection with any legislation save by the employment of counsel in public manner for distinctly legal services.

The first Conference of Nations held at The Hague in 1899, being unable to dispose of all the business before it, recommended the consideration and settlement of a number of important questions by another conference to be called subsequently and at an early date. These questions were the following: (1) The rights and duties of neutrals; (2) the limitation of the armed forces on land and sea, and of military budgets; (3) the use of new types and calibers of military and naval guns; (4) the inviolability of private property at sea in times of war; (5) the bombardment of ports, cities, and villages by naval forces. In October, 1904, at the instance of the Interparliamentary Union, which, at a conference held in the United States and attended by the lawmakers of fifteen different nations, had reiterated the demand for a second Conference of Nations, I issued invitations to all the powers signatory to The Hague Convention to send delegates to such a conference and suggested that it be again held at The Hague. In its note of December 16, 1904, the United States Government communicated to the representatives of foreign governments its belief that the conference could be best arranged under the provisions of the present Hague treaty.

From all the Powers acceptance was received, coupled in some cases with the condition that we should wait until the end of the war then waging between Russia and Japan. The Emperor of Russia, immediately after the treaty of peace which so happily terminated this war, in a note presented to the President on September 13, through Ambassador Rosen, took the initiative in recommending that the conference be now called. The United States Government in response expressed its cordial acquiescence and stated that it would, as a matter of course, take part in the new conference and endeavor to further its aims. We assume that all civilized governments will support the movement, and that the conference is now an assured fact. This Government will do everything in its power to secure the success of the conference to the end that substantial progress may be made in the cause of international peace, justice, and good will.

This renders it proper at this time to say something as to the general attitude of this Government toward peace. More and more war is coming to be looked upon as in itself a lamentable and evil

thing. A wanton or useless war, or a war of mere aggression—in short, any war begun or carried on in a conscienceless spirit, is to be condemned as a peculiarly atrocious crime against all humanity. We can, however, do nothing of permanent value for peace unless we keep ever clearly in mind the ethical element which lies at the root of the problem. Our aim is righteousness. Peace is normally the handmaiden of righteousness; but when peace and righteousness conflict then a great and upright people can never for a moment hesitate to follow the path which leads toward righteousness, even though that path also leads to war. There are persons who advocate peace at any price; there are others who, following a false analogy, think that because it is no longer necessary in civilized countries for individuals to protect their rights with a strong hand, it is therefore unnecessary for nations to be ready to defend their rights. These persons would do irreparable harm to any nation that adopted their principles, and even as it is they seriously hamper the cause which they advocate by tending to render it absurd in the eyes of sensible and patriotic men. There can be no worse foe of mankind in general, and of his own country in particular, than the demagogue of war, the man who in mere folly or to serve his own selfish ends continually rails at and abuses other nations, who seeks to excite his countrymen against foreigners on insufficient pretexts, who excites and inflames a perverse and aggressive national vanity, and who may on occasions wantonly bring on conflict between his nation and some other nation. But there are demagogues of peace just as there are demagogues of war, and in any such movement as this for The Hague conference it is essential not to be misled by one set of extremists any more than by the other. Whenever it is possible for a nation or an individual to work for real peace, assuredly it is failure of duty not so to strive; but if war is necessary and righteous then either the man or the nation shrinking from it forfeits all title to self-respect. We have scant sympathy with the sentimentalist who dreads oppression less than physical suffering, who would prefer a shameful peace to the pain and toil sometimes lamentably necessary in order to secure a righteous peace. As yet there is only a partial and imperfect analogy between international law and internal or municipal law, because there is no sanction of force for executing the former while there is in the case of the latter. The private citizen is protected in his rights by the law, because the law rests in the last resort upon force exercised through the forms of law. A man does not have to defend his rights with his own hand,

because he can call upon the police, upon the sheriff's posse, upon the militia, or in certain extreme cases upon the Army, to defend him. But there is no such sanction of force for international law. At present there could be no greater calamity than for the free peoples, the enlightened, independent, and peace-loving peoples, to disarm while yet leaving it open to any barbarism or despotism to remain armed. So long as the world is as unorganized as now, the armies and navies of those peoples who on the whole stand for justice, offer not only the best, but the only possible, security for a just peace. For instance, if the United States alone, or in company only with the other nations that on the whole tend to act justly, disarmed, we might sometimes avoid bloodshed, but we would cease to be of weight in securing the peace of justice—the real peace for which the most law-abiding and high-minded men must at times be willing to fight. As the world is now, only that nation is equipped for peace that knows how to fight and that will not shrink from fighting if ever the conditions become such that war is demanded in the name of the highest morality.

So much it is emphatically necessary to say in order both that the position of the United States may not be misunderstood, and that a genuine effort to bring nearer the day of the peace of justice among the nations may not be hampered by a folly which, in striving to achieve the impossible, would render it hopeless to attempt the achievement of the practical. But while recognizing most clearly all above set forth, it remains our clear duty to strive in every practicable way to bring nearer the time when the sword shall not be the arbiter among nations. At present the practical thing to do is to try to minimize the number of cases in which it must be the arbiter, and to offer, at least to all civilized powers, some substitute for war which will be available in at least a considerable number of instances. Very much can be done through another Hague conference in this direction, and I most earnestly urge that this Nation do all in its power to try to further the movement and to make the result of the decisions of The Hague conference effective. I earnestly hope that the conference may be able to devise some way to make arbitration between nations the customary way of settling international disputes in all save a few classes of cases, which should themselves be as sharply defined and rigidly limited as the present governmental and social development of the world will permit. If possible, there should be a general arbitration treaty negotiated among all the nations represented at the conference. Neutral rights and property should be



protected at sea as they are protected on land. There should be an international agreement to this purpose and a similar agreement defining contraband of war.

During the last century there has been a distinct diminution in the number of wars between the most civilized nations. International relations have become closer, and the development of The Hague tribunal is not only a symptom of this growing closeness of relationship, but is a means by which the growth can be furthered. Our aim should be from time to time to take such steps as may be possible toward creating something like an organization of the civilized nations, because as the world becomes more highly organized the need for navies and armies will diminish. It is not possible to secure anything like an immediate disarmament, because it would first be necessary to settle what peoples are on the whole a menace to the rest of mankind, and to provide against the disarmament of the rest being turned into a movement which would really chiefly benefit these obnoxious peoples; but it may be possible to exercise some check upon the tendency to swell indefinitely the budgets for military expenditure. Of course such an effort could succeed only if it did not attempt to do too much; and if it were undertaken in a spirit of sanity as far removed as possible from a merely hysterical pseudo-philanthropy. It is worth while pointing out that since the end of the insurrection in the Philippines this Nation has shown its practical faith in the policy of disarmament by reducing its little army one-third. But disarmament can never be of prime importance; there is more need to get rid of the causes of war than of the implements of war.

I have dwelt much on the dangers to be avoided by steering clear of any mere foolish sentimentality because my wish for peace is so genuine and earnest; because I have a real and great desire that this second Hague conference may mark a long stride forward in the direction of securing the peace of justice throughout the world. No object is better worthy the attention of enlightened statesmanship than the establishment of a surer method than now exists of securing justice as between nations, both for the protection of the little nations and for the prevention of war between the big nations. To this aim we should endeavor not only to avert bloodshed, but, above all, effectively to strengthen the forces of right. The Golden Rule should be, and as the world grows in morality it will be, the guiding rule of conduct among nations as among individuals; though the Golden Rule must not be construed, in fantastic manner, as forbidding the exercise of the police power. This mighty and free

Republic should ever deal with all other states, great or small, on a basis of high honor, respecting their rights as jealously as it safeguards its own.

One of the most effective instruments for peace is the Monroe Doctrine as it has been and is being gradually developed by this Nation and accepted by other nations. No other policy could have

been as efficient in promoting peace in the Western

**Monroe Doctrine.**

Hemisphere and in giving to each nation thereon the chance to develop along its own lines. If we

had refused to apply the Doctrine to changing conditions it would now be completely outworn, would not meet any of the needs of the present day, and indeed would probably by this time have sunk into complete oblivion. It is useful at home, and is meeting with recognition abroad because we have adapted our application of it to meet the growing and changing needs of the Hemisphere. When we announce a policy, such as the Monroe Doctrine, we thereby commit ourselves to the consequences of the policy, and those consequences from time to time alter. It is out of the question to claim a right and yet shirk the responsibility for its exercise. Not only we, but all American Republics who are benefited by the existence of the Doctrine, must recognize the obligations each nation is under as regards foreign peoples no less than its duty to insist upon its own rights.

That our rights and interests are deeply concerned in the maintenance of the Doctrine is so clear as hardly to need argument. This is especially true in view of the construction of the Panama Canal. As a mere matter of self-defense we must exercise a close watch over the approaches to this canal; and this means that we must be thoroughly alive to our interests in the Caribbean Sea.

There are certain essential points which must never be forgotten as regards the Monroe Doctrine. In the first place we must as a nation make it evident that we do not intend to treat it in any shape or way as an excuse for aggrandizement on our part at the expense of the republics to the south. We must recognize the fact that in some South American countries there has been much suspicion lest we should interpret the Monroe Doctrine as in some way inimical to their interests, and we must try to convince all the other nations of this continent once and for all that no just and orderly government has anything to fear from us. There are certain republics to the south of us which have already reached such a point of stability, order, and prosperity that they themselves, though as yet hardly consciously, are among the guarantors of this Doctrine. These

republics we now meet not only on a basis of entire equality, but in a spirit of frank and respectful friendship, which we hope is mutual. If all of the republics to the south of us will only grow as those to which I allude have already grown, all need for us to be the especial champions of the Doctrine will disappear, for no stable and growing American Republic wishes to see some great non-American military power acquire territory in its neighborhood. All that this country desires is that the other republics on this Continent shall be happy and prosperous; and they can not be happy and prosperous unless they maintain order within their boundaries and behave with a just regard for their obligations toward outsiders. It must be understood that under no circumstances will the United States use the Monroe Doctrine as a cloak for territorial aggression. We desire peace with all the world, but perhaps most of all with the other peoples of the American Continent. There are of course limits to the wrongs which any self-respecting nation can endure. It is always possible that wrong actions toward this Nation, or toward citizens of this Nation, in some State unable to keep order among its own people, unable to secure justice from outsiders, and unwilling to do justice to those outsiders who treat it well, may result in our having to take action to protect our rights; but such action will not be taken with a view to territorial aggression, and it will be taken at all only with extreme reluctance and when it has become evident that every other resource has been exhausted.

Moreover, we must make it evident that we do not intend to permit the Monroe Doctrine to be used by any nation on this Continent as a shield to protect it from the consequences of its own misdeeds against foreign nations. If a republic to the south of us commits a tort against a foreign nation, such as an outrage against a citizen of that nation, then the Monroe Doctrine does not force us to interfere to prevent punishment of the tort, save to see that the punishment does not assume the form of territorial occupation in any shape. The case is more difficult when it refers to a contractual obligation. Our own Government has always refused to enforce such contractual obligations on behalf of its citizens by an appeal to arms. It is much to be wished that all foreign governments would take the same view. But they do not; and in consequence we are liable at any time to be brought face to face with disagreeable alternatives. On the one hand, this country would certainly decline to go to war to prevent a foreign government from collecting a just debt; on the other hand, it is very inadvisable to permit any foreign power to take possession, even temporarily, of the custom-

houses of an American Republic in order to enforce the payment of its obligations; for such temporary occupation might turn into a permanent occupation. The only escape from these alternatives may at any time be that we must ourselves undertake to bring about some arrangement by which so much as possible of a just obligation shall be paid. It is far better that this country should put through such an arrangement, rather than allow any foreign country to undertake it. To do so insures the defaulting republic from having to pay debts of an improper character under duress, while it also insures honest creditors of the republic from being passed by in the interest of dishonest or grasping creditors. Moreover, for the United States to take such a position offers the only possible way of insuring us against a clash with some foreign power. The position is, therefore, in the interest of peace as well as in the interest of justice. It is of benefit to our people; it is of benefit to foreign peoples; and most of all it is really of benefit to the people of the country concerned.

This brings me to what should be one of the fundamental objects of the Monroe Doctrine. We must ourselves in good faith try to help upward toward peace and order those of our sister republics which need such help. Just as there has been a gradual growth of the ethical element in the relations of one individual to another, so we are, even though slowly, more and more coming to recognize the duty of bearing one another's burdens, not only as among individuals, but also as among nations.

Santo Domingo, in her turn, has now made an appeal to us to help her, and not only every principle of wisdom but every generous instinct within us bids us respond to the appeal. It is not of the slightest consequence whether we grant the aid  
Santo Domingo. needed by Santo Domingo as an incident to the wise development of the Monroe Doctrine, or because we regard the case of Santo Domingo as standing wholly by itself, and to be treated as such, and not on general principles or with any reference to the Monroe Doctrine. The important point is to give the needed aid, and the case is certainly sufficiently peculiar to deserve to be judged purely on its own merits. The conditions in Santo Domingo have for a number of years grown from bad to worse until a year ago all society was on the verge of dissolution. Fortunately, just at this time a ruler sprang up in Santo Domingo, who, with his colleagues, saw the dangers threatening their country and appealed to the friendship of the only great and powerful neighbor who possessed the power, and as they

hoped also the will to help them. There was imminent danger of foreign intervention. The previous rulers of Santo Domingo had recklessly incurred debts, and owing to her internal disorders she had ceased to be able to provide means of paying the debts. The patience of her foreign creditors had become exhausted, and at least two foreign nations were on the point of intervention, and were only prevented from intervening by the unofficial assurance of this Government that it would itself strive to help Santo Domingo in her hour of need. In the case of one of these nations, only the actual opening of negotiations to this end by our Government prevented the seizure of territory in Santo Domingo by a European power. Of the debts incurred some were just, while some were not of a character which really renders it obligatory on, or proper for, Santo Domingo to pay them in full. But she could not pay any of them unless some stability was assured her Government and people.

Accordingly the Executive Department of our Government negotiated a treaty under which we are to try to help the Dominican people to straighten out their finances. This treaty is pending before the Senate. In the meantime a temporary arrangement has been made which will last until the Senate has had time to take action upon the treaty. Under this arrangement the Dominican Government has appointed Americans to all the important positions in the customs service, and they are seeing to the honest collection of the revenues, turning over 45 per cent to the Government for running expenses and putting the other 55 per cent into a safe depository for equitable division in case the treaty shall be ratified, among the various creditors, whether European or American.

The custom-houses offer well-nigh the only sources of revenue in Santo Domingo, and the different revolutions usually have as their real aim the obtaining possession of these custom-houses. The mere fact that the collectors of customs are Americans, that they are performing their duties with efficiency and honesty, and that the treaty is pending in the Senate, gives a certain moral power to the Government of Santo Domingo which it has not had before. This has completely discouraged all revolutionary movement, while it has already produced such an increase in the revenues that the Government is actually getting more from the 45 per cent that the American collectors turn over to it than it got formerly when it took the entire revenue. It is enabling the poor harassed people of Santo Domingo once more to turn their attention to industry and to be free from the curse of interminable revolutionary disturbance. It offers

to all bona fide creditors, American and European, the only really good chance to obtain that to which they are justly entitled, while it in return gives to Santo Domingo the only opportunity of defense against claims which it ought not to pay, for now if it meets the views of the Senate we shall ourselves thoroughly examine all these claims, whether American or foreign, and see that none that are improper are paid. There is, of course, opposition to the treaty from dishonest creditors, foreign and American, and from the professional revolutionists of the island itself. We have already reason to believe that some of the creditors who do not dare expose their claims to honest scrutiny are endeavoring to stir up sedition in the island and opposition to the treaty. In the meantime I have exercised the authority vested in me by the joint resolution of the Congress to prevent the introduction of arms into the island for revolutionary purposes.

Under the course taken, stability and order and all the benefits of peace are at last coming to Santo Domingo, danger of foreign intervention has been suspended, and there is at last a prospect that all creditors will get justice, no more and no less. If the arrangement is terminated by the failure of the treaty chaos will follow; and if chaos follows, sooner or later this Government may be involved in serious difficulties with foreign governments over the island, or else may be forced itself to intervene in the island in some unpleasant fashion. Under the proposed treaty the independence of the island is scrupulously respected, the danger of violation of the Monroe Doctrine by the intervention of foreign powers vanishes, and the interference of our Government is minimized, so that we shall only act in conjunction with the Santo Domingo authorities to secure the proper administration of the customs, and therefore to secure the payment of just debts and to secure the Dominican Government against demands for unjust debts. The proposed method will give the people of Santo Domingo the same chance to move onward and upward which we have already given to the people of Cuba. It will be doubly to our discredit as a nation if we fail to take advantage of this chance; for it will be of damage to ourselves, and it will be of incalculable damage to Santo Domingo. Every consideration of wise policy, and, above all, every consideration of large generosity, bids us meet the request of Santo Domingo as we are now trying to meet it.

We can not consider the question of our foreign policy without at the same time treating of the Army and the Navy. We now have a very small army—indeed, one well-nigh infinitesimal when compared with the army of any other large nation. Of course the

Army we do have should be as nearly perfect of its kind and for its size as is possible. I do not believe that any army in the world has a better average of enlisted man or a better type of junior officer; but the Army should be trained to act effectively in a mass. Provision should be made by sufficient appropriations for manœuvres of a practical kind so that the troops may learn how to take care of themselves under actual service conditions; every march, for instance, being made with the soldier loaded exactly as he would be in an active campaign. The generals and colonels would thereby have opportunity of handling regiments, brigades, and divisions, and the commissary and medical departments would be tested in the field. Provision should be made for the exercise at least of a brigade and by preference of a division in marching and embarking at some point on our coast and disembarking at some other point and continuing its march. The number of posts in which the Army is kept in time of peace should be materially diminished and the posts that are left made correspondingly larger. No local interests should be allowed to stand in the way of assembling the greater part of the troops which would at need form our field armies in stations of such size as will permit the best training to be given to the personnel of all grades, including the high officers and staff officers. To accomplish this end we must have not company or regimental garrisons, but brigade and division garrisons. Promotion by mere seniority can never result in a thoroughly efficient corps of officers in the higher ranks unless there accompanies it a vigorous weeding-out process. Such a weeding-out process—that is, such a process of selection—is a chief feature of the four years' course of the young officer at West Point. There is no good reason why it should stop immediately upon his graduation. While at West Point he is dropped unless he comes up to a certain standard of excellence, and when he graduates he takes rank in the Army according to his rank of graduation. The results are good at West Point; and there should be in the Army itself something that will achieve the same end. After a certain age has been reached the average officer is unfit to do good work below a certain grade. Provision should be made for the promotion of exceptionally meritorious men over the heads of their comrades and for the retirement of all men who have reached a given age without getting beyond a given rank; this age of retirement of course changing from rank to rank. In both the Army and the Navy there should be some principle of selection, that is of promotion for merit, and there

should be a resolute effort to eliminate the aged officers of reputable character who possess no special efficiency.

There should be an increase in the coast artillery force, so that our coast fortifications can be in some degree adequately manned. There is special need for an increase and reorganization of the Medical Department of the Army. In both the Army and Navy there must be the same thorough training for duty in the staff corps as in the fighting line. Only by such training in advance can we be sure that in actual war field operations and those at sea will be carried on successfully. The importance of this was shown conclusively in the Spanish-American and the Russo-Japanese wars. The work of the medical departments in the Japanese army and navy is especially worthy of study. I renew my recommendation of January 9, 1905, as to the Medical Department of the Army and call attention to the equal importance of the needs of the staff corps of the Navy. In the Medical Department of the Navy the first in importance is the reorganization of the Hospital Corps, on the lines of the Gallinger Bill (S. 3984, February 1, 1904), and the reapportionment of the different grades of the medical officers to meet service requirements. It seems advisable also that medical officers of the Army and Navy should have similar rank and pay in their respective grades, so that their duties can be carried on without friction when they are brought together. The base hospitals of the Navy should be put in condition to meet modern requirements and hospital ships be provided. Unless we now provide with ample forethought for the medical needs of the Army and Navy appalling suffering of a preventable kind is sure to occur if ever the country goes to war. It is not reasonable to expect successful administration in time of war of a department which lacks a third of the number of officers necessary to perform the medical service in time of peace. We need men who are not merely doctors; they must be trained in the administration of military medical service.

Our Navy must, relatively to the navies of other nations, always be of greater size than our Army. We have most wisely continued for a number of years to build up our Navy, and it has now reached a fairly high standard of efficiency. This standard of efficiency must not only be maintained, but increased. It does not seem to me necessary, however, that the Navy should—at least in the immediate future—be increased beyond the present number of units. What is now clearly necessary is to substitute efficient for inefficient units as the latter become worn-out or as it becomes apparent that they are useless. Probably the result would be attained by adding a



single battle ship to our Navy each year, the superseded or outworn vessels being laid up or broken up as they are thus replaced. The four single-turret monitors built immediately after the close of the Spanish war, for instance, are vessels which would be of but little use in the event of war. The money spent upon them could have been more usefully spent in other ways. Thus it would have been far better never to have built a single one of these monitors and to have put the money into an ample supply of reserve guns. Most of the smaller cruisers and gunboats, though they serve a useful purpose so far as they are needed for international police work, would not add to the strength of our Navy in a conflict with a serious foe. There is urgent need of providing a large increase in the number of officers, and especially in the number of enlisted men.

Recent naval history has emphasized certain lessons which ought not to, but which do, need emphasis. Seagoing torpedo boats or destroyers are indispensable, not only for making night attacks by surprise upon an enemy, but even in battle for finishing already crippled ships. Under exceptional circumstances submarine boats would doubtless be of use. Fast scouts are needed. The main strength of the Navy, however, lies and can only lie in the great battle ships, the heavily-armed, heavily-gunned vessels which decide the mastery of the seas. Heavy-armed cruisers also play a most useful part, and unarmed cruisers, if swift enough, are very useful as scouts. Between antagonists of approximately equal prowess the comparative perfection of the instruments of war will ordinarily determine the fight. But it is of course true that the man behind the gun, the man in the engine room, and the man in the conning tower, considered not only individually, but especially with regard to the way in which they work together, are even more important than the weapons with which they work. The most formidable battle ship is of course helpless against even a light cruiser if the men aboard it are unable to hit anything with their guns; and thoroughly well-handled cruisers may count seriously in an engagement with much superior vessels, if the men aboard the latter are ineffective, whether from lack of training or from any other cause. Modern war ships are most formidable mechanisms when well handled, but they are utterly useless when not well handled; and they can not be handled at all without long and careful training. This training can under no circumstance be given when once war has broken out. No fighting ship of the first class should ever be laid up save for necessary repairs; and her crew should be kept constantly exercised on the high seas, so that she may stand at the highest point

of perfection. To put a new and untrained crew upon the most powerful battle ship and send it out to meet a formidable enemy is not only to invite but to insure disaster and disgrace. To improvise crews at the outbreak of a war, so far as the serious fighting craft are concerned, is absolutely hopeless. If the officers and men are not thoroughly skilled in, and have not been thoroughly trained to, their duties, it would be far better to keep the ships in port during hostilities than to send them against a formidable opponent, for the result could only be that they would be either sunk or captured. The marksmanship of our Navy is now on the whole in a gratifying condition, and there has been a great improvement in fleet practice. We need additional seamen; we need a large store of reserve guns; we need sufficient money for ample target practice, ample practice of every kind at sea. We should substitute for comparatively inefficient types—the old third-class battle ship *Texas*, the single-turreted monitors above mentioned, and indeed all the monitors and some of the old cruisers—efficient, modern, seagoing vessels. Seagoing torpedo-boat destroyers should be substituted for some of the smaller torpedo boats. During the present Congress there need be no additions to the aggregate number of units of the Navy. Our Navy, though very small relatively to the navies of other nations, is for the present sufficient in point of numbers for our needs, and while we must constantly strive to make its efficiency higher, there need be no additions to the total number of ships now built and building, save in the way of substitution as above outlined. I recommend the report of the Secretary of the Navy to the careful consideration of the Congress, especially with a view to the legislation therein advocated.

During the past year evidence has accumulated to confirm the expressions contained in my last two annual Messages as to the importance of revising by appropriate legislation our system of naturalizing aliens. I appointed last March a **Naturalization laws.** commission to make a careful examination of our naturalization laws, and to suggest appropriate measures to avoid the notorious abuses resulting from the improvident or unlawful granting of citizenship. This commission, composed of an officer of the Department of State, of the Department of Justice, and of the Department of Commerce and Labor, has discharged the duty imposed upon it, and has submitted a report, which will be transmitted to the Congress for its consideration, and, I hope, for its favorable action.

The distinguishing recommendations of the Commission are:

First. A Federal bureau of naturalization, to be established in the Department of Commerce and Labor, to supervise the administration of the naturalization laws and to receive returns of naturalizations pending and accomplished.

Second. Uniformity of naturalization certificates, fees to be charged, and procedure.

Third. More exacting qualifications for citizenship.

Fourth. The preliminary declaration of intention to be abolished and no alien to be naturalized until at least ninety days after the filing of his petition.

Fifth. Jurisdiction to naturalize aliens to be confined to United States district courts and to such State courts as have jurisdiction in civil actions in which the amount in controversy is unlimited; in cities of over 100,000 inhabitants the United States district courts to have exclusive jurisdiction in the naturalization of the alien residents of such cities.

In my last Message I asked the attention of the Congress to the urgent need of action to make our criminal law more effective; and I

**Criminal laws.** most earnestly request that you pay heed to the report of the Attorney-General on this subject.

Centuries ago it was especially needful to throw every safeguard round the accused. The danger then was lest he should be wronged by the state. The danger is now exactly the reverse. Our laws and customs tell immensely in favor of the criminal and against the interests of the public he has wronged. Some antiquated and outworn rules which once safeguarded the threatened rights of private citizens, now merely work harm to the general body politic. The criminal law of the United States stands in urgent need of revision. The criminal process of any court of the United States should run throughout the entire territorial extent of our country. The delays of the criminal law, no less than of the civil, now amount to a very great evil.

There seems to be no statute of the United States which provides for the punishment of a United States attorney or other officer of the Government who corruptly agrees to wrongfully do or wrong-

**Breaches of trust in public service.** fully refrain from doing any act when the consideration for such corrupt agreement is other than one possessing money value. This ought to

be remedied by appropriate legislation. Legislation should also be enacted to cover, explicitly, unequivocally and beyond question, breach of trust in the shape of prematurely divulging official

secrets by an officer or employee of the United States, and to provide a suitable penalty therefor. Such officer or employee owes the duty to the United States to guard carefully and not to divulge or in any manner use, prematurely, information which is accessible to the officer or employee by reason of his official position. Most breaches of public trust are already covered by the law, and this one should be. It is impossible, no matter how much care is used, to prevent the occasional appointment to the public service of a man who when tempted proves unfaithful; but every means should be provided to detect and every effort made to punish the wrongdoer. So far as in my power lies each and every such wrongdoer shall be relentlessly hunted down; in no instance in the past has he been spared; in no instance in the future shall he be spared. His crime is a crime against every honest man in the Nation, for it is a crime against the whole body politic. Yet in dwelling on such misdeeds, it is unjust not to add that they are altogether exceptional, and that on the whole the employees of the Government render upright and faithful service to the people. There are exceptions, notably in one or two branches of the service; but at no time in the Nation's history has the public service of the Nation taken as a whole stood on a higher plane than now, alike as regards honesty and as regards efficiency.

Once again I call your attention to the condition of the public-land laws. Recent developments have given new urgency to the need for such changes as will fit these laws to actual present conditions. The honest disposal and right use of the remaining public lands is of fundamental importance. The iniquitous methods by which the monopolizing of the public lands is being brought about under the present laws are becoming more generally known, but the existing laws do not furnish effective remedies. The recommendations of the Public Lands Commission upon this subject are wise and should be given effect.

The creation of small irrigated farms under the Reclamation Act is a powerful offset to the tendency of certain other laws to foster or permit monopoly of the land. Under that act the construction of great irrigation works has been proceeding rapidly and successfully, the lands reclaimed are eagerly taken up, and the prospect that the policy of national irrigation will accomplish all that was expected of it is bright. The act should be extended to include the State of Texas.

The Reclamation Act derives much of its value from the fact that it tends to secure the greatest possible number of homes on the land, and to create communities of freeholders, in part by settlement on public land, in part by forcing the subdivision of large private holdings before they can get water from Government irrigation works. The law requires that no right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one land owner. This provision has excited active and powerful hostility, but the success of the law itself depends on the wise and firm enforcement of it. We can not afford to substitute tenants for freeholders on the public domain.

The greater part of the remaining public lands can not be irrigated. They are at present and will probably always be of greater value for grazing than for any other purpose. This fact has led to the grazing homestead of 640 acres in Nebraska and to the proposed extension of it to other States. It is argued that a family can not be supported on 160 acres of arid grazing land. This is obviously true; but neither can a family be supported on 640 acres of much of the land to which it is proposed to apply the grazing homestead. To establish universally any such arbitrary limit would be unwise at the present time. It would probably result on the one hand in enlarging the holdings of some of the great land owners, and on the other in needless suffering and failure on the part of a very considerable proportion of the bona fide settlers who give faith to the implied assurance of the Government that such an area is sufficient. The best use of the public grazing lands requires the careful examination and classification of these lands in order to give each settler land enough to support his family and no more. While this work is being done, and until the lands are settled, the Government should take control of the open range, under reasonable regulations suited to local needs, following the general policy already in successful operation on the forest reserves. It is probable that the present grazing value of the open public range is scarcely more than half what it once was or what it might easily be again under careful regulation.

The forest policy of the Administration appears to enjoy the unbroken support of the people. The great users of timber are themselves forwarding the movement for forest preservation. All organized opposition to the forest reserves in the West has disappeared. Since the consolidation of all Government forest work in the National Forest Service there has been a rapid and notable gain in the usefulness of the forest reserves to the people and in

public appreciation of their value. The national parks within or adjacent to forest reserves should be transferred to the charge of the Forest Service also.

The National Government already does something in connection with the construction and maintenance of the Mississippi levees. great system of levees along the lower course of the Mississippi; in my judgment it should do much more.

To the spread of our trade in peace and the defense of our flag in war a great and prosperous merchant marine is indispensable. We should have ships of our own and seamen of our own to convey our goods to neutral markets, and in case of need to reenforce our battle line. It can not but be a source of regret and uneasiness to us that the lines of communication with our sister republics of South America should be chiefly under foreign control. It is not a good thing that American merchants and manufacturers should have to send their goods and letters to South America via Europe if they wish security and dispatch. Even on the Pacific, where our ships have held their own better than on the Atlantic, our merchant flag is now threatened through the liberal aid bestowed by other governments on their own steam lines. I ask your earnest consideration of the report with which the Merchant Marine Commission has followed its long and careful inquiry.

I again heartily commend to your favorable consideration the tercentennial celebration of the settlement at Jamestown, Virginia. Appreciating the desirability of this commemoration, the Congress passed an act, March 3, 1905, authorizing in the year 1907, on and near the waters of Hampton Roads, in the State of Virginia, an international naval, marine, and military celebration in honor of this event. By the authority vested in me by this act, I have made proclamation of said celebration, and have issued, in conformity with its instructions, invitations to all the nations of the earth to participate, by sending their naval vessels and such military organizations as may be practicable. This celebration would fail of its full purpose unless it were enduring in its results and commensurate with the importance of the event to be celebrated, the event from which our Nation dates its birth. I earnestly hope that this celebration, already indorsed by the Congress of the United States, and by the legislatures of sixteen States since the action of the Congress, will receive such additional aid at your hands as will make it worthy of the great event it is intended to celebrate, and thereby enable the

Jamestown  
Tercentennial.

Government of the United States to make provision for the exhibition of its own resources, and likewise enable our people who have undertaken the work of such a celebration to provide suitable and proper entertainment and instruction in the historic events of our country for all who may visit the exposition and to whom we have tendered our hospitality.

It is a matter of unmixed satisfaction once more to call attention to the excellent work of the Pension Bureau; for the veterans of the civil war have a greater claim upon us than any other class of our citizens. To them, first of all among our people, honor is due.

Seven years ago my lamented predecessor, President McKinley, stated that the time had come for the Nation to care for the graves of the Confederate dead. I recommend that the Congress take action towards this end. The first need is to take charge of the graves of the Confederate dead who died in Northern prisons.

The question of immigration is of vital interest to this country. In the year ending June 30, 1905, there came to the United States 1,026,000 alien immigrants. In other words, in the single year that has just elapsed there came to this country a greater number of people than came here during the one hundred and sixty-nine years of our colonial life which intervened between the first landing at Jamestown and the Declaration of Independence. It is clearly shown in the report of the Commissioner-General of Immigration that while much of this enormous immigration is undoubtedly healthy and natural, a considerable proportion is undesirable from one reason or another; moreover, a considerable proportion of it, probably a very large proportion, including most of the undesirable class, does not come here of its own initiative, but because of the activity of the agents of the great transportation companies. These agents are distributed throughout Europe, and by the offer of all kinds of inducements they wheedle and cajole many immigrants, often against their best interest, to come here. The most serious obstacle we have to encounter in the effort to secure a proper regulation of the immigration to these shores arises from the determined opposition of the foreign steamship lines who have no interest whatever in the matter save to increase the returns on their capital by carrying masses of immigrants hither in the steerage quarters of their ships.

As I said in my last Message to the Congress, we can not have too much immigration of the right sort, and we should have none whatever of the wrong sort. Of course it is desirable that even the

right kind of immigration should be properly distributed in this country. We need more of such immigration for the South; and special effort should be made to secure it. Perhaps it would be possible to limit the number of immigrants allowed to come in any one year to New York and other northern cities, while leaving unlimited the number allowed to come to the South; always provided, however, that a stricter effort is made to see that only immigrants of the right kind come to our country anywhere. In actual practice it has proved so difficult to enforce the immigration laws where long stretches of frontier marked by an imaginary line alone intervene between us and our neighbors that I recommend that no immigrants be allowed to come in from Canada and Mexico, save natives of the two countries themselves. As much as possible should be done to distribute the immigrants upon the land and keep them away from the congested tenement-house districts of the great cities. But distribution is a palliative, not a cure. The prime need is to keep out all immigrants who will not make good American citizens. The laws now existing for the exclusion of undesirable immigrants should be strengthened. Adequate means should be adopted, enforced by sufficient penalties, to compel steamship companies engaged in the passenger business to observe in good faith the law which forbids them to encourage or solicit immigration to the United States. Moreover, there should be a sharp limitation imposed upon all vessels coming to our ports as to the number of immigrants in ratio to the tonnage which each vessel can carry. This ratio should be high enough to insure the coming hither of as good a class of aliens as possible. Provision should be made for the surer punishment of those who induce aliens to come to this country under promise or assurance of employment. It should be made possible to inflict a sufficiently heavy penalty on any employer violating this law to deter him from taking the risk. It seems to me wise that there should be an international conference held to deal with this question of immigration, which has more than a merely national significance; such a conference could among other things enter at length into the methods for securing a thorough inspection of would-be immigrants at the ports from which they desire to embark before permitting them to embark.

In dealing with this question it is unwise to depart from the old American tradition and to discriminate for or against any man who desires to come here and become a citizen, save on the ground of that man's fitness for citizenship. It is our right and duty to consider his moral and social quality. His standard of living should



be such that he will not, by pressure of competition, lower the standard of living of our own wage-workers; for it must ever be a prime object of our legislation to keep high their standard of living. If the man who seeks to come here is from the moral and social standpoint of such a character as to bid fair to add value to the community he should be heartily welcomed. We can not afford to pay heed to whether he is of one creed or another, of one nation or another. We can not afford to consider whether he is Catholic or Protestant, Jew or Gentile; whether he is Englishman or Irishman, Frenchman or German, Japanese, Italian, Scandinavian, Slav, or Magyar. What we should desire to find out is the individual quality of the individual man. In my judgment, with this end in view, we shall have to prepare through our own agents a far more rigid inspection in the countries from which the immigrants come. It will be a great deal better to have fewer immigrants, but all of the right kind, than a great number of immigrants, many of whom are necessarily of the wrong kind. As far as possible we wish to limit the immigration to this country to persons who propose to become citizens of this country, and we can well afford to insist upon adequate scrutiny of the character of those who are thus proposed for future citizenship. There should be an increase in the stringency of the laws to keep out insane, idiotic, epileptic, and pauper immigrants. But this is by no means enough. Not merely the anarchist, but every man of anarchistic tendencies, all violent and disorderly people, all people of bad character, the incompetent, the lazy, the vicious, the physically unfit, defective, or degenerate should be kept out. The stocks out of which American citizenship is to be built should be strong and healthy, sound in body, mind, and character. If it be objected that the Government agents would not always select well, the answer is that they would certainly select better than do the agents and brokers of foreign steamship companies, the people who now do whatever selection is done.

The questions arising in connection with Chinese immigration stand by themselves. The conditions in China are such that the entire Chinese coolie class, that is, the class of Chinese laborers, skilled and unskilled, legitimately come under the head of undesirable immigrants to this country, because of their numbers, the low wages for which they work, and their low standard of living. Not only is it to the interest of this country to keep them out, but the Chinese authorities do not desire that they should be admitted. At present their entrance is prohibited by laws amply adequate to

accomplish this purpose. These laws have been, are being, and will be, thoroughly enforced. The violations of them are so few in number as to be infinitesimal and can be entirely disregarded. There is no serious proposal to alter the immigration law as regards the Chinese laborer, skilled or unskilled, and there is no excuse for any man feeling or affecting to feel the slightest alarm on the subject.

But in the effort to carry out the policy of excluding Chinese laborers, Chinese coolies, grave injustice and wrong have been done by this Nation to the people of China, and therefore ultimately to this Nation itself. Chinese students, business and professional men of all kinds—not only merchants, but bankers, doctors, manufacturers, professors, travelers, and the like—should be encouraged to come here and treated on precisely the same footing that we treat students, business men, travelers, and the like of other nations. Our laws and treaties should be framed, not so as to put these people in the excepted classes, but to state that we will admit all Chinese, except Chinese of the coolie class, Chinese skilled or unskilled laborers. There would not be the least danger that any such provision would result in any relaxation of the law about laborers. These will, under all conditions, be kept out absolutely. But it will be more easy to see that both justice and courtesy are shown, as they ought to be shown, to other Chinese, if the law or treaty is framed as above suggested. Examinations should be completed at the port of departure from China. For this purpose there should be provided a more adequate consular service in China than we now have. The appropriations, both for the offices of the consuls and for the office forces in the consulates, should be increased.

As a people we have talked much of the open door in China, and we expect, and quite rightly intend to insist upon, justice being shown us by the Chinese. But we can not expect to receive equity unless we do equity. We can not ask the Chinese to do to us what we are unwilling to do to them. They would have a perfect right to exclude our laboring men if our laboring men threatened to come into their country in such numbers as to jeopardize the well-being of the Chinese population; and as, *mutatis mutandis*, these were the conditions with which Chinese immigration actually brought this people face to face, we had and have a perfect right, which the Chinese Government in no way contests, to act as we have acted in the matter of restricting coolie immigration. That this right exists for each country was explicitly acknowledged in the last treaty between the two countries. But we must treat

the Chinese student, traveler, and business man in a spirit of the broadest justice and courtesy if we expect similar treatment to be accorded to our own people of similar rank who go to China. Much trouble has come during the past summer from the organized boycott against American goods which has been started in China. The main factor in producing this boycott has been the resentment felt by the students and business people of China, by all the Chinese leaders, against the harshness of our law toward educated Chinamen of the professional and business classes.

This Government has the friendliest feeling for China and desires China's well-being. We cordially sympathize with the announced purpose of Japan to stand for the integrity of China. Such an attitude tends to the peace of the world.

The civil service law has been on the statute books for twenty-two years. Every President and a vast majority of heads of departments who have been in office during that period have favored a gradual extension of the merit system. The *The Civil Service.* more thoroughly its principles have been understood, the greater has been the favor with which the law has been regarded by administrative officers. Any attempt to carry on the great executive departments of the Government without this law would inevitably result in chaos. The Civil Service Commissioners are doing excellent work; and their compensation is inadequate considering the service they perform.

The statement that the examinations are not practical in character is based on a misapprehension of the practice of the Commission. The departments are invariably consulted as to the requirements desired and as to the character of questions that shall be asked. General invitations are frequently sent out to all heads of departments asking whether any changes in the scope or character of examinations are required. In other words, the departments prescribe the requirements and the qualifications desired, and the Civil Service Commission cooperates with them in securing persons with these qualifications and insuring open and impartial competition. In a large number of examinations (as, for example, those for trades positions) there are no educational requirements whatever, and a person who can neither read nor write may pass with a high average. Vacancies in the service are filled with reasonable expedition and the machinery of the Commission, which reaches every part of the country, is the best agency that has yet been devised for finding people with the most suitable qualifications for the various offices to be filled. Written competitive examinations do not make

an ideal method for filling positions, but they do represent an immeasurable advance upon the "spoils" method, under which outside politicians really make the appointments nominally made by the executive officers, the appointees being chosen by the politicians in question, in the great majority of cases, for reasons totally unconnected with the needs of the service or of the public.

Statistics gathered by the Census Bureau show that the tenure of office in the Government service does not differ materially from that enjoyed by employees of large business corporations. Heads of executive departments and members of the Commission have called my attention to the fact that the rule requiring a filing of charges and three days' notice before an employee could be separated from the service for inefficiency has served no good purpose whatever, because that is not a matter upon which a hearing of the employee found to be inefficient can be of any value, and in practice the rule providing for such notice and hearing has merely resulted in keeping in a certain number of incompetents, because of the reluctance of heads of departments and bureau chiefs to go through the required procedure. Experience has shown that this rule is wholly ineffective to save any man, if a superior for improper reasons wishes to remove him, and is mischievous because it sometimes serves to keep in the service incompetent men not guilty of specific wrong-doing. Having these facts in view, the rule has been amended by providing that where the inefficiency or incapacity comes within the personal knowledge of the head of a department the removal may be made without notice, the reasons therefor being filed and made a record of the department. The absolute right of removal rests where it always has rested, with the head of a department; any limitation of this absolute right results in grave injury to the public service. The change is merely one of procedure; it was much needed; and it is producing good results.

The civil service law is being energetically and impartially enforced, and in the large majority of cases complaints of violations of either the law or rules are discovered to be unfounded. In this respect, this law compares very favorably with any other Federal statute. The question of politics in the appointment and retention of the men engaged in merely ministerial work has been practically eliminated in almost the entire field of Government employment covered by the civil service law. The action of the Congress in providing the Commission with its own force instead of requiring it to rely on detailed clerks has been justified by the increased work done at a smaller cost to the Government. I urge

upon the Congress a careful consideration of the recommendations contained in the annual report of the Commission.

Our copyright laws urgently need revision. They are imperfect in definition, confused and inconsistent in expression; they omit provision for many articles which, under modern reproductive processes, are entitled to protection; they impose hardships upon the copyright proprietor which are not essential to the fair protection of the public; they are difficult for the courts to interpret and impossible for the Copyright Office to administer with satisfaction to the public. Attempts to improve them by amendment have been frequent, no less than twelve acts for the purpose having been passed since the Revised Statutes. To perfect them by further amendment seems impracticable. A complete revision of them is essential. Such a revision, to meet modern conditions, has been found necessary in Germany, Austria, Sweden, and other foreign countries, and bills embodying it are pending in England and the Australian colonies. It has been urged here, and proposals for a commission to undertake it have, from time to time, been pressed upon the Congress. The inconveniences of the present conditions being so great, an attempt to frame appropriate legislation has been made by the Copyright Office, which has called conferences of the various interests especially and practically concerned with the operation of the copyright laws. It has secured from them suggestions as to the changes necessary; it has added from its own experience and investigations, and it has drafted a bill which embodies such of these changes and additions as, after full discussion and expert criticism, appeared to be sound and safe. In form this bill would replace the existing insufficient and inconsistent laws by one general copyright statute. It will be presented to the Congress at the coming session. It deserves prompt consideration.

I recommend that a law be enacted to regulate interstate commerce in misbranded and adulterated foods, drinks, and drugs. Such law would protect legitimate manufacture and commerce, and would tend to secure the health and welfare of the consuming public. Traffic in foodstuffs which have been debased or adulterated so as to injure health or to deceive purchasers should be forbidden.

**Adulteration of foods.**

The law forbidding the emission of dense black or gray smoke in the city of Washington has been sustained by the courts. Something has been accomplished under it, but much remains to be

done if we would preserve the Capital City from defacement by the smoke nuisance. Repeated prosecutions under the law have not had the desired effect. I recommend that it be made more stringent by increasing both the minimum and maximum fine; by providing for imprisonment in cases of repeated violation; and by affording the remedy of injunction against the continuation of the operation of plants which are persistent offenders. I recommend, also, an increase in the number of inspectors, whose duty it shall be to detect violations of the act.

**Smoke law.**

I call your attention to the generous act of the State of California in conferring upon the United States Government the ownership of the Yosemite Valley and the Mariposa Big Tree Grove. There should be no delay in accepting the gift, and appropriations should be made for the including thereof in the Yosemite National Park, and for the care and policing of the park. California has acted most wisely as well as with great magnanimity in the matter. There are certain mighty natural features of our land which should be preserved in perpetuity for our children and our children's children. In my judgment the Grand Canyon of the Colorado should be made into a national park. It is greatly to be wished that the State of New York should copy as regards Niagara what the State of California has done as regards the Yosemite. Nothing should be allowed to interfere with the preservation of Niagara Falls in all their beauty and majesty. If the State can not see to this then it is earnestly to be wished that she should be willing to turn it over to the National Government, which should in such case (if possible, in conjunction with the Canadian Government) assume the burden and responsibility of preserving unharmed Niagara Falls; just as it should gladly assume a similar burden and responsibility for the Yosemite National Park, and as it has already assumed them for the Yellowstone National Park. Adequate provision should be made by the Congress for the proper care and supervision of all these national parks. The boundaries of the Yellowstone National Park should be extended to the south and east to take in such portions of the abutting forest reservation as will enable the Government to protect the elk on their winter range.

**National parks.**

The most characteristic animal of the western plains was the great shaggy-maned wild ox, the bison, commonly known as buffalo. Small fragments of herds exist in a domesticated state here and there, a few of them in the Yellowstone Park. Such a herd as that

on the Flathead Reservation should not be allowed to go out of existence. Either on some reservation or on some forest reserve like the Wichita reserve and game refuge provision should be made for the preservation of such a herd. I believe that the scheme would be of economic advantage, for the robe of the buffalo is of high market value, and the same is true of the robe of the crossbred animals.

I call your especial attention to the desirability of giving to the members of the Life-Saving Service pensions such as are given to firemen and policemen in all our great cities. The men in the Life-Saving Service continually and in the most matter of fact way do deeds such as make Americans proud of their country. They have

**Life-Saving  
Service.**

no political influence; and they live in such remote places that the really heroic services they continually render receive the scantiest recognition from the public. It is unjust for a great nation like this to permit these men to become totally disabled or to meet death in the performance of their hazardous duty and yet to give them no sort of reward. If one of them serves thirty years of his life in such a position he should surely be entitled to retire on half pay, as a fireman or policeman does, and if he becomes totally incapacitated through accident or sickness or loses his health in the discharge of his duty he or his family should receive a pension just as any soldier should. I call your attention with especial earnestness to this matter because it appeals not only to our judgment but to our sympathy; for the people on whose behalf I ask it are comparatively few in number, render incalculable service of a particularly dangerous kind, and have no one to speak for them.

During the year just past, the phase of the Indian question which has been most sharply brought to public attention is the larger legal significance of the Indian's induction into citizenship. This has

**Indians.**

made itself manifest not only in a great access of litigation in which the citizen Indian figures as a party defendant and in a more widespread disposition to levy local taxation upon his personalty, but in a decision of the United States Supreme Court which struck away the main prop on which has hitherto rested the Government's benevolent effort to protect him against the evils of intemperance. The court holds, in effect, that when an Indian becomes, by virtue of an allotment of land to him, a citizen of the State in which his land is situated, he passes from under Federal control in such matters as this, and the acts of the Congress prohibiting the sale or gift to him of

intoxicants become substantially inoperative. It is gratifying to note that the States and municipalities of the West which have most at stake in the welfare of the Indians are taking up this subject and are trying to supply, in a measure at least, the abdication of its trusteeship forced upon the Federal Government. Nevertheless, I would urgently press upon the attention of the Congress the question whether some amendment of the internal-revenue laws might not be of aid in prosecuting those malefactors, known in the Indian country as "bootleggers," who are engaged at once in defrauding the United States Treasury of taxes and, what is far more important, in debauching the Indians by carrying liquors illicitly into territory still completely under Federal jurisdiction.

Among the crying present needs of the Indians are more day schools situated in the midst of their settlements, more effective instruction in the industries pursued on their own farms, and a more liberal extension of the field-matron service, which means the education of the Indian women in the arts of home making. Until the mothers are well started in the right direction we can not reasonably expect much from the children who are soon to form an integral part of our American citizenship. Moreover, the excuse continually advanced by male adult Indians for refusing offers of remunerative employment at a distance from their homes is that they dare not leave their families too long out of their sight. One effectual remedy for this state of things is to employ the minds and strengthen the moral fiber of the Indian women—the end to which the work of the field matron is especially directed. I trust that the Congress will make its appropriations for Indian day schools and field matrons as generous as may consist with the other pressing demands upon its providence.

During the last year the Philippine Islands have been slowly recovering from the series of disasters which, since American occupation, have greatly reduced the amount of agricultural products below what was produced in Spanish times. The war, the rinderpest, the locusts, the drought, and the cholera have been united as causes to prevent a return of the prosperity much needed in the islands. The most serious is the destruction by the rinderpest of more than 75 per cent of the draft cattle, because it will take several years of breeding to restore the necessary number of these indispensable aids to agriculture. The Commission attempted to supply by purchase from adjoining countries the needed cattle, but the experiments made were unsuccessful. Most of the cattle imported were unable to

The Philippines.



withstand the change of climate and the rigors of the voyage and died from other diseases than rinderpest.

The income of the Philippine government has necessarily been reduced by reason of the business and agricultural depression in the islands, and the government has been obliged to exercise great economy to cut down its expenses, to reduce salaries, and in every way to avoid a deficit. It has adopted an internal-revenue law, imposing taxes on cigars, cigarettes, and distilled liquors, and abolishing the old Spanish industrial taxes. The law has not operated as smoothly as was hoped, and although its principle is undoubtedly correct, it may need amendments for the purpose of reconciling the people to its provisions. The income derived from it has partly made up for the reduction in customs revenue.

There has been a marked increase in the number of Filipinos employed in the civil service, and a corresponding decrease in the number of Americans. The government in every one of its departments has been rendered more efficient by elimination of undesirable material and the promotion of deserving public servants.

Improvements of harbors, roads, and bridges continue, although the cutting down of the revenue forbids the expenditure of any great amount from current income for these purposes. Steps are being taken, by advertisement for competitive bids, to secure the construction and maintenance of 1,000 miles of railway by private corporations under the recent enabling legislation of the Congress. The transfer of the friar lands, in accordance with the contract made some two years ago, has been completely effected, and the purchase money paid. Provision has just been made by statute for the speedy settlement in a special proceeding in the Supreme Court of controversies over the possession and title of church buildings and rectories arising between the Roman Catholic Church and schismatics claiming under ancient municipalities. Negotiations and hearings for the settlement of the amount due to the Roman Catholic Church for rent and occupation of churches and rectories by the Army of the United States are in progress, and it is hoped a satisfactory conclusion may be submitted to the Congress before the end of the session.

Tranquillity has existed during the past year throughout the Archipelago, except in the province of Cavite, the province of Batangas, and the province of Samar, and in the island of Jolo among the Moros. The Jolo disturbance was put an end to by several sharp and short engagements, and now peace prevails in the Moro province. Cavite, the mother of ladrones in the Spanish times, is so permeated

with the traditional sympathy of the people for ladronism as to make it difficult to stamp out the disease. Batangas was only disturbed by reason of the fugitive ladrones from Cavite. Samar was thrown into disturbance by the uneducated and partly savage peoples living in the mountains, who, having been given by the municipal code more power than they were able to exercise discreetly, elected municipal officers who abused their trusts, compelled the people raising hemp to sell it at a much less price than it was worth, and by their abuses drove their people into resistance to constituted authority. Cavite and Samar are instances of reposing too much confidence in the self-governing power of a people. The disturbances have all now been suppressed, and it is hoped that with these lessons local governments can be formed which will secure quiet and peace to the deserving inhabitants. The incident is another proof of the fact that if there has been any error as regards giving self-government in the Philippines it has been in the direction of giving it too quickly, not too slowly. A year from next April the first legislative assembly for the islands will be held. On the sanity and self-restraint of this body much will depend so far as the future self-government of the islands is concerned.

The most encouraging feature of the whole situation has been the very great interest taken by the common people in education and the great increase in the number of enrolled students in the public schools. The increase was from 300,000 to half a million pupils. The average attendance is about 70 per cent. The only limit upon the number of pupils seems to be the capacity of the government to furnish teachers and schoolhouses.

The agricultural conditions of the islands enforce more strongly than ever the argument in favor of reducing the tariff on the products of the Philippine Islands entering the United States. I earnestly recommend that the tariff now imposed by the Dingley bill upon the products of the Philippine Islands be entirely removed, except the tariff on sugar and tobacco, and that that tariff be reduced to 25 per cent of the present rates under the Dingley Act; that after July 1, 1909, the tariff upon tobacco and sugar produced in the Philippine Islands be entirely removed, and that free trade between the islands and the United States in the products of each country then be provided for by law.

A statute in force, enacted April 15, 1904, suspends the operation of the coastwise laws of the United States upon the trade between the Philippine Islands and the United States until July 1, 1906. I earnestly recommend that this suspension be postponed until July 1,

1909. I think it of doubtful utility to apply the coastwise laws to the trade between the United States and the Philippines under any circumstances, because I am convinced that it will do no good whatever to American bottoms, and will only interfere and be an obstacle to the trade between the Philippines and the United States; but if the coastwise law must be thus applied, certainly it ought not to have effect until free trade is enjoyed between the people of the United States and the people of the Philippine Islands in their respective products.

I do not anticipate that free trade between the islands and the United States will produce a revolution in the sugar and tobacco production of the Philippine Islands. So primitive are the methods of agriculture in the Philippine Islands, so slow is capital in going to the islands, so many difficulties surround a large agricultural enterprise in the islands, that it will be many, many years before the products of those islands will have any effect whatever upon the markets of the United States. The problem of labor is also a formidable one with the sugar and tobacco producers in the islands. The best friends of the Filipino people and the people themselves are utterly opposed to the admission of Chinese coolie labor. Hence the only solution is the training of Filipino labor, and this will take a long time. The enactment of a law by the Congress of the United States making provision for free trade between the islands and the United States, however, will be of great importance from a political and sentimental standpoint; and while its actual benefit has doubtless been exaggerated by the people of the islands, they will accept this measure of justice as an indication that the people of the United States are anxious to aid the people of the Philippine Islands in every way, and especially in the agricultural development of their Archipelago. It will aid the Filipinos without injuring interests in America.

In my judgment immediate steps should be taken for the fortification of Hawaii. This is the most important point in the Pacific to fortify in order to conserve the interests of this country. It would be hard to overstate the importance of this need. Hawaii is too heavily taxed. Laws should be enacted setting aside for a period of, say, twenty years 75 per cent of the internal revenue and customs receipts from Hawaii as a special fund to be expended in the islands for educational and public buildings, and for harbor improvements and military and naval defenses. It can not be too often repeated that our aim must be to develop the Territory of Hawaii on traditional American lines.

That Territory has serious commercial and industrial problems to reckon with; but no measure of relief can be considered which looks to legislation admitting Chinese and restricting them by statute to field labor and domestic service. The status of servility can never again be tolerated on American soil. We can not concede that the proper solution of its problems is special legislation admitting to Hawaii a class of laborers denied admission to the other States and Territories. There are obstacles, and great obstacles, in the way of building up a representative American community in the Hawaiian Islands; but it is not in the American character to give up in the face of difficulty. Many an American Commonwealth has been built up against odds equal to those that now confront Hawaii.

No merely half-hearted effort to meet its problems as other American communities have met theirs can be accepted as final. Hawaii shall never become a Territory in which a governing class of rich planters exists by means of coolie labor. Even if the rate of growth of the Territory is thereby rendered slower, the growth must only take place by the admission of immigrants fit in the end to assume the duties and burdens of full American citizenship. Our aim must be to develop the Territory on the same basis of stable citizenship as exists on this continent.

I earnestly advocate the adoption of legislation which will explicitly confer American citizenship on all citizens of Porto Rico. There is, in my judgment, no excuse for failure to do this. The harbor of San Juan should be dredged and improved. The expenses of the Federal court of Porto Rico should be met from the Federal Treasury, and not from the Porto Rican treasury. The elections in Porto Rico should take place every four years, and the legislature should meet in session every two years. The present form of government in Porto Rico, which provides for the appointment by the President of the members of the executive council or upper house of the legislature, has proved satisfactory and has inspired confidence in property owners and investors. I do not deem it advisable at the present time to change this form in any material feature. The problems and needs of the island are industrial and commercial rather than political.

I wish also to call the attention of the Congress to one question which affects our insular possessions generally; namely, the need of an increased liberality in the treatment of the whole franchise question in these islands. In the proper desire to prevent the islands being exploited by speculators and to have them develop in the interest of their

Insular affairs  
in general.

own people an error has been made in refusing to grant sufficiently liberal terms to induce the investment of American capital in the Philippines and in Porto Rico. Elsewhere in this Message I have spoken strongly against the jealousy of mere wealth, and especially of corporate wealth as such. But it is particularly regrettable to allow any such jealousy to be developed when we are dealing either with our insular or with foreign affairs. The big corporation has achieved its present position in the business world simply because it is the most effective instrument in business competition. In foreign affairs we can not afford to put our people at a disadvantage with their competitors by in any way discriminating against the efficiency of our business organizations. In the same way we can not afford to allow our insular possessions to lag behind in industrial development from any twisted jealousy of business success. It is, of course, a mere truism to say that the business interests of the islands will only be developed if it becomes the financial interest of somebody to develop them. Yet this development is one of the things most earnestly to be wished for in the interest of the islands themselves. We have been paying all possible heed to the political and educational interests of the islands, but, important though these objects are, it is not less important that we should favor their industrial development. The Government can in certain ways help this directly, as by building good roads; but the fundamental and vital help must be given through the development of the industries of the islands, and a most efficient means to this end is to encourage big American corporations to start industries in them and this means to make it advantageous for them to do so. To limit the ownership of mining claims as has been done in the Philippines is absurd. In both the Philippines and Porto Rico the limit of holdings of land should be largely raised.

I earnestly ask that Alaska be given an elective Delegate. Some person should be chosen who can speak with authority of the needs of the Territory. The Government should aid in the construction of a railroad from the Gulf of Alaska to the Yukon River, in American territory. In my last two Messages I advocated certain additional action on behalf of Alaska. I shall not now repeat those recommendations, but I shall lay all my stress upon the one recommendation of giving to Alaska some one authorized to speak for it. I should prefer that the Delegate was made elective, but if this is not deemed wise then make him appointive. At any rate, give Alaska some person whose business it shall be to speak with authority on her

behalf to the Congress. The natural resources of Alaska are great. Some of the chief needs of the peculiarly energetic, self-reliant, and typically American white population of Alaska were set forth in my last Message. I also earnestly ask your attention to the needs of the Alaskan Indians. All Indians who are competent should receive the full rights of American citizenship. It is, for instance, a gross and indefensible wrong to deny to such hard-working, decent-living Indians as the Metlakahtlas the right to obtain licenses as captains, pilots, and engineers, the right to enter mining claims, and to profit by the homestead law. These particular Indians are civilized, and are competent and entitled to be put on the same basis with the white men round about them.

I recommend that Indian Territory and Oklahoma be admitted as one State and that New Mexico and Arizona be admitted as one State. There is no obligation upon us to treat territorial subdivisions, which are matters of convenience only, as binding us on the question of admission to statehood. Nothing has taken up more time in the

**Admission to  
statehood.**

Congress during the past few years than the question as to the statehood to be granted to the four Territories above mentioned, and after careful consideration of all that has been developed in the discussions of the question I recommend that they be immediately admitted as two States. There is no justification for further delay; and the advisability of making the four Territories into two States has been clearly established.

In some of the Territories the legislative assemblies issue licenses for gambling. The Congress should by law forbid this practice, the harmful results of which are obvious at a glance.

The treaty between the United States and the Republic of Panama, under which the construction of the Panama Canal was made possible, went into effect with its ratification by the United States Senate on February 23, 1904. The canal properties of the French Canal Company were transferred to the United States on April 23, 1904, on payment of \$40,000,000 to that company. On

April 1, 1905, the Commission was reorganized, and  
**The Panama Canal.** it now consists of Theodore P. Shonts, chairman, Charles E. Magoon, Benjamin M. Harrod, Rear-Admiral Mordecai T. Endicott, Brig. Gen. Peter C. Hains, and Col. Oswald H. Ernst. John F. Stevens was appointed chief engineer on July 1 last. Active work in canal construction, mainly preparatory, has been in progress for less than a year and a half. During that period two points about the canal have ceased to be open to debate.

First, the question of route; the canal will be built on the Isthmus of Panama. Second, the question of feasibility; there are no physical obstacles on this route that American engineering skill will not be able to overcome without serious difficulty, or that will prevent the completion of the canal within a reasonable time and at a reasonable cost. This is virtually the unanimous testimony of the engineers who have investigated the matter for the Government.

The point which remains unsettled is the question of type, whether the canal shall be one of several locks above sea level, or at sea level with a single tide lock. On this point I hope to lay before the Congress at an early day the findings of the Advisory Board of American and European Engineers, that at my invitation have been considering the subject, together with the report of the Commission thereon; and such comments thereon or recommendations in reference thereto as may seem necessary.

The American people is pledged to the speediest possible construction of a canal adequate to meet the demands which the commerce of the world will make upon it, and I appeal most earnestly to the Congress to aid in the fulfillment of the pledge. Gratifying progress has been made during the past year and especially during the past four months. The greater part of the necessary preliminary work has been done. Actual work of excavation could be begun only on a limited scale till the Canal Zone was made a healthful place to live in and to work in. The Isthmus had to be sanitized first. This task has been so thoroughly accomplished that yellow fever has been virtually extirpated from the Isthmus and general health conditions vastly improved. The same methods which converted the island of Cuba from a pest hole, which menaced the health of the world, into a healthful place of abode, have been applied on the Isthmus with satisfactory results. There is no reason to doubt that when the plans for water supply, paving, and sewerage of Panama and Colon and the large labor camps have been fully carried out, the Isthmus will be, for the Tropics, an unusually healthy place of abode. The work is so far advanced now that the health of all those employed in canal work is as well guarded as it is on similar work in this country and elsewhere.

In addition to sanitating the Isthmus, satisfactory quarters are being provided for employees and an adequate system of supplying them with wholesome food at reasonable prices has been created. Hospitals have been established and equipped that are without superiors of their kind anywhere. The country has thus been made fit to work in, and provision has been made for the welfare

and comfort of those who are to do the work. During the past year a large portion of the plant with which the work is to be done has been ordered. It is confidently believed that by the middle of the approaching year a sufficient proportion of this plant will have been installed to enable us to resume the work of excavation on a large scale.

What is needed now and without delay is an appropriation by the Congress to meet the current and accruing expenses of the Commission. The first appropriation of \$10,000,000, out of the \$135,000,000 authorized by the Spooner Act, was made three years ago. It is nearly exhausted. There is barely enough of it remaining to carry the Commission to the end of the year. Unless the Congress shall appropriate before that time all work must cease. To arrest progress for any length of time now, when matters are advancing so satisfactorily, would be deplorable. There will be no money with which to meet pay-roll obligations and none with which to meet bills coming due for materials and supplies; and there will be demoralization of the forces, here and on the Isthmus, now working so harmoniously and effectively, if there is delay in granting an emergency appropriation. Estimates of the amount necessary will be found in the accompanying reports of the Secretary of War and the Commission.

I recommend more adequate provision than has been made heretofore for the work of the Department of State. Within a few years there has been a very great increase in the amount and importance of the work to be done by that Department, both in Washington and abroad. This has been caused by the great increase of our foreign trade, the increase of wealth among our people, which enables them to travel more generally than heretofore, the increase of American capital which is seeking investment in foreign countries, and the growth of our power and weight in the councils of the civilized world. There has been no corresponding increase of facilities for doing the work afforded to the Department having charge of our foreign relations.

Neither at home nor abroad is there a sufficient working force to do the business properly. In many respects the system which was adequate to the work of twenty-five, or even ten, years ago, is inadequate now, and should be changed. Our consular force should be classified, and appointments should be made to the several classes, with authority to the Executive to assign the members of each class to duty at such posts as the interests of the service require, instead

The Department  
of State.



of the appointments being made as at present to specified posts. There should be an adequate inspection service, so that the Department may be able to inform itself how the business of each consulate is being done, instead of depending upon casual private information or rumor. The fee system should be entirely abolished, and a due equivalent made in salary to the officers who now eke out their subsistence by means of fees. Sufficient provision should be made for a clerical force in every consulate, composed entirely of Americans, instead of the insufficient provision now made, which compels the employment of great numbers of citizens of foreign countries whose services can be obtained for less money. At a large part of our consulates the office quarters and the clerical force are inadequate to the performance of the onerous duties imposed by the recent provisions of our immigration laws as well as by our increasing trade. In many parts of the world the lack of suitable quarters for our embassies, legations, and consulates detracts from the respect in which our officers ought to be held, and seriously impairs their weight and influence.

Suitable provision should be made for the expense of keeping our diplomatic officers more fully informed of what is being done from day to day in the progress of our diplomatic affairs with other countries. The lack of such information, caused by insufficient appropriations available for cable tolls and for clerical and messenger service, frequently puts our officers at a great disadvantage and detracts from their usefulness. The salary list should be readjusted. It does not now correspond either to the importance of the service to be rendered and the degrees of ability and experience required in the different positions, or to the differences in the cost of living. In many cases the salaries are quite inadequate.

THEODORE ROOSEVELT.

THE WHITE HOUSE,

*December 5, 1905.*

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## CIRCULARS.

No.	From and to whom.	Date.	Subject.	Page.
	Circular .....	1905. Jan. 13	Territorial integrity of China. The United States disclaims any thought of reserved territorial rights or control.	1
	.....do .....	Mar. 24	Neutrality of China in the war between Russia and Japan. Transmits Russian protest against alleged violations of.	5
	.....do .....	June 7	Foreign consular officers in the Isthmian Canal Zone. Suggests that two commissions be issued to—one for the Isthmian Canal Zone and one for Panama.	5
	.....do .....	June 28	Same subject. Withdraws the above suggestion.	6
	Circular (telegram) .....	July 1	Death of Secretary of State John Hay announced.	6
	Circular .....	July 3	Same subject. Incloses proclamation of the President and instructs to display flag at half-mast for ten days.	6
	.....do .....	July 19	Appointment of Elihu Root as Secretary of State announced.	26
	.....do .....	Nov. 25	Withdrawal of the American legation from Korea announced.	26
	.....do .....	Dec. 1	Moroccan conference. Incloses copies of instructions issued to the American delegates to the.	26

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	Same to same (telegram) ..	Feb. 5	Same subject. Reports that order has been restored.	27
	Same to same (telegram) ..	Feb. 8	Same subject. The insurrection has been suppressed.	27
119	Same to same .....	.....do ...	Same subject. Detailed account of the movement.	27
122	Same to same .....	Feb. 24	Same subject. Gives further details.	29
136	Same to same .....	Mar. 16	Resumption of diplomatic relations between the Argentine Republic and Uruguay reported.	30
	Mr. Adee to Mr. Beaupré...	Apr. 26	Same subject. Expresses gratification .....	30
151	Mr. Beaupré to Mr. Hay....	May 2	Message of the President of the Argentine Republic transmitted.	31
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156	Same to same .....	.....do ...	Additional protocol to the extradition treaty between the Argentine Republic and Italy. Text.	33
165	Same to same .....	June 26	Pension law for diplomatic officers in the Argentine Republic. Text.	34
166	Same to same .....	June 28	Practice of professions in the Argentine Republic. Incloses law relating to the.	35
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191	Mr. Beaupré to Mr. Root...	Aug. 3	Sanitary convention between the Argentine Republic, Brazil, Paraguay, and Uruguay. Text.	38
	Mr. Loomis to Mr. Beaupré (telegram).	Sept. 14	Prohibitory tariff on parts of agricultural machinery, etc. Instructs to make representations to the Argentine Government.	45
	Mr. Beaupré to Mr. Root (telegram).	Sept. 15	Same subject. Quotes the pertinent clause of the law passed by the House and now before the Senate.	45
	Mr. Loomis to Mr. Beaupré (telegram).	Sept. 16	Same subject. Instructs to endeavor in every proper way to secure the free admission of integral parts of machinery.	46

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63	Mr. Loomis to Sir Chentung Liang-Cheng.	Apr. 19	Census of the Chinese in the United States. The absence of comment in Department's note of the 13th instant may not be regarded as a constructive nonconcurrence in the opinion of the officer who is competent to respond in regard to the execution of the existing law.	167

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1861	Mr. Coolidge to Mr. Hay....	1905. Apr. 22	Neutrality of China. Incloses the reply of the Chinese Government to the Russian promemoria denying strenuously any failure to observe neutrality obligations.	139
	Same to same (telegram) .....	do .....	Payment of the Chinese indemnity. Reports that the new arrangement will probably be signed soon. Recommends adoption of telegraphic transfer on New York in American dollars.	153
1870	Same to same.....	Apr. 26	Reforms in China. Incloses two edicts abolishing or modifying cruel forms of punishment.	176
	Mr. Loomis to Mr. Coolidge (telegram).	Apr. 28	Neutrality of China. Advises him that the Japanese Government has made representations to the Department that the Russian war vessels interned at Shanghai are being prepared for active service; instructs him to urge the Chinese Government to take every proper effort to maintain its neutrality.	140
	Mr. Coolidge to Mr. Hay (telegram).	Apr. 28	Same subject. The vice-consul-general at Shanghai reports that the report in regard to the Russian war vessels interned at Shanghai is proved without foundation.	141
	Sir Chentung Liang-Cheng to Mr. Hay.	May 1	Same subject. Transmits a telegram from the Waiwu Pu stating that prompt measures were taken to prevent the rumored attempt at escape of the interned Russian war vessels.	141
	Mr. Coolidge to Mr. Hay (telegram).	May 2	Same subject. Reports the measures taken by the Chinese Government to prevent the rumored attempt at escape of the interned Russian war vessels.	141
1873	Same to same.....	May 3	Conservancy of the Whangpu River. The representatives of the other powers have been notified of the willingness of the Government of the United States to accept the project submitted by them.	121
1876	Same to same.....	May 4	Neutrality of China. Incloses a promemoria from the Japanese minister at Peking in regard to the rumored preparations of the interned Russian war vessels for active service.	142
	Same to same (telegram)...	May 22	Same subject. Reports the restrictions imposed by the Chinese Government upon shipments of coal.	143
	Mr. Loomis to Mr. Coolidge (telegram).	May 23	Same subject. Expresses gratification at the measures taken by the Chinese Government for the preservation of neutrality.	144
921	Same to same.....	May 26	Boycott of American goods. The Department is informed that an anti-American boycott is being agitated. Requests report.	204
1901	Mr. Coolidge to Mr. Hay ...	May 27	Opening of trade ports. Quotes a memorial, which has received imperial sanction, asking for the opening of Yunnanfu as a trade port.	163
1902	Same to same.....	do .....	Neutrality of China. Incloses correspondence with the foreign office in regard to the restrictions placed upon shipments of coal with the view to prevent the supply of belligerent vessels.	144
8	Mr. Loomis to Mr. Rockhill.	May 31	Payment of the Chinese indemnity. Incloses a letter from the Secretary of the Treasury expressing his views.	153
	Same to same (telegram) ..	June 8	Cancellation of the railway concession of the American-China Development Company. Informs him that the stockholders have agreed to sell the concession to the Chinese Government for \$8,750,000.	132
14	Mr. Rockhill to Mr. Hay ...	June 9	Murder of Ho Choy Yeen. Calls attention to previous correspondence and expresses opinion that reparation should be made.	115
65	Mr. Loomis to Sir Chentung Liang-Cheng.	June 14	Same subject. Advises him that the sum of \$1,500 has been paid to the widow of the murdered man as an act of friendly good will to China.	117
	Mr. Rockhill to Mr. Hay (telegram.)	July 1	Boycott of American goods. Reports that orders have been issued to the governors and viceroys to stop the.	205
	Sir Chentung Liang-Cheng to Mr. Peirce.	July 2	Death of Secretary of State John Hay. Condolences.	10
	Minister Rockhill to Mr. Peirce (telegram.)	July 5	Peace negotiations between Russia and Japan. Transmits a telegram from the Emperor expressing the hope that the President will exert his influence to preserve the territorial integrity of China in the.	816
	Sir Chentung Liang-Cheng to the Acting Secretary of State.	July 6	Death of Secretary of State John Hay. Condolences of the Emperor of China.	10

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	Mr. Peirce to Mr. Rockhill (telegram).	....do...	Peace negotiations between Russia and Japan. Although the United States will have nothing to do with the negotiations, this government will do all it can to preserve the integrity of China.	817
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25	Mr. Rockhill to Mr. Root...	July 8	Peace negotiations between Russia and Japan. Incloses note from the foreign office declaring that China will not recognize any arrangement in regard to Chinese territory made without its consent.	818
26	Same to same .....	....do...	Protection of trade-marks. Incloses notes exchanged with the British minister at Peking.	169
63	Sir Chentung Liang-Cheng to Mr. Adee.	July 10	Peace negotiations between Russia and Japan. Same tenor as Mr. Rockhill's No. 25 (ante).	818
64	Same to same .....	July 11	Murder of Ho Choy Yeen. Acknowledges Department's No. 65 (ante.)	117
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33	Same to same .....	July 15	Payment of the Chinese indemnity. Reports that he has accepted the new proposal of the Chinese Government for the.	154
34	Mr. Rockhill to Mr. Root...	July 19	Reforms in China. Reports that four high Chinese officials have been directed to visit foreign countries to study methods of government.	178
	Mr. Adee to Mr. Rockhill (telegram).	July 24	Protection of trade-marks. Instructs him to ascertain whether arrangements can be made by exchange of notes with the representatives of other governments for the.	170
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29	Mr. Adee to Mr. Rockhill...	July 26	Boycott against American goods. Incloses letter from the Department of Commerce and Labor transmitting a report from the Chinese inspector at San Francisco, in which mention is made of a proclamation issued by the Chinese consul-general stating the encouragement by the Chinese Government of the movement.	209
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49	Mr. Rockhill to Mr. Root...	Aug. 9	Reforms in China. Reports that Shao Ying has been ordered to visit foreign countries to study methods of government.	180
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	Mr. Rockhill to Mr. Root (telegram).	....do...	Boycott against American goods. Reports that Shanghai and Canton are the only cities seriously affected.	212
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94	Mr. Rockhill to Mr. Root ..	Sept. 18	Opening of trade ports. Incloses an imperial edict ordering a report on the advisability of opening more trade ports in Manchuria.	163
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	Mr. Loomis to Mr. Dawson (telegram).	do ...	Same subject. Quotes draft of convention to take the place of agreement signed January 20.	313
	Same to same (telegram)....	do ...	Same subject. Instructs Mr. Dawson to secure signature to the above draft of convention.	317
	Mr. Dawson to Mr. Hay....	do ...	Same subject. "Governor of Monte Christi last night telegraphed his resignation. This indicates refusal to accept convention and probable revolt. On my telegraphed instructions consular agent counseled governor, who agrees to defer action. Have advised Sigsbee, Puerto Plata. The rest of the Republic quiet. Unless I receive contrary instructions, will make following temporary arrangement preceding arrival expert: Leave Puerto Plata as it is—name Batch, American citizen, now in Abbott's employ, collector Monte Christi—at the other five ports present Dominican collectors, requiring them to account to me."	327
	Same to Mr. Hay (telegram).	Jan. 27	Same subject. "Draft of protocol submitted to Dominican Government. It will be signed if some way can be arranged to relieve the Government of its financial difficulties. Temporary credit for \$40,000 would be sufficient and can be procured if temporary right to collect revenues is granted local banker."	318

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Loomis to Mr. Dawson (telegram).	1905. Jan. 28	Same subject. "Inasmuch as protocol is neither signed nor ratified by Senate, Department has no authority to act, but it approves the Dominican Government transferring to banker temporary right to collect revenues, but this right should be limited and so guarded as not to interfere with the carrying out of the arrangements contemplated in the protocol by the two governments, and so as not to interfere with the rights of the Dominican Improvement Company under its award beyond what is absolutely necessary to raise the \$40,000.	319
	Mr. Dawson to Mr. Hay (telegram).	Jan. 30	Same subject. Reports terms of arrangement with banker, who will collect all revenues, except at Puerto Plata, and pay the Government \$75,000 monthly. Rights of the improvement company will not be interfered with. Government strengthened by arrangement. New protocol will be signed on return of minister of finance.	319
	Mr. Loomis to Mr. Dawson (telegram).	Jan. 31	Same subject. Instructed to substitute for second clause of draft of January 25, text quoted.	320
	Mr. Dawson to Mr. Hay (telegram).	....do ...	Same subject. "Respectfully suggests State Department instructing Dillingham to facilitate operations American banker at Monte Christi. Believe government will yield if firm attitude is maintained by us."	327
	Mr. Loomis to Mr. Dawson (telegram).	Feb. 1	Same subject. "Your cablegram January 30 shows minister of finance will sign new protocol. The protocol being acceptable to the Dominican Government, forward it as soon as possible. Advise Department as soon as it is signed. Time would probably be saved by having the <i>Stewart</i> convey it to San Juan."	321
	Mr. Dawson to Mr. Hay (telegram).	Feb. 2	Same subject. Suggested change preamble most probably will be accepted. Minister of finance returns February 4. Recites several additions desired by the Dominican Government.	320
	Mr. Loomis to Mr. Dawson (telegram).	....do ...	Same subject. "There appears to be no objections to changes suggested in your cablegram of February 2. Article 2, however, after the word 'receipts,' should read: 'These employees shall be subject to the civil and criminal jurisdiction of Dominican Republic.' This to be substituted for your paragraph."	320
	Same to same (telegram)...	....do ...	Same subject. "Owing to the fact that Congress expires so soon it is highly important to have protocol here at earliest possible moment. Is signature of minister of finance necessary?"	321
	Same to same (telegram)...	Feb. 3	Same subject. "Press reports state that United States took control of custom-house receipts at San Domingo city yesterday. Department assumes that this report is incorrect, as, of course, you have no authority whatsoever to act under the draft agreement signed the 20th. Answer."	321
	Mr. Dawson to Mr. Hay (telegram).	....do ...	Same subject. "I have taken no action whatsoever under the agreement signed 20th. Dominican authorities have not seen fit to publish pending negotiations; hence popular misapprehension as to source authority American banker."	321
	Mr. Loomis to Mr. Dawson (telegram).	....do ...	Same subject. "United States Government, deeming it necessary under the terms of the award in the San Domingo Improvement Company case, proposes to take possession of the custom-house at Monte Christi with the consent of the Dominican Government. The Department is informed by Dillingham and Sigsbee that the governor of Monte Christi is now favorable to this step, and that immediate possession should be taken. Act promptly."	328
	Mr. Dawson to Mr. Hay (telegram).	Feb. 4	Same subject. Minister of finance insists on insertion after word "assuring" in the first paragraph preamble of the following: "territorial integrity of the Republic, and."	321
	Same to same (telegram)...	....do ...	Same subject. Dominican Government requests extension to Monte Christi of Improvement award provisions until protocol takes effect. Signature of minister of finance absolutely necessary.	329

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Loomis to Mr. Dawson (telegram).	1905. Feb. 4	Same subject. Instructs to inform the Dominican Government that a naval officer of the United States has been instructed to take possession of custom-house in accordance with the award, and that the company will have no control of the custom-houses if pending arrangement is consummated. Requests full explanation of the terms of the security for the banker and of the sum to be advanced by the latter.	329
	Mr. Loomis to Mr. Dawson (telegram).	Feb. 5	Same subject. "Is not the guarantee in the second paragraph of preamble in our draft quite sufficient? The phrase suggested by minister of finance does not fit in smoothly. Important to insist upon our draft."	322
	Mr. Dawson to Mr. Hay (telegram).	....do...	Same subject. Government insists on inserting the following: "agreeing to respect the complete territorial integrity of the Dominican Republic."	322
	Same to same (telegram)...	....do...	Same subject. Details of the contract with American banker.	330
46	Mr. Hay to Mr. Dawson	Feb. 6	Same subject. Confirms telegram of this date and incloses full powers.	316
	Same to same (telegram)...	....do...	Same subject. "You may add at the end of second paragraph of preamble the words 'agreeing to respect the complete territorial integrity of the Dominican Republic.'"	322
	Same to same (telegram)...	....do...	Same subject. "The President has to-day telegraphed to the President of Santo Domingo full powers for you to sign protocol. See him and sign at once."	323
	Mr. Dawson to Mr. Hay (telegram).	....do...	Same subject. Minister of finance prefers unconditional agreement not to increase debt, and asks that words "without the consent of the President of the United States" be erased at the end of article 6. Last night he refused to sign substitute protocol, but this morning consented if "agreeing to respect" was inserted and above change made.	323
	Mr. Hay to Mr. Dawson (telegram).	....do...	Same subject. Further changes in the protocol can not be consented to by the President. Gives reasons why the words "without the consent of the President of the United States" are indispensable.	323
	Mr. Loomis to Mr. Dawson (telegram).	....do...	Same subject. "Please advise Department how much of the whole debt of the Dominican Republic is in the hands of European holders."	350
	Mr. Dawson to Mr. Hay (telegram).	Feb. 7	Same subject. "I estimate Dominican debt owed to Europeans at twenty-two millions, not including English-owned bonds included in Improvement Company's settlement."	350
	Same to same (telegram)...	....do...	Same subject. "Protocol signed 4 this afternoon. Stewart is taking it to San Juan."	324
109	Same to same .....	....do...	Same subject. English and Spanish copy of the protocol forwarded.	316
	Mr. Loomis to Mr. Dawson (telegram).	Feb. 10	Same subject. "The agent of the United States Government is in peaceful possession of Monte Christi custom-house under award."	331
	Mr. Hay to Mr. Dawson (telegram).	....do...	Same subject. "Sigsbee cables that the governor of Monte Christi has not yet been instructed by the Dominican Government to turn custom-house over, under the award, to Lieutenant-Commander Leeper, who has been designated as fiscal agent for this government. As Dominican Government consented to this arrangement, kindly have proper orders promptly forwarded to the authorities at Monte Christi. Telegraph lines reported down. If communication by wire still interrupted request senior naval officer present to forward Dominican governor's instructions to Monte Christi by torpedo boat."	331
	Mr. Dawson to Mr. Hay (telegram).	Feb. 11	Same subject. "Dominican Government telegraphed governor 9th to deliver custom-house. Telegraphic communications open; nevertheless governor has not replied."	331
	Same to same (telegram)...	....do...	Same subject. "Dominican Government has received a telegram from governor Monte Christi that he has delivered custom-house."	332

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Loomis to Mr. Dawson (telegram).	1905. Feb. 13	Same subject. (Personal.) "Was Macoris custom-house taken over by you or your agent February 1."	350
	Mr. Dawson to Mr. Loomis (telegram).	....do....	Same subject. "Most certainly not. Dominican authorities still in charge of all the custom-houses, except Puerto Plata and Monte Christi. I have no agent. Dominican Government itself is pledging customs receipts Macoris and other ports to American citizen who advances funds under a private contract with it."	351
110	Mr. Dawson to Mr. Hay.....	....do....	Same subject. History of negotiations continued. Text of telegrams; of contract of Dominican Government with American banker Santiago Michelena, and correspondence with the latter and with the Dominican Government inclosed.	316
111	Same to same.....	....do....	Same subject. Transfer of the port of Monte Christi to American authorities. Text of telegram and of correspondence with the Dominican Government and naval officers inclosed.	326
	Message from the President.	Feb. 15	Same subject. Transmits a protocol of an agreement between the United States and the Dominican Republic for the collection and disbursement by the United States of the customs revenues of the Dominican Republic.	334
112	Mr. Dawson to Mr. Hay....	Feb. 17	Same subject. Foreign debt of the Dominican Republic. Confirms and explains telegram of February 7.	350
	Mr. Dawson to Mr. Hay (telegram).	Feb. 24	Same subject. Plot to assassinate Dominican President. Five arrested and some escaped. The situation becoming more strained on account of delay and uncertainty ratification protocol now before Senate.	352
117	Same to same.....	Mar. 3	Export duty on sugar. Seizure of sugar from the Forvenir Sugar Company was ordered, but countermanded at the legation's instance. Urges early instructions regarding the validity of the contract of the former government with the sugar growers.	391
	Same to same (telegram)....	Mar. 5	Control of Dominican customs. "It is very important that I should be enabled to inform Dominican President as to status of protocol in Senate and whether extra session has been called."	352
	Mr. Hay to Mr. Dawson (telegram).	Mar. 6	Same subject. "Senate has convened in extra session and is considering protocol to-day. Unable to say how long discussion will continue."	353
118	Mr. Dawson to Mr. Hay.....	Mar. 7	Same subject. Incloses text of telegrams to and from Department. Note to President Morales relative to his efforts to insert a clause providing for ratification by the Dominican Congress. Reviews political conditions and conduct of business at Monte Christi by Commander Leiper. Relations between Governor Arias and President Morales. Submits question of paying administrative expenses at Monte Christi out of customs receipts. Reports abrogation of the contract with Banker Michelena and drafting of another in its place.	350
119	Same to same.....	....do....	Same subject. Incloses copy of full powers of the Dominican commission. Dominican Government wishes to retain original.	354
120	Same to same.....	....do....	Independence day of the Dominican Republic, celebration of the; part taken in the, by the American squadron and good effects thereof reported. Incloses newspaper account. Message of President Morales to the Dominican Congress inclosed.	394 396
	Same to same (telegram)....	Mar. 11	Control of Dominican customs. "Italian war vessel <i>Calabria</i> is expected to arrive here 14th."	364
	Same to same (telegram)....	Mar. 14	Same subject. " <i>Calabria</i> just arrived. Please inform Navy Department."	364
	Same to same (telegram)....	Mar. 16	Export duty on sugar. Minister of finance will not delay beginning suit to collect sugar tax. Telegraph instructions.	393
	Same to same (telegram)....	Mar. 20	Control of Dominican customs. " <i>Calabria</i> gone Habana."	364
	Same to same (telegram)....	Mar. 21	Same subject. "Unofficially we learn that <i>Calabria</i> at the last moment was ordered Kingston."	364
48	Mr. Adee to Mr. Dawson....	Mar. 23	Same subject. Department will take no action until the Senate shall have acted in the arrangement now pending with the Dominican Republic for a settlement of all claims.	393



## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Dawson to Mr. Hay (telegram).	1905. Mar. 23	Control of Dominican customs. "Adjournment without ratification has been made public. Revolutionists are encouraged, conspiracies and preparations rumored. Tension is great. Quiet, still prevails. Dominican President firm."	357
	Same to same (telegram) ..	Mar. 25	Same subject. Proposal of a modus vivendi by Dominican Government. "Under pressure foreign creditors and domestic peril, Dominican Government offers nominate a citizen of the United States receiver southern ports pending ratification protocol, four northern ports to be administered under the award; 45 per cent total shall go Dominican Government, 55 per cent to be deposited in New York for distribution after ratification. Creditors to agree take no further steps in the meantime, and receiver to have full authority to suspend importers' preferential contracts. Italian, Spanish, German, and American creditors, except the Improvement, accept unconditionally. Belgian and French representatives will recommend acceptance. Some modus vivendi absolutely necessary. I am ready, if desired, start Washington, D. C., 28th, to explain details and modifications to plan obtainable. Whole matter can be held open during my absence."	359
49	Mr. Adee to Mr. Dawson ..	....do ...	Same subject. Informs him that Mr. Hollander has been selected by the President as his confidential agent to visit Dominican Republic for the purpose of examining into affairs, and instructs that he cooperate with him.	355
	Same to same (telegram) ..	....do ...	Same subject. "Your telegram 23d. Treaty is still before the Senate upon favorable committee report. Adjournment does not prejudice its status. We are confident that with the fuller knowledge of facts it will be consummated at the next session."	357
50	Mr. Adee to Mr. Dawson ...	Mar. 27	Same subject. Full powers to sign custom-house arrangement. Mutual exhibition of full powers is the usual and sufficient course.	355
122	Mr. Dawson to Mr. Hay .....	....do ...	Same subject. Text of telegrams from and to Department relative to postponement of action on the convention: visit of the Italian war ship <i>Calabria</i> and conversation with its commanding officers in regard to Italian claims, proposal of modus vivendi, and attitude of foreign creditors toward it.	355
	The President to Mr. Loomis.	Mar. 28	Same subject. Proposal of Government of, for the collection and conservation of its revenues pending action by the United States Senate upon the treaty. Directs that American minister express acquiescence in, and that Secretary of War will nominate persons for appointment as collectors. States how money collected will be disposed of. Mr. Hollander's mission explained, and gives reasons why this action is rendered necessary.	360
	Mr. Dawson to Mr. Hay (telegram).	....do ...	Same subject. " <i>Calabria</i> returned. Expects remain here until relieved by <i>Dogali</i> from Trinidad."	364
	Mr. Adee to Mr. Dawson (telegram).	Mar. 29	Control of Dominican customs. Recites decision of the President to acquiesce in the proposal of the Dominican Government and conditions under which it will be carried out. Instructs to advise the Dominican Government that this action is taken in order that no change shall take place in the situation; no protocol is to be signed, but the mere acceptance of this telegram by President Morales.	361
	Mr. Dawson to Mr. Hay (telegram).	Mar. 30	Same subject. "Dominican Government prefers to say, 'the President of the United States,' instead of 'the Secretary of War;' otherwise will accept telegram 29th categorically."	362
	Mr. Adee to Mr. Dawson (telegram).	Mar. 31	Same subject. "President of the United States' substituted for 'Secretary of War' in my telegram of 29th."	363
	Mr. Dawson to Mr. Hay (telegram).	Apr. 1	Same subject. "Dominican Government formally accepts your telegram of the 29th. Has issued a decree establishing modus vivendi. It takes effect April 1."	363

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
123	Mr. Dawson to Mr. Hay (telegram).	1905. Apr. 1	Same subject. Full account of the proposal and acceptance of <i>modus vivendi</i> by the Dominican Government. Incloses telegrams to and from Department, note to minister for foreign affairs, and decree of President Morales. Visit of the Italian war ship <i>Calabria</i> and acquiescence of her commander in the <i>modus</i> . Influence of the <i>modus</i> toward the preservation of peace in the Republic.	362
	Mr. Loomis to Mr. Dawson (telegram).	Apr. 3	Same subject. Announces selection of Col. George R. Colton for principal collector; makes suggestions as to distribution of other collectors and employees and their salaries. The City National Bank of New York will be the depository.	367
	Mr. Dawson to Mr. Hay (telegram).	Apr. 5	Same subject. "Dominican President appoints Colton general receiver all customs revenues, with power to select necessary deputies and assistants. After consultation with minister of finance your suggestions as to salary and expenses are accepted, payable out of 55 per cent. No objection one deputy for each port and assistants as suggested. They request Colton to come immediately and study the situation before deciding details. Economy and caution are very important."	369
125	Same to same .....	Apr. 6	Same subject. Text of telegrams from and to Department.	367
	Mr. Loomis to Mr. Dawson (telegram).	Apr. 16	Difficulty between Haiti and the Dominican Republic over the threatened expulsion of Dominican naturalized Syrians. Gives substance of telegram from Haiti. Asks whether Dominican minister has been instructed as represented. Deprecates complications between the two Republics.	397
	Mr. Dawson to Mr. Hay (telegram).	Apr. 17	Same subject. "No such instructions have been sent. Dominican minister to Port au Prince happened to be Santo Domingo now in consultation with Dominican minister for foreign affairs, who asks for the same treatment for Dominican Syrians as that accorded other Syrians who are foreign citizens. Dominican Government anxious to avoid a rupture."	397
130	Mr. Dawson to Mr. Hay ....	Apr. 26	Export duty on sugar. Instruction No. 48 will be complied with.	394
	Same to same (telegram)....	....do....	Control of Dominican customs. "Colton arrived. Presented. Conference with Dominican authorities was satisfactory."	370
132	Same to same .....	Apr. 27	Same subject. Text of telegrams to and from Department. Details as to the discharge of his duties have been satisfactorily arranged with the Dominican Government by Col. George R. Colton.	370
133	Mr. Dawson to Mr. Hay....	Apr. 27	Relations between Haiti and the Dominican Republic. Confirms telegram of April 17 and reports conversation with the minister for foreign affairs.	397
140	Same to same.....	May 9	Control of Dominican customs. Agencies of French and Belgian stockholders at Santo Domingo, Antwerp, and Paris. Informal notice given by the minister for foreign affairs that the monthly appropriation for the, will be discontinued. Discusses the effect of the notice on the <i>modus vivendi</i> and requests instructions as to intervention on the part of the legation.	371
142	Same to same.....	May 15	Same subject. Agencies of French and Belgian bondholders. Refers to No. 140. Minister of finance adheres to his position, but the question has not been decided in Cabinet. Reports conversations with all parties concerned and suggests action in Washington.	371
	Mr. Loomis to General Sanchez.	May 23	Deputy consul-general in charge of the legation, letter accrediting M. Marshall Langhorne as, during Minister Dawson's absence on leave.	374
	Mr. Joubert to Mr. Hay ....	June 1	Same subject. Compensation of agents of foreign bondholders. Argues that as no money is paid to the bondholders under the <i>modus vivendi</i> , payment to their agent should also be suspended.	375

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1905.		
	Memorandum to the Dominican legation.	June 13	Same subject. Expresses opinion that <i>modus vivendi</i> having gone into force without any objection from foreign governments, all previous contracts in conflict therewith are superseded; if their claim is ultimately adjudged to be valid, the amount should be taken from the fund deposited in New York.	377
	Mr. Dawson to the President.	July 1	Same subject. Memorandum reviewing the Dominican situation at length.	378
	President Morales to President Roosevelt (telegram).	....do....	Death of Secretary of State John Hay. Condolences.	12
	Mr. Sanchez to Mr. Peirce (telegram).	....do....	Same subject and tenor.....	12
	Mr. Root to Mr. Dawson (telegram).	Oct. 13	Arms and ammunition, shipment of, from the United States. "There is now some difficulty in lawfully preventing the exportation of arms and ammunition to Santo Domingo, which would be obviated by a proclamation by the President prohibiting such exportation under resolution of Congress approved April 22, 1898. All such exportation would then become unlawful unless specially authorized by this government. We could give such authority in any cases desired by the Dominican Government. Ascertain whether it would be agreeable to that government to have the President issue such a proclamation."	398
	Mr. Dawson to Mr. Root (telegram).	Oct. 14	Same subject. "Such a proclamation would be agreeable to Dominican Government."	398
	Mr. Root to Mr. Dawson (telegram).	Oct. 17	Same subject. Quotes President's proclamation of October 14, and adds that any exception desired by Dominican Government will be made by special order.	399
177	Mr. Dawson to Mr. Root....	Oct. 19	Same subject. Text of telegrams from and to Department. Incloses notes to and from minister for foreign affairs and letter to Admiral Bradford regarding the Dominican Government's requests as to delivery of seized ammunition and procedure of American war ships in boarding incoming steamers.	398
	Same to same (telegram)...	Oct. 24	Control of Dominican customs. Wounding of Customs Official Morris, an American citizen, by smugglers, reported.	390
	Mr. Root to Mr. Dawson (telegram).	Oct. 25	Same subject. Quotes letter of this date to the Navy Department in regard to the sending of a war ship, as suggested in telegram of this date. It could only protect the lives and property of American citizens and its presence should be requested by the Dominican Government.	390
	Mr. Dawson to Mr. Root (telegram).	Oct. 26	Same subject. "Telegram received. Distinction clearly understood. Latest news from Neyba reassuring. People showing no sympathy with assassins. There is no necessity for Dominican Government at the present moment to request presence of American ship Barahona. Morris without good medical attendance. Dominican vessel carries <i>Scorpion's</i> surgeon Barahona today."	390
181	Mr. Dawson to Mr. Root....	Nov. 3	Same subject. Incident was orally communicated to Minister Dawson by President Morales. Quotes telegraphic correspondence with the Department and Admiral Bradford. Morris will survive, but criminals have not yet been identified.	389
	Mr. Root to Mr. Dawson (telegram).	Nov. 4	Arms and ammunition. Boarding and searching of American merchant vessels by United States naval officers. Refers to conflict of procedure with Dominican customs authorities in regard to the, and instructs to request a decision of the question by the Dominican Government. Discontinuance of present practice would encourage revolutionists.	403
	Mr. Dawson to Mr. Root (telegram).	Nov. 7	"Revolutionary conspiracy discovered at Macoris. Thirteen arrests there, twelve here. Others escaped to the interior. Fifty in arms 15 miles west of Macoris. Dominican Government thinks they may attack Macoris and the movement spread other points. It is reported that conspirators have received funds from New York. Dominican Government suspects * * *. A United States vessel needed Macoris. Jones has informed Admiral."	405

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Root to Mr. Dawson (telegram).	1905. Nov. 7	Same subject. Landing of American naval forces will be effected on receipt of notice from the legation that an expressed and clear request has been made by the Dominican Government for the temporary protection of life and property of American citizens.	405
	Mr. Dawson to Mr. Root (telegram).	Nov. 8	Same subject. "I have reached perfect understanding with the Dominican Government, in accordance with instructions in your cipher telegram of this morning. Macoris quiet in the city. No further news from the interior. Mere presence of United States vessel probably will be sufficient."	405
	Same to same (telegram) ..	Nov. 16	Arms and ammunition. "I have received the following note from the Dominican minister for foreign affairs: 'Executive power has resolved that the naval officers of the United States may make inspecting visit on board American merchant vessels coming to our ports as soon as anchored, and, if necessary, before any other person or authority shall have intervened.'"	404
185	Same to same .....	Nov. 18	Revolutionary movement at Macoris and elsewhere. Confirms telegram of November 7.	404
188	Same to same .....	Nov. 23	Monetary standard. Law adopting the gold dollar of the United States as the, of the country and fixing the value of existing silver and subsidiary coins inclosed.	412
193	Same to same .....	Nov. 25	Political conditions. Collapse of the revolutionary movement in provinces referred to in No. 185.	406
	Same to same (telegram) ..	Dec. 3	Same subject. "Vice-President has arrived at call Horacista Cabinet ministers. The public fears rupture between him and the President. At the request of both I will be present at conference. If the Vice-President and his faction, who control military, should imprison, drive from capital, force resignation * * * of the President, am I authorized to ask Admiral to land forces to protect American citizens and preserve order? No constitutional recognized government would exist to ask American assistance as indicated in your telegram of the 8th November."	408
	Mr. Root to Mr. Dawson (telegram).	Dec. 4	Same subject. "Strongly advise to avoid rupture with Cabinet. We are not willing to give instructions to Admiral based on assumption that Vice-President and Cabinet will create situation requiring an intervention for the protection of American citizens."	408
	Same to same (telegram)...	Dec. 6	Revolutionary movement. Refers to reports of serious disturbance received by Navy Department and Dominican legation, and instructs to urge amicable settlement. The United States Government will not land troops unless absolutely necessary for the protection of American citizens now acting as customs officials, and only so long as the Dominican Government desires them to continue in the service. If it wishes to end the modus vivendi, the Dominican Government should give formal notice. Several ships of the United States are about to return home with Admiral Bradford.	408
	Mr. Dawson to Mr. Root (telegram).	Dec. 7	Political conditions. "Yesterday's disturbances were precipitated by misunderstanding demonstration made by Admiral without consultation with me or notice to the Dominican Government. Public excitement quickly subsided when real intention was explained. Dominican minister for foreign affairs has been forced to resign, but the other Cabinet ministers have reached agreement with President. The Dominican Government desires to continue modus vivendi. The Vice-President has given written assurance on behalf of Horacista congressional majority that they will ratify convention with one amendment, as follows: After word 'Dominicana,' second line, seventh article, 'previa autorización de su Congreso.'"	409
	Same to same (telegram)...	Dec. 13	Same subject. "This city [Santo Domingo] continues quiet. Horacistas and President an-	409

## DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1905.		
	Mr. Dawson to Mr. Root (telegram).	Dec. 13	nounce complete reconciliation. Full account incident, with correspondence exchanged, will be mailed December 20."	
198	Same to same.....	Dec. 20	Minister for foreign affairs, Emiliano Tejera, has assumed duties as, relieving Velasquez, minister <i>ad interim</i> . Information concerning his character and policy.	409
199	Same to same.....	...do ...	Political conditions. All is quiet in the Republic, but disorder may occur at Puerto Plata and Monte Christi.	410
	Same to same (telegram)...	Dec. 23	Same subject. "The Dominican Government informs me governor of Puerto Plata since this morning barricaded in citadel and arresting Horacistas, causing general alarm. The Dominican Government thereupon named his successor; resistance feared. The Dominican Government intends act with caution and legality."	410
	Same to same (telegram)...	Dec. 26	Same subject. "President left city suddenly and secretly last night. Government force pursuing him. General disturbances likely."	410
	Same to same (telegram)...	...do ...	Same subject. "Dominican minister for foreign affairs notifies diplomatic corps that President having clandestinely abandoned capital, leaving government without acting head, Cabinet has called Vice-President to take charge, pending temporary failure of President to exercise his functions. See article 46, Dominican constitution. City quiet. Cabinet exercising functions without interruption. President reported at Jaina among revolutionists fighting there. Reported new governor peacefully installed Puerto Plata."	410
	Same to same (telegram)...	Dec. 27	Same subject. "Have received letter of President dated the 24th, saying that he is about to absent himself from capital in order to reestablish legal procedure, and later on will declare another city temporary capital, and will then name a new Cabinet. He is reported to be 15 miles west, fighting troops sent by Cabinet. American citizens interior alarmed, fearing that landing American seamen would be followed by violence to themselves."	411
	Mr. Dawson to Mr. Root (telegram).	Dec. 28	Revolutionary movement. "Jimenistas advancing from Monte Christi against Santiago. The President still fighting near Jaina. His force small. City quiet, but apprehensive."	411
	Same to same (telegram)...	Dec. 29	Same subject. "Gunboat <i>Independencia</i> sent by cabinet to Sanchez with munitions has deserted and gone to Monte Christi. Will probably bring expedition against Macoris or other point. Whereabouts of the President unknown. The Vice-President arrives here today. Have you received my cables under date of 25th, 26th, 27th? French chargé d'affaires offers, if agreeable to the American Government, to send Martinique for war ship to aid in protecting lives foreigners which might be endangered by landing American seamen."	411
	Mr. Root to Mr. Dawson (telegram).	...do ...	Same subject. Department's telegram of the 6th instant should be followed strictly.	411
	Señor Tejera to Señor Joubert (telegram).	...do ...	Control of Dominican customs. "Congress will accept treaty amended according to cable Mr. Root December 7. Executive concurs. Caceres arrived to-day."	412

## ECUADOR.

		1905.		
415	Mr. Sampson to Mr. Hay ..	May 30	Religious liberty in Ecuador. Incloses copy of a law passed by the last Congress on the subject.	414
	Mr. Wither to Mr. Peirce...	July 3	Death of Secretary of State John Hay.. Condolences.	12

## FRANCE.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Porter to Mr. Hay (telegram).	1905. Jan. 18	Territorial integrity of China. The French Government concurs in the views of the United States.	3
	Message from the President.	Feb. 13	Recovery of the body of Admiral John Paul Jones and its removal to the United States. Transmits report of Ambassador Porter, and urges that provision be made for the erection of monuments to the memories of John Paul Jones and John Barry.	417
	Mr. Porter to Mr. Hay (telegram).	Apr. 14	Same subject. Reports discovery of the body of Admiral John Paul Jones.	418
	Mr. Loomis to Mr. Porter (telegram).	Apr. 15	Same subject. Congratulations.....	419
	Same to same (telegram)...	Apr. 17	Same subject. The United States Government will send a naval squadron to bring back the remains of Admiral Jones.	419
	Mr. Porter to Mr. Hay (telegram).	Apr. 20	Same subject. Remains have been deposited in the vault of the American church.	419
	Mr. Hay to Mr. Porter (telegram).	June 20	Same subject. Instructs to request permission for the landing of an armed escort for the body of Admiral Jones.	420
	Mr. Peirce to Mr. Porter....	June 27	Same subject. Acknowledges receipt of Mr. Porter's report.	420
	Same to Mr. McCormick....	June 30	Same subject. Appointment of General Porter as special ambassador to receive the remains of Admiral Jones.	420
	President Loubet to President Roosevelt (telegram).	July 2	Death of Secretary of State John Hay. Condolences.	13
	Mr. Jusserand to Mr. Peirce (telegram).	July 3	Same subject and tenor.....	13
	Mr. Porter to Mr. Root .....	.....	Recovery of the body of Admiral John Paul Jones. Final report.	420
	Mr. McCormick to Mr. Adee (telegram).	July 10	Moroccan conference. France accepts invitation to the.	668
22	Same to same .....	July 12	Same subject. Incloses agreement between Germany and France.	669
	Mr. Jusserand to Mr. Root..	Oct. 3	Same subject. Presents the programme for the conference agreed upon by Germany and France.	672
	Same to same .....	do ..	Same subject and tenor.....	673
	Same to same .....	Oct. 28	Same subject. Reports acceptance of the above programme by the Sultan of Morocco.	674
258	Mr. Root to Mr. Jusserand..	Nov. 2	Same subject. Acknowledges above note and states that the Government of the United States will take part in the conference to be held at Algeiras.	675

## GERMANY.

588	Mr. Tower to Mr. Hay .....	1905. Jan. 20	Territorial integrity of China. The view of the German Government corresponds entirely with that of the United States.	3
617	Same to same.....	Mar. 3	Treaties of commerce and navigation between Germany and Austria-Hungary, Belgium, Italy, Roumania, Russia, Servia, and Switzerland. Incloses translation of treaty with Russia.	446
623	Same to same.....	Mar. 10	Same subject. Incloses text of treaties .....	452
	Mr. Mason to Mr. Hay .....	Mar. 15	Same subject. Submits a table of comparison of tariff duties of Germany under existing treaties and under the new treaties.	453
671	Mr. Tower to Mr. Hay .....	May 11	Consular immunities. Reports that the American vice-consul at Solingen was summoned as a witness by a local court; that he declined to accept the summons, but appeared before the court upon request of the latter.	458
356	Mr. Loomis to Mr. Tower ...	May 29	Same subject. The incident may be regarded as satisfactorily closed.	460
	Baron Sternburg to Mr. Peirce.	July 4	Death of Secretary of State John Hay. Condolences.	13
	Mr. Tower to Mr. Adee (telegram).	July 10	Moroccan Conference. Reports agreement between France and Germany in re Morocco.	668
	Mr. Adee to Mr. Tower.....	do ..	Same subject. The President is gratified if he has been of any use in helping toward the result achieved.	669
714	Mr. Tower to Mr. Adee .....	July 12	Death of Secretary of State John Hay. Condolences.	13

## GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
722	Mr. Tower to Mr. Root.....	1905. July 24	Military-service case of Hans Wilhelm Peters. Recites history of the case and reports that he has declined to intervene.	465
729	Same to same.....	Aug. 3	Suppression of the "white slave traffic." Incloses text of an international convention for the.	462
392	Mr. Adee to Mr. Tower.....	Aug. 15	Military-service case of Hans Wilhelm Peters. Instructs him to request information from the German war office regarding the facts concerning Peters's enlistment.	468
	Baron Bussche to Mr. Root.	Oct. 28	Moroccan Conference. Incloses the agreement between France and Germany.	675
277	Mr. Root to Baron Bussche.	Nov. 2	Same subject. The Government of the United States will take part in the conference to be held at Algceiras.	676
798	Mr. Tower to Mr. Root.....	Nov. 14	Military-service case of Maurice Kahn. Recites the history of the case and states that the German Government still maintains its attitude in regard to the nonapplicability of the Bancroft naturalization treaties to Alsace-Lorraine.	470
	Baron Sternburg to Mr. Root.	Nov. 29	Consular immunities. Asks whether German consuls in the United States are exempt from the payment of dog taxes.	460
298	Mr. Root to Baron Sternburg.	Dec. 6	Same subject. The so-called dog tax does not seem to come within the exemption defined in the treaty of 1871.	461
824	Mr. Dodge to Mr. Root.....	....do...	Military-service case of Joseph A. Decker. Reports that Mr. Decker applied for permission to visit Alsace, and that permission for such visit was refused.	472
438	Mr. Root to Mr. Tower.....	Dec. 13	Military-service case of Maurice Kahn. This Government does not acquiesce in the contention of the German Government as to the nonapplicability of the Bancroft naturalization treaties to Alsace-Lorraine.	471
839	Mr. Dodge to Mr. Root.....	Dec. 15	Military-service case of Hans Wilhelm Peters. Incloses a note from the foreign office giving the facts in regard to the enlistment of Peters.	468

## GREAT BRITAIN.

72	Mr. Hay to Sir H. M. Durand.	1904. May 6	Protection of Niagara Falls. Incloses copy of resolutions adopted by the legislature of New York suggesting joint action by the Governments of Great Britain and the United States for the.	480
94	Sir H. M. Durand to Mr. Hay.	May 7	Same subject. Above note will be forwarded to the British foreign office and to the governor-general of Canada.	481
	Mr. Choateto Mr. Hay (telegram).	1905. Jan. 14	Territorial integrity of China. The British Government concur in the views expressed by the United States Government.	4
1539	Same to same.....	Mar. 1	Firing on British fishing vessels by Russian war vessels. Incloses report of the international commission.	473
35	Sir H. M. Durand to Mr. Hay.	....do...	Visit of British war vessels under command of Prince Louis of Battenberg, to the United States. Contemplated visit announced.	476
177	Mr. Hay to Sir H. M. Durand.	Mar. 7	Same subject. The President will be pleased to receive the Prince during the month of October.	476
187	Mr. Adee to Sir H. M. Durand.	Mar. 25	Delimitation of the Alaskan boundary. Note of acceptance of the report of the commissioners to complete the award under the convention of Jan. 24, 1903.	478
50	Sir H. M. Durand to Mr. Hay.	....do...	Same subject and tenor.....	479
	Same to same.....	Apr. 12	Seizure of the Canadian schooner <i>Agnes G. Donahoe</i> by the Uruguayan authorities. Gives particulars of.	912
113	Mr. O'Beirne to Mr. Loomis.	May 26	Control of the Dominican customs by the United States. Asks some assurance that the rights of the British subjects interested in the, shall be safeguarded, whatever may be the outcome of present modus vivendi in the Dominican Republic and of the agreement now pending in the United States.	374

## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1905.		
	Sir H. M. Durand to Mr. Adee.	May 30	Visit of British war vessels to the United States. Proposes alterations of previous plans.	477
	Treaty between the United States and Great Britain.	June 12	Relinquishment of extraterritorial rights in Zanzibar by the United States. Text.	485
270	Mr. Peirce to Sir H. M. Durand.	June 27	Control of the Dominican customs by the United States. The President can not recognize any special rights and privileges over any other creditors until final action shall have been taken by the Senate on the convention for the control of Dominican custom-houses.	377
145	Sir H. M. Durand to Mr. Peirce.	July 4	Death of Secretary of State John Hay. Condolences.	14
21	Mr. Reid to Mr. Peirce.....	July 5	Same subject and tenor.....	14
	Sir H. M. Durand to Mr. Loeb (telegram).	July 6	Same subject and tenor.....	16
	Sir H. M. Durand to Mr. Adee.	Aug. 13	Seizure of the Canadian schooner <i>Agnes G. Dopahue</i> by the Uruguayan authorities. Requests the good offices of the American minister at Montevideo.	915
	Mr. Adee to Sir H. M. Durand.	Aug. 15	Same subject. The American minister at Montevideo has been suitably instructed.	916
193	Sir H. M. Durand to Mr. Adee.	Sept. 25	Visit of a British squadron to the United States. Transmits a list of the staff of Prince Louis of Battenberg.	477
	Mr. Loomis to Sir H. M. Durand.	Sept. 26	Protection of Niagara Falls. Calls attention to previous correspondence.	482
	Sir H. M. Durand to Mr. Loomis.	Sept. 28	Same subject. Will inquire status of the matter..	482
55	Mr. Reid to Mr. Root.....	.....do....	Agreement of alliance between Great Britain and Japan. Incloses text.	487
	Mr. Root to Mr. Reid (telegram).	Oct. 13	Newfoundland fishery question. American fishing vessels on the coast of Newfoundland have been advised of their rights under the treaty of 1818, and this government will afford them protection against any interference by the Newfoundland authorities in violation of the treaty.	489
	Mr. Reid to Mr. Root (telegram).	Oct. 16	Same subject. Reports that he is advised that there has not been any interference with the American fishing vessels.	489
336	Mr. Root to Sir H. M. Durand	Oct. 19	Same subject. Advises him that American fishing vessels are forbidden by the Newfoundland authorities to fish on the treaty coast, and states at length the views of the United States Government on the matter.	490
	Mr. Root to Mr. Reid (telegram).	Oct. 20	Same subject. Transmits the above note and instructs him to urge upon the British Government the necessity of prompt action.	494
	Sir H. M. Durand to Mr. Root	.....do....	Same subject. Requests cooperation of the Department to prevent any precipitate action on the part of the fishermen or local officials.	494
64	Mr. Reid to Mr. Root.....	.....do....	Same subject. Incloses correspondence with the foreign office.	495
	Sir H. M. Durand to Mr. Root	Oct. 22	Same subject. Transmits information that Newfoundland officials are not preventing American vessels from fishing on the treaty coast.	496
337	Mr. Root to Sir H. M. Durand	Oct. 23	Same subject. Acknowledges receipt of above note.	497
338	Mr. Bacon to Sir H. M. Durand.	.....do....	Visit of a British squadron to the United States. Informs him of the arrangements in regard to the reception of Prince Louis of Battenberg by the President.	478
340	Mr. Root to Sir H. M. Durand.	Oct. 25	Newfoundland fishery question. Advises him that the ambassador's note of the 20th instant will be made public if it is agreeable to him.	497
213	Sir H. M. Durand to Mr. Root.	Oct. 27	Same subject. If it is agreeable to the Department, the note of October 25 will be communicated to the governor of Newfoundland.	497
343	Mr. Root to Sir H. M. Durand.	Oct. 31	Same subject. Agrees to the above.....	498
71	Mr. Reid to Mr. Root.....	.....do....	Same subject. The British Government is in accord with the United States in the efforts to clear up any misunderstanding which may have arisen.	498
344	Mr. Root to Sir H. M. Durand.	Nov. 1	Same subject. Incloses copy of his letter to the Secretary of the Treasury relating to.	498
	Mr. Reid to Mr. Root (telegram).	Nov. 3	Same subject. Confidence of friendly adjustment of the matter is expressed by the British foreign office.	499
	Mr. Root to Sir H. M. Durand.	.....do....	Protection of Niagara Falls. Approves the suggestion for the formation of an international waterways commission to investigate the withdrawal of water from the Niagara River above the Falls.	482



## GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1905.		
	Sir H. M. Durand to Mr. Root.	Nov. 4	Same subject. Department's proposal has been telegraphed to the British Government.	483
	Mr. Root to Mr. Reid (telegram).	....do....	Newfoundland fishery question. Instructs him to advise the British Government that this Government will not support any evasion of Newfoundland laws by American fishermen.	500
	Sir H. M. Durand to Mr. Root.	Nov. 9	Protection of Niagara Falls. The governor-general of Canada has been requested for an expression of his views.	483
	Sir H. M. Durand to Mr. Root	Nov. 13	Protection of Niagara Falls. Incloses copy of an approved minute of the privy council for Canada.	483
	Mr. Root to Mr. Reid (telegram).	Nov. 14	Boycott of American goods at Singapore. Instructs him to request the British Government to take steps for the suppression of the.	503
	Mr. Reid to Mr. Root (telegram).	Nov. 15	Same subject. The British Government will do everything possible to suppress the boycott at Singapore.	503
	The International Waterways Commission to the Secretary of War.	Dec. 1	Protection of Niagara Falls. Report of the commission. Extracts.	484
103	Mr. Carter to Mr. Root.....	Dec. 13	Boycott of American goods at Singapore. Incloses correspondence with the foreign office in regard to.	503
	Same to same (telegram)...	Dec. 16	Newfoundland fishery question. Reports that he is advised that American fishermen are violating the treaty by erecting platforms for freezing fish.	500
	Mr. Root to Mr. Carter (telegram).	....do....	Same subject. The fishermen have been advised that they have no right to erect platforms on the west coast of Newfoundland. Instructs him to request that measures be taken to prevent unlawful interference by natives.	500
107	Mr. Carter to Mr. Root.....	....do....	Same subject. Confirms in detail his telegram of to-day.	501
	Same to same (telegram)...	Dec. 18	Same subject. Transmits thanks of the foreign office for Department's prompt action.	501
	Same to same (telegram)...	Dec. 28	Same subject. Reports that the report of interference by natives is unfounded.	502
118	Same to same.....	Dec. 29	Same subject. Incloses memorandum from the foreign office in confirmation of above telegram.	502

## GREECE.

257	Mr. Jackson to Mr. Hay....	1905. Apr. 4	Revolutionary movement in Crete. Submits report on current events in the island.	505
267	Same to same .....	Apr. 21	Same subject. Reports further on the subject ...	506
272	Same to same .....	May 12	Same subject. Reports further on the subject ...	507
279	Same to same .....	June 15	Same subject. Reports further on the subject ...	507
285	Mr. Wilson to Mr. Root ....	July 12	Death of Secretary of State John Hay. Condolences.	16
289	Same to same .....	July 24	Commercial arrangement between Greece and Belgium. Text.	513
290	Same to same .....	July 25	Commercial declaration between Greece and Great Britain. Text.	514
304	Same to same .....	Aug. 22	Revolutionary movement in Crete. Reports that the state of affairs in Crete appears to be growing more serious.	508
307	Same to same .....	Aug. 30	Liability of naturalized American citizens under military and expatriation laws of their native country. Reports that Panos Indares is held for military service, although he claims to be an American citizen.	510
326	Same to same .....	Sept. 27	Revolutionary movement in Crete. Reports improvement in the situation.	508
91	Mr. Loomis to Mr. Wilson..	Sept. 28	Liability of naturalized American citizens. Instructs him to use his good offices in behalf of Indares.	511
331	Mr. Wilson to Mr. Root.....	Oct. 20	Same subject. Reports that the case of Panos Indares has been decided in his favor.	511
95	Mr. Root to Mr. Wilson.....	Nov. 8	Same subject. A passport may be issued to Panos Indares.	512
338	Mr. Wilson to Mr. Root.....	Nov. 24	Revolutionary movement in Crete. Reports end of the movement.	509
347	Mr. Jackson to Mr. Root ...	Dec. 4	Same subject. Report that an amnesty was proclaimed by Prince George, the high commissioner in Crete.	509

## GUATEMALA AND HONDURAS.

No.	From and to whom.	Date.	Subject.	Page.
241	Mr. Combs to Mr. Hay . . . . .	1905. Feb. 8	Rights of consular officers in judicial proceedings. Reports that the American consul-general at Guatemala City has been denied the right to be present at the examination of two American citizens who had been arrested. Incloses correspondence.	517
245	Same to same . . . . .	Feb. 15	Same subject. Incloses further correspondence with the foreign office.	519
171	Mr. Hay to Mr. Combs . . . . .	Mar. 3	Same subject. Approves his course in the matter.	520
179	Mr. Adee to Mr. Combs . . . . .	Mar. 24	Same subject. A consul-general, in the exercise of his consular functions, has the right to approach the court for the purpose of obtaining information. Instructs him to request that the Guatemalan Government take such actions as to secure the treatment which is due from one government to the representative of the other.	521
270	Mr. Combs to Mr. Hay . . . . .	Apr. 26	Ill treatment of Al Stebbins and wife by Guatemalan soldiers. Gives particulars of the complaint and incloses correspondence with the foreign office.	525
190	Mr. Loomis to Mr. Combs . . . . .	May 11	Rights of consular officers. Where an American minister and consul are accredited to the same place the functions of the latter should be subordinated to the judgment of the minister unless the Department should give express instructions to the contrary.	521
	Mr. Loomis to Mr. Brown . . . . .	May 13	Ill treatment of Al Stebbins and wife. Mr. Combs's efforts to bring about an unofficial adjustment of the matter is approved by the Department.	529
274	Mr. Brown to Mr. Hay . . . . .	May 20	Ill treatment of Al Stebbins and wife. Reports adjustment of the matter.	529
285	Same to same . . . . .	June 27	Rights of consular officers. Incloses further correspondence with the foreign office in regard to a second discourtesy of Judge Solis toward Consul-General Winslow.	522
288	Mr. Brown to Mr. Peiree . . . . .	July 5	Death of Secretary of State John Hay. Condolences from the Governments of Guatemala and Honduras.	16
290	Mr. Brown to Mr. Root . . . . .	July 10	Rights of consular officers. Incloses a note from the foreign office expressing regret for the incident.	524
	Mr. Adee to Mr. Brown . . . . .	Aug. 2	Same subject. Expresses satisfaction with the management of the case and results secured.	524
305	Mr. Combs to Mr. Root . . . . .	Sept. 21	Arrest of Charley Macmorley. Reports arrest and subsequent release, and action taken to secure this result.	530
	Mr. Root to Mr. Combs . . . . .	Oct. 18	Same subject. Approves his action in the case.	531

## HAITI.

1652	Mr. Powell to Mr. Hay . . . . .	1905. Feb. 20	Citizenship of Porto Ricans. Transmits a claim of J. R. Paradis, a native of Porto Rico, against Haiti.	542
1657	Same to same . . . . .	Feb. 21	Exclusion of Syrians from Haiti. Reports that notice has been served on fraudulently naturalized Syrians to leave Haiti by the next steamer, and that, upon request, he has asked a delay of three months for them.	532
673	Mr. Adee to Mr. Powell . . . . .	Mar. 15	Citizenship of Porto Ricans. Asks when Mr. Paradis left Porto Rico and how long he has resided in Haiti.	542
677	Same to same . . . . .	Mar. 17	Exclusion of Syrians. Approves the use of his unofficial good offices in behalf of the Syrians.	533
	Mr. Powell to Mr. Hay (telegram).	Mar. 18	Same subject. Reports that the Syrians must leave on April 1.	533
	Mr. Adee to Mr. Powell (telegram).	Mar. 21	Same subject. Instructs him to remonstrate if the order of expulsion is applicable to lawfully naturalized American citizens.	533
	Mr. Powell to Mr. Hay (telegram).	....do....	Same subject. Reports that American citizens are not included in the expulsion order.	533
1691	Same to same . . . . .	....do....	Same subject. Reports in detail on the situation and the cause for the order of expulsion.	534
	Same to same (telegram) . . . . .	Mar. 22	Same subject. Reports that upon his request an extension of time until May 18 has been granted to the Syrians who are expelled.	536

## HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Adee to Mr. Powell (telegram).	1905. ...do...	Exclusion of Syrians. The Department can not interfere in the contemplated expulsion of Syrians except in cases of naturalized American citizens. If fraudulent naturalization is established protection will be withdrawn.	536
1699	Mr. Powell to Mr. Hay.....	Mar. 27	Same subject. Reports that the American goods consigned to Syrians and held in the custom-house will be returned to America.	536
1706	Same to same.....	Mar. 29	Citizenship of Porto Ricans. Reports that a passport was issued to Paradis by the Department of State on August 4, 1903.	543
1708	Same to same.....	Mar. 31	Exclusion of Syrians. Reports measures taken by the government to preserve order.	537
	Same to same (telegram)...	Apr. 2	Same subject. Reports everything quiet.....	537
1712	Same to same.....	Apr. 5	Same subject. Reports that much suffering prevails on account of the closing of the stores of the Syrians, as prices on all classes of merchandise have advanced.	538
1713	Same to same.....	...do...	Same subject. Reports that an invitation to a reception was extended to the officers of the <i>Brooklyn</i> and himself by a delegation of Syrians, which was declined.	538
1721	Same to same.....	Apr. 9	Citizenship of Porto Ricans. Reports that Mr. Paradis left Porto Rico thirty-five years ago.	543
689	Mr. Loomis to Mr. Powell..	Apr. 20	Exclusion of Syrians. Approves his action in declining to attend the reception of the Syrians.	538
693	Mr. Adee to Mr. Powell....	Apr. 26	Citizenship of Porto Ricans. Mr. Paradis is not considered a citizen of Porto Rico. Returns original claim papers.	544
1742	Mr. Powell to Mr. Hay.....	Apr. 29	Denial of license to do business to American citizens of Syrian origin. Reports that Mr. Elie A. Mansour has been refused a license.	545
697	Mr. Loomis to Mr. Powell..	May 11	Same subject. Requests report on the case of Elie A. Mansour.	546
1759	Mr. Powell to Mr. Hay.....	...do...	Citizenship of Porto Ricans. Requests instruction as to who is considered a citizen of Porto Rico.	544
1774	Same to same.....	May 23	Denial of license to do business. Reports in detail on the case of Elie A. Mansour.	546
701	Mr. Loomis to Mr. Powell..	May 25	Citizenship of Porto Ricans. Defines Porto Rican citizenship.	544
1811	Mr. Powell to Mr. Hay.....	June 6	Asylum granted to Haitian officials. Reports the granting of asylum at the legation to two government officials.	551
1261	Mr. Léger to Mr. Loomis....	June 9	Exclusion of Syrians. Requests an exchange of views on the subject.	539
705	Mr. Loomis to Mr. Powell..	June 10	Denial of license to do business. A license should be issued to Mansour or a satisfactory reason should be assigned for the refusal.	547
1814	Mr. Powell to Mr. Hay.....	June 14	Asylum granted to Haitian officials. Gives further details.	551
88	Mr. Loomis to Mr. Léger...	June 16	Exclusion of Syrians. Department declines to state its attitude until the question arises in a case actually presented to it and requiring its action.	539
711	Mr. Peirce to Mr. Powell...	June 24	Asylum granted to Haitian officials. The Department regrets its inability to approve his action in the matter. Calls attention to previous incidents of a similar nature.	552
	Treaty between the United States and Haiti.	June 28	For the extradition of criminals.....	554
1823	Mr. Terres to Mr. Hay.....	...do...	Citizenship of Porto Ricans. Returns passport inadvertently granted to Dr. J. R. Paradis.	545
715	Mr. Peirce to Mr. Powell....	June 29	Asylum granted to Haitian officials. Again calls attention to the disapproval of his action by the Department, and to previous cases cited.	553
	Mr. Léger to Mr. Peirce (telegram).	July 1	Death of Secretary of State John Hay. Condolences.	17
1306	Mr. Léger to Mr. Loomis....	Aug. 11	Exclusion of Syrians. The visé of the passport of Mansour Assaff was refused under the law of August 10, 1903.	540
90	Mr. Loomis to Mr. Léger....	Aug. 29	Same subject. The Government of the United States can not acquiesce in the construction placed upon the law in his note of the 11th instant.	540
	Mr. Léger to Mr. Root.....	Sept. 4	Same subject. Presents argument to substantiate his construction of the law mentioned in his note of the 11th ultimo.	541
1848	Mr. Powell to Mr. Root.....	Oct. 20	Denial of license to do business. Reports additional cases of denial of licenses to do business.	547
722	Mr. Root to Mr. Powell.....	Nov. 9	Same subject. Requests report on the case of A. Lagojannis.	548

## HAITI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
1872	Mr. Powell to Mr. Root.....	1905. Nov. 18	Same subject. Incloses correspondence with the foreign office.	548
1874	Mr. Powell to Mr. Root.....	Nov. 20	Same subject. Reports on the case of A. Lagojannis.	549
3	Mr. Root to Mr. Furniss.....	Dec. 1	Same subject. If licenses are withheld the applicants are entitled to the return of any deposit which they may have made therefor.	550
726	Mr. Bacon to Mr. Terres.....	Dec. 9	Same subject. If the case of Mr. Lagojannis is one of the special cases excepted from the terms of the law he may press his claim of right to do business.	550

## ITALY.

	Mr. Meyer to Mr. Hay (telegram).	1905. Jan. 14	Territorial integrity of China. The Italian Government is in entire accord with the policy of the United States.	4
	The Italian Embassy to the Department of State.	Jan. 27	Control of the Dominican customs by the United States. Requests that arrangements be made for the payment of the obligations entered into by the Dominican Government with Italian creditors.	315
554	Mr. Mayor to Mr. Hay.....	Feb. 26	Establishment of an international agricultural institute. Invitation to send delegates to the conference to be held at Rome.	559
255	Mr. Adee to Mr. Mayor.....	Mar. 27	Same subject. The United States will send delegates to the conference.	560
257	Same to same.....	Mar. 31	Same subject. Advice of the appointment of delegates.	560
478	Mr. Iddings to Mr. Hay....	Apr. 5	Fraudulent naturalization of Italian subjects. Incloses passport of Ralph Girona held by a person who is palpably not the owner of it.	564
11	Mr. Adee to Mr. White.....	Apr. 27	Same subject. Acknowledges receipt of his No. 478.	564
12	Mr. White to Mr. Hay.....	May 4	Same subject. Incloses papers in the case of Rocco Gloffri.	565
277	Mr. Peirce to Mr. Mayor....	May 26	Establishment of an international agricultural institute. Advice of the appointment of a delegate.	561
22	Mr. Loomis to Mr. White...	June 12	Fraudulent naturalization. Instructs to make a further examination, and to report to the Department.	565
1525	Mr. Mayor to Mr. Hay.....	June 21	Admission of Italian emigrants to the United States. Propounds certain questions in connection with.	567
1664	Mr. Mayor to Mr. Peirce....	July 2	Death of Secretary of State John Hay. Condolences.	18
289	Mr. Peirce to Mr. Mayor....	July 7	Admission of Italian emigrants to the United States. The Department of Commerce and Labor declines to answer hypothetical questions.	568
2101	Mr. Mayor to Mr. Root.....	Aug. 9	Establishment of an international agricultural institute. Incloses convention adopted by the conference.	561
55	Mr. White to Mr. Root.....	Aug. 31	Admission of Italian emigrants to the United States. Reports that the Italian Government is giving the question of turning Italian emigration from our cities to the rural districts its serious attention.	568
	Mr. Mayor to Mr. Root.....	Sept. 3	Same subject. Requests reconsideration of his questions by the Department of Commerce and Labor.	569
302	Mr. Loomis to Mr. Mayor...	Sept. 18	Same subject. Transmits the answer of the Department of Commerce and Labor to the questions contained in his note of June 21.	570
40	Mr. Loomis to Mr. White...	Sept. 26	Same subject. Transmits the answer of the Department of Commerce and Labor to the questions propounded by the Italian ambassador.	571
64	Mr. White to Mr. Root.....	Sept. 28	Fraudulent naturalization. Transmits papers in the case of Giuseppe Formica.	566
	Same to same (telegram)...	Oct. 22	Visit of the U. S. S. <i>Minneapolis</i> to Genoa. Suggests that Admiral Chester with his flagship <i>Minneapolis</i> be directed to visit Genoa during the visit of the king and queen of Italy at that place.	571
	Mr. Root to Mr. White (telegram).	Oct. 26	Same subject. <i>Minneapolis</i> ordered to Genoa....	571

## ITALY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
51	King Victor Emanuel to President Roosevelt (telegram).	1905. Oct. 30	Same subject. Thanks for the friendly manifestation of good will.	571
	Mr. Root to Mr. White.....	Nov. 9	Fraudulent naturalization. The discrepancies in Formica's statement raise the presumption that he committed perjury in his application for a passport.	567
	President Roosevelt to King Victor Emanuel.	Nov. 16	Visit of the U. S. S. <i>Minneapolis</i> to Genoa. Expresses gratification at the King's telegram.	572
	Mr. Root to Mr. White.....	Nov. 28	Moroccan Conference. Incloses commission as delegate to the conference.	677

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32	Mr. Griscom to Mr. Hay ....	1903. Dec. 30	Japanese tea subsidy. Submits report and correspondence with the foreign office in relation to the complaint made by American firms that the Japanese tea subsidy is, in effect, a bounty to native dealers.	573
84	Mr. Loomis to Mr. Griscom .	1904. Nov. 4	Destruction of sea fowl on Midway Island. Incloses report on the destruction of sea fowl by Japanese subjects.	576
86	Mr. Hay to Mr. Griscom.....	Nov. 11	Same subject. Incloses additional correspondence and instructs him to ascertain whether the Japanese Government is willing to cooperate with this government to prevent the destruction complained of.	578
164	Mr. Griscom to Mr. Hay.....	1905. Jan. 9	Raising of the blockade of the Liaotung Peninsula reported.	580
167	Same to same.....	Jan. 12	Destruction of sea fowl. The Japanese Government will give warning to Japanese ship captains not to engage in.	579
96	Mr. Hay to Mr. Griscom ....	Jan. 13	Integrity and neutrality of China. Transmits Department's circular of the 13th instant.	581
168	Mr. Griscom to Mr. Hay.....	do	Defensive sea area at Kelung, Formosa. Incloses regulations for the.	591
	Mr. Hay to Mr. Takahira ...	Jan. 18	Integrity and neutrality of China. Incloses Russian protest alleging Chinese violation of neutrality.	581
	Mr. Takahira to Mr. Hay ...	Jan. 28	Same subject. Denies, as far as Japan is affected, the allegation of the Russian Government that China is violating her neutrality.	582
	Mr. Hay to Mr. Takahira ...	Mar. 8	Same subject. Incloses the Russian promemoria in regard to alleged hostile activity of bands of Chinese in Mongolia.	586
113	Mr. Hay to Mr. Griscom....	Mar. 9	Neutrality of China. Incloses the Russian promemoria relating to.	586
201	Mr. Griscom to Mr. Hay....	Mar. 13	Destruction of sea fowl. Incloses a note from the foreign office giving further assurances of the efforts of the Japanese Government to stop the depredations.	580
210	Same to same.....	Mar. 14	Territorial integrity of China. Incloses acknowledgment of the foreign office of Department's circular of January 13.	586
211	Same to same.....	do	Neutrality of China. Incloses acknowledgement of the foreign office of the correspondence with the Russian and Chinese Governments relating to.	587
	Mr. Takahira to Mr. Adee..	Mar. 21	Same subjects. Denial of the Russian assertion that Chinese bandits are directed by Japanese officers.	588
	Same to same .....	do	Same subject. Further detailed denial of the Russian assertion in regard to China's neutrality.	589
190	Mr. Adee to Mr. Takahira..	Mar. 24	Neutrality of the United States. Transmits request from the commander of the Russian ship <i>Lena</i> for permission to return one of his seamen to Russia.	592
12	Mr. Takahira to Mr. Adee..	Mar. 27	Same subject. There is no objection to the return of one of the seamen of the <i>Lena</i> to Russia, provided he give his parole.	592
192	Mr. Adee to Mr. Takahira..	Mar. 28	Same subject. The man will be sent to the Japanese consul to give his parole.	593
14	Mr. Takahira to Mr. Loomis.	Apr. 3	Treatment of prisoners of war. Protests against the treatment given to Japanese prisoners in Russia.	599

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No.	From and to whom.	Date.	Subject.	Page.
194	Mr. Loomis to Mr. Takahira.	1905. Apr. 4	Treatment of prisoners of war. His No. 14 has been sent to the ambassador at St. Petersburg for presentation to the Russian Government.	600
219	Mr. Griscom to Mr. Hay.....	.....do.....	Mining law of Japan. Quotes extract of.....	610
223	Same to same.....	Apr. 6	Treaty between Japan and Great Britain regarding the commercial relations between Japan and India. Incloses text.	610
	Mr. Loomis to Mr. Takahira.	Apr. 13	Neutrality of the United States. The Russian Government asks permission for Captain Berlinki of the <i>Lena</i> to leave the United States for four months.	594
19	Mr. Hioki to Mr. Loomis....	Apr. 14	Same subject. The Japanese Government has no objection to the permission being granted.	594
	Mr. Loomis to Mr. Hioki....	Apr. 18	Same subject. Asks whether permission may be granted to Commander Ritchagoff of the <i>Lena</i> to leave the United States on sick leave.	594
	Same to same.....	.....do.....	Treatment of prisoners of war. Transmits report of the vice-consul at Moscow in regard to.	601
	Mr. Hioki to Mr. Loomis....	Apr. 20	Neutrality of the United States. Permission may be granted to Commander Ritchagoff to leave the United States.	595
	Mr. Adee to Mr. Hioki.....	Apr. 25	Treatment of prisoners of war. Further report from the ambassador in regard to.	602
	Mr. Takahira to Mr. Loomis.	Apr. 27	Neutrality of China. Transmits telegram from the foreign office reporting that the Russian interned vessels at Shanghai are preparing for active service.	590
20	Mr. Takahira to Mr. Loomis.	Apr. 27	Release of prisoners of war. Requests good offices to obtain the release of certain noncombatant prisoners of war.	601
21	Same to same.....	Apr. 28	Japanese supervision over Korean administrative affairs. Incloses agreement between Japan and Korea.	612
197	Mr. Adee to Mr. Takahira...	May 3	Release of prisoners of war. His note No. 20 has been sent to the embassy at St. Petersburg with suitable instructions.	602
198	Mr. Loomis to Mr. Takahira.	May 5	Neutrality of China. Denial of China as to remissness in preventing the interned vessels at Shanghai from preparing for active service.	590
	Mr. Loomis to Mr. Griscom (telegram).	May 10	Japanese tea subsidy. Informs him of complaints by American firms and asks report on the matter.	574
257	Mr. Griscom to Mr. Hay....	May 15	Same subject. Reports on the subject.....	575
266	Same to same.....	May 27	Status and form of government of Manchuria. Transmits information in regard to.	616
	Mr. Loomis to Mr. Griscom (telegram).	June 8	Peace negotiations between Russia and Japan. The President's peace proposal.	808
	Same to same (telegram).....	.....do.....	Same subject. Inform the Department when above telegram is presented to the Japanese Government.	808
	Mr. Griscom to Mr. Hay (telegram).	June 9	Same subject. Reports time when Department's telegram of the 8th instant was presented to the Japanese Government.	808
	Mr. Griscom to Mr. Hay (telegram).	June 10	Same subject. Transmits the answer of the Japanese Government.	809
274	Same to same.....	.....do.....	Same subject. Confirms telegrams in detail.....	809
	Same to same (telegram)....	June 18	Same subject. The Japanese Government will at once appoint plenipotentiaries with full powers to conclude terms of peace.	811
203	Mr. Loomis to Mr. Takahira	June 20	Neutrality of the United States. Permission is asked for the Russian hospital ship <i>Kostroma</i> to take the sick and wounded from the vessels of Admiral Enquist at Manila.	595
30	Mr. Takahira to Mr. Peirce.	June 26	Same subject. There is no objection to the disposition of the matter by the United States.	595
32	Mr. Takahira to Mr. Peirce.	June 28	Release of prisoners of war. Requests good office to obtain the release of three Japanese merchants.	602
	Mr. Griscom to Mr. Hay (telegram).	June 29	Status and form of government of Manchuria. Reports the opening of Manchurian towns to Japanese merchants.	617
	Mr. Takahira to Mr. Peirce.	July 1	Death of Secretary of State John Hay. Condolences.	18
207	Mr. Peirce to Mr. Takahira.	July 6	Release of prisoners of war. The ambassador at St. Petersburg has been instructed to use his good offices to secure the release of three Japanese merchants.	603
291	Mr. Griscom to Mr. Root...	July 7	Peace negotiations. Reports the departure of the Japanese peace commissioner, Baron Komura, with his staff.	817
	Mr. Adee to Mr. Takahira..	July 13	Neutrality of the United States. Permission is asked for Lieutenant Speshnoff of the <i>Lena</i> to return to Russia.	596

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No.	From and to whom.	Date.	Subject.	Page.
		1905.		
	Mr. Takahira to Mr. Adee..	July 17	Same subject. There is no objection to the permission being granted.	596
	Mr. Adee to Mr. Takahira..	July 18	Same subject. Permission is requested for Captain Ginter to replace Captain Berlinski of the <i>Lena</i> .	596
39	Mr. Takahira to Mr. Adee..	July 20	Alleged violation of the Red Cross convention. Incloses report in regard to the incident.	618
210	Mr. Adee to Mr. Takahira..	July 24	Same subject. His No. 39 has been sent to the ambassador for transmission to the Russian Government.	619
	Mr. Adee to Mr. Hioki .....	July 27	Neutrality of the United States. Permission is asked for Lieutenant Bertenson of the interned Russian cruiser <i>Aurora</i> to return to Russia.	597
	Mr. Hioki to Mr. Adee.....	.....do...	Same subject. There is no objection to replace Captain Berlinski of the <i>Lena</i> by Captain Ginter.	597
	Same to same.....	July 28	Same subject. There is no objection to permission being granted to Lieutenant Bertenson to return to Russia.	598
	Mr. Adee to Mr. Hioki.....	July 29	Same subject. Permission is asked for several Russian officers to return to Russia.	598
42	Mr. Hioki to Mr. Adee.....	.....do...	Alleged violation of the Red Cross convention. Submits papers relating to another incident of.	619
	Mr. Hioki to Mr. Adee.....	July 29	Same subject. The incident is brought to the notice of the United States as one of the signatories of the Geneva and Hague conventions.	620
	Same to same.....	July 31	Neutrality of the United States. There is no objection to permission being given to the Russian officers, referred to in Department's note of the 29th instant, to return to Russia.	598
	Mr. Adee to Mr. Hioki.....	Aug. 8	Same subject. The above information has been telegraphed to Manila.	599
49	Mr. Hioki to Mr. Adee.....	Sept. 18	Exchange of prisoners of war. Japanese proposal for.	603
216	Mr. Adee to Mr. Takahira..	Sept. 19	Same subject. The above proposal has been telegraphed to the embassy at St. Petersburg for transmission to the Russian Government.	603
51	Mr. Takahira to Mr. Adee..	Sept. 20	Same subject. It is intended to carry out the Japanese proposal soon after ratification of the treaty of peace.	604
	Mr. Adee to Mr. Takahira..	Sept. 21	Neutrality of the United States. Gives names of officers permitted to return to Russia.	599
217	Same to same .....	Sept. 23	Exchange of prisoners of war. His No. 51 has been telegraphed to the embassy at St. Petersburg for transmission to the Russian Government.	604
218	Mr. Loomis to Mr. Takahira.	Sept. 26	Same subject. Russian proposal to remit sentence of imprisonment imposed upon Japanese prisoners of war if Japan will reciprocate.	604
55	Mr. Takahira to Mr. Adee..	Sept. 29	Same subject. Similar arrangements had already been made by the Japanese Government.	605
219	Mr. Root to Mr. Takahira..	Oct. 2	Same subject. Russia accepts the proposal of Japan in regard to exchange of prisoners.	605
61	Mr. Takahira to Mr. Root..	Oct. 14	Treaty of peace with Russia. Requests that the American embassy at St. Petersburg inform the Russian Government of the ratification of by Japan.	820
224	Mr. Root to Mr. Takahira..	Oct. 16	Same subject. The notice of ratification has been given to the Russian Government, as requested.	821
62	Mr. Takahira to Mr. Root..	.....do...	Same subject. Gives notice of the ratification of the treaty of peace by Russia.	823
	Emperor Mutsuhito to President Roosevelt (telegram).	Oct. 18	Same subject. Expresses appreciation of the services of the President in the cause of peace.	823
	President Roosevelt to Emperor Mutsuhito.	Oct. 20	Same subject. Thanks for expression of appreciation.	824
65	Mr. Takahira to Mr. Root..	.....do...	Exchange of prisoners of war. Arrangements made for by the Japanese Government.	606
67	Same to same .....	Oct. 27	Alleged violation of the Geneva and Hague conventions. Incloses report of another incident.	621
	Same to same .....	Oct. 31	Exchange of prisoners of war. The Japanese Government will soon begin to deliver Russian prisoners.	607
68	Same to same .....	.....do...	Same subject. Requests good offices to secure the delivery of prisoners at Harbin and Irkutsk before the winter is too advanced.	607
230	Mr. Root to Mr. Takahira..	Nov. 1	Same subject. Russian proposal in regard to the exchange of prisoners at the seat of war.	608
72	Mr. Takahira to Mr. Root..	Nov. 4	Same subject. The Japanese Government accepts the above Russian proposal.	608

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	Mr. Bacon to Mr. Takahira.	Nov. 8	Exchange of prisoners of war. Arrangement in regard to clothing for Japanese prisoners.	609
	Mr. Takahira to Mr. Root ..	Nov. 9	Status of treaties entered into by Sweden and Norway and diplomatic and consular relations of those countries with other powers. Asks information in regard to.	867
	Mr. Root to Mr. Takahira ..	Nov. 10	Same subject. Gives views of the Government of the United States on the subject.	867
76	Mr. Takahira to Mr. Root ...do ...	Nov. 10	Exclusion of Japanese from Vladivostok. Requests good offices to secure rescission of the order of.	623
235	Mr. Root to Mr. Takahira ..	Nov. 11	Same subject. The above note has been telegraphed with suitable instructions to the ambassador at St. Petersburg.	624
	Mr. Bacon to Mr. Takahira.	Nov. 21	Exchange of prisoners. Russian arrangement for delivery of prisoners at Wirballen.	609
79B	Mr. Takahira to Mr. Root ..	Nov. 23	Japanese supervision over Korean foreign and administrative affairs. Incloses text of agreement between Korea and Japan.	612
237	Mr. Root to Mr. Takahira ..	Nov. 24	Same subject. Informs him of the withdrawal of the American legation from Korea.	613
	Mr. Root to Mr. Griscom (telegram).	Nov. 24	Same subject and tenor.....	614
	Mr. Takahira to Mr. Root ..	Nov. 27	Same subject. Appreciation of the Japanese Government of the action of the United States Government in withdrawing the legation from Korea.	614
82	Mr. Takahira to Mr. Root..	Nov. 28	Same subject. Advises the Department of the establishment of a Japanese residency-general at Seoul.	614
346	Mr. Wilson to Mr. Root.....	Nov. 30	Same subject. Incloses correspondence with the foreign office in regard to the withdrawal of the American legation from Korea.	615
86	Mr. Hioki to Mr. Root.....	Dec. 11	Exchange of prisoners of war. Requests the Department to ascertain whether the necessary instructions regarding the surrender of Japanese prisoners at the theater of war have been given by the Russian Government.	609
	Same to same.....	Dec. 12	Withdrawal of the Korean legation and consulates from the United States announced.	616
243	Mr. Root to Mr. Hioki.....	Dec. 19	Exchange of prisoners of war. Mr. Hioki's No. 86 has been sent to the embassy at St. Petersburg for transmission to the Russian Government.	610
	Same to same.....	Dec. 21	Japanese supervision over Korean foreign affairs. Incloses copy of a note to Mr. Min Yeung-Tehan, Korean minister at Paris, indicating this government's attitude relating to.	616

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902	Mr. Allen to Mr. Hay.....	1905. May 30	Japanese supervision over Korean affairs. Incloses text of agreement between Korea and Japan.	625
	Mr. Yun Chung Kim to Mr. Peirce.	July 5	Death of Secretary of State John Hay. Condolences.	18
9	Mr. Morgan to Mr. Root....	July 31	Japanese supervision over Korean affairs. Incloses copy of regulations of the military administration in Korea.	626
11	Same to same.....	Aug. 16	Same subject. Incloses agreement between Japan and Korea relating to the coast trade of Korea.	630
14	Same to same.....	Aug. 28	Same subject. Reports that the Korean maritime customs will be placed under the Korean ministry of finance, controlled by a Japanese subject.	628
	Mr. Morgan to Mr. Root (telegram).	Nov. 17	Same subject. Reports that a programme has been laid before the Korean Emperor which includes complete assumption of Korean affairs by Japan.	628
	Same to same (telegram)...	Nov. 18	Same subject. Reports complete assumption of Korean affairs by Japan.	628
	Mr. Root to Mr. Morgan (telegram).	Nov. 24	Withdrawal of the American legation from Korea. Instructs him to withdraw from Korea.	631
18	Mr. Root to Mr. Yun Chung Kim.	Nov. 24	Same subject. Informs him of the withdrawal of the American legation from Korea.	632



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	Mr. Morgan to Mr. Root (telegram).	1905. Nov. 28	Same subject. Reports that he has informed the Korean Government of his withdrawal from Korea.	632
41	Mr. Morgan to Mr. Root....	Dec. 6	Same subject. Incloses correspondence with the foreign office, the American consuls in Korea and the American legation at Tokyo.	632
	Mr. Yun Chung Kim to Mr. Root.	Dec. 16	Same subject. Reports the transfer of the Korean legation to the Japanese legation at Washington.	633
19	Mr. Root to Mr. Yun Chung Kim.	....do ...	Same subject. Acknowledges the above note and expresses appreciation of sentiments expressed therein.	634
	Mr. Root to Mr. Min Yeung-Tchan.	Dec. 19	Japanese supervision over Korean affairs. States the attitude of the United States on the subject.	629

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115	Mr. Lyon to Mr. Root.....	1905. July 13	Death of Secretary of State John Hay. Condolences.	18
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LUXEMBURG.

	Declaration between the United States and Luxemburg.	1905. Mar. 15	For the protection of trade-marks. Text.....	635
31	Mr. Garrett to Mr. Peirce ...	July 7	Death of Secretary of State John Hay. Condolences.	19

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1210	Mr. Hay to Mr. Clayton ...	1905. Jan. 18	Murder of J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth. Report of status of case requested.	637
2647	Mr. Clayton to Mr. Hay ...	Jan. 31	Same subject. Foreign office has been asked status of.	637
1220	Mr. Loomis to Mr. Clayton.	Feb. 1	Depredations of Yaqui Indians. Incloses letter from Mr. Beach F. Rhodus requesting that the Mexican Government be requested to adopt measures to restrain.	639
130	M. de Azpiroz to Mr. Hay ..	Mar. 11	Disinfection of vessels in Mexico by United States medical officers. Requests proper measures be taken and that he be advised of the decision.	649
	Mr. Adee to Mr. Clayton (telegram).	Mar. 14	Depredations of Yaqui Indians. General manager Yaqui Copper Company represents that Yaqui Indians at Santo Niño, Sonora, are threatening massacre of Americans. Bring matter to attention of Mexican Government.	639
	Mr. Clayton to Mr. Hay (telegram).	Mar. 16	Same subject. Reports that local authorities will be advised of fears of Yaqui Copper Company of Indian depredations.	639
2708	Same to same .....	....do ...	Same subject. Reports interview with Mr. Mariscal and gives Mr. Mariscal's views.	640
2711	Same to same .....	Mar. 18	Same subject. Incloses copy and translation of note from Mr. Mariscal and copy of report from governor of State of Sonora.	641
1256	Mr. Adee to Mr. Clayton ...	Mar. 21	Same subject. Report of facts of the case requested.	643
2723	Mr. Clayton to Mr. Hay ...	Mar. 22	Same subject. Incloses note from Minister Mariscal, stating he has always furnished escort for employees of the Santo Niño concern when requested and he will continue to do so.	644
	Treaty between the United States and certain American powers.	Mar. 24	For the arbitration of pecuniary claims. Text...	650
	President Roosevelt to President Diaz.	....do ...	Death of Ambassador Manuel De Azpiroz, and removal of his remains to Mexico. For my countrymen and in my own name I offer heartfelt condolence upon the death of Ambassador Azpiroz.	654
144	Mr. Gamboa to Mr. Adee ...	Mar. 25	Same subject. Expresses gratitude for condolence.	654

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1262	Mr. Adee to Mr. Clayton....	Mar. 28	Depredations of Yaqui Indians. Action approved. Press for due protection for Americans in Sonora.	644
587	Mr. Adee to Mr. Gamboa ...	....do...	Death of Ambassador Manuel De Azpizcoz, of Mexico, and removal of his remains to Mexico. Detail of United States cruiser <i>Columbia</i> to convey remains to Mexico. Gives probable date of departure.	655
	Mr. Adee to Mr. Clayton (telegram).	Mar. 30	Monetary law of Mexico. Date on which law will go into effect requested.	655
	Mr. Clayton to Mr. Hay (telegram).	....do...	Same subject. Promulgated 25th instant, operative May 1 next.	656
2736	Same to same.....	....do...	Same subject. Inclosed copy and translation of the law.	656
594	Mr. Adee to Mr. Gamboa....	Apr. 3	Disinfection of vessels in Mexico by United States medical officers. Ambassador's note and inclosure sent to Treasury for information of surgeon-general of the public health and marine-hospital service.	650
2805	Mr. Clayton to Mr. Hay....	May 22	Murder of J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth. Incloses copy and translation of note from foreign office and report from governor of Sonora, showing the proceedings.	637
36	Mr. Conger to Mr. Peirce...	July 7	Death of Secretary of State John Hay. Condolences.	19
	Mr. Gamboa to Mr. Root....	July 18	Abolition of the "Free Zone" of Mexico. In taking this action the Mexican Government considered the representations of the Government of the United States in regard to the frauds committed against it under cover of exemptions from the payment of duties by virtue of that institution.	658
	Department of State to Mexican Embassy.	July 19	Same subject. Expresses gratification for the friendly motives which actuated the Mexican Government in taking this step.	658
89	Mr. McCreery to Mr. Root..	Sept. 21	Message of the President of Mexico to the Mexican Congress. Extracts.	658
115	Same to same.....	Oct. 19	Contravention of the extradition treaty between the United States and Mexico by the governors of Texas and Tamaulipas. Arrest and provisional detention of Chas. Luna. Incloses correspondence with the foreign office.	660
63	Mr. Root to Mr. McCreery.	Nov. 2	Same subject. Copy of correspondence will be furnished to the governor of Texas for his information.	661
125	Mr. McCreery to Mr. Root..	Nov. 4	Depredations of the Yaqui Indians. Complaint by the president of the Mina Grande Mining and Milling Company that the property and employees are not given proper protection by the Mexican Government.	644
	Mr. Root to Mr. Casatus.....	Nov. 11	Same subject. Giving extracts from letters from American citizens for the information of the Mexican Government.	646
127	Mr. McCreery to Mr. Root...	....do...	Same subject. Inclosed note from Mr. Mariscal stating that the company had not made application to him or to the commander of the military district.	646
	Mr. Casatus to Mr. Root.....	Nov. 14	Same subject. Acknowledges receipt of Department's note of Nov. 11, 1905.	647
66	Mr. Root to Mr. McCreery...	....do...	Contravention of extradition treaty. Arrest and provisional detention of Charles Luna. Incloses communication from the governor of Texas explaining his course in that and other similar cases.	662
67	Same to same.....	Nov. 15	Depredations of Yaqui Indians. Asks whether the company is under American or Mexican incorporation.	648
143	Mr. McCreery to Mr. Root...	Dec. 2	Same subject. Reports the arrival of a band of Yaqui Indians under guard en route to the Yucatan peninsula.	648
156	Same to same.....	Dec. 15	Contravention of extradition treaty. Complaint of Mexican Government against the governor of Texas for making direct application to the governor of Tamaulipas for the arrest and provisional detention of Charles Luna.	662

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8	Mr. Wilson to Mr. Root.....	Aug. 22	Proclamation of a constitutional government in Montenegro announced.	666
	Mr. Jackson to Mr. Root (telegram).	Oct. 31	Presentation of credentials reported.....	664
16	Same to same.....	Nov. 28	Same subject. Reports details of.....	664
23	Same to same.....	Dec. 26	Proclamation of a constitutional government. Gives full account of.	666

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25	Mr. Gummeré to Mr. Loomis	1905. June 5	Moroccan conference. Incloses an invitation of the Moroccan Government to a conference of the powers to consider reforms in the Empire.	668
33	Mr. Gummeré to Mr. Root..	July 17	Death of Secretary of State John Hay. Condolences.	20
36	Mr. Gummeré to Mr. Peirce.	July 22	Moroccan conference. Reports the names of the governments which have accepted the invitation to the conference.	670
	Mr. Adee to Mr. Gummeré (telegram).	July 29	Same subject. The United States will take part in the conference.	670
	Mr. Gummeré to Mr. Adee..	July 31	Same subject. Incloses his note to the foreign office giving the above information.	671
38	Same to same.....	Aug. 1	Same subject. Reports that Portugal has accepted the invitation to the conference.	671
47	Mr. Gummeré to Mr. Root..	Sept. 26	Arrest of the servant of a native protégé reported.	684
51	Same to same.....	Oct. 20	Same subject. Gives further details, and reports action taken.	685
17	Mr. Root to Mr. Gummeré..	Oct. 23	Same subject. Approves his action.....	686
53	Mr. Gummeré to Mr. Root..	Oct. 27	Moroccan conference. Reports that the Sultan has given his assent to the programme of the conference and to the proposition to hold the conference at Algieras.	674
19	Mr. Root to Mr. Gummeré..	Nov. 10	Same subject. Incloses copies of the Franco-German agreement.	676
20	Same to same.....	Nov. 17	Same subject. Informs him of his appointment as delegate to the conference.	676
	Mr. Gummeré to Mr. Root (telegram).	Nov. 19	Same subject. It is proposed to hold the conference on December 15.	677
59	Same to same.....	Nov. 24	Arrest of the servant of a native protégé. Reports release of the man and settlement of the case.	686
	Mr. Root to Messrs. White and Gummeré.	Nov. 23	Moroccan conference. Instructions.....	678
	Mr. Root to Mr. White.....	do	Same subject. Supplementary instructions.....	680
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22	Same to same.....	Dec. 15	Arrest of the servant of a native protégé. Acquiesces in the settlement of the case.	688

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790	Mr. Newel to Mr. Hay.....	1904. Oct. 3	Japanese house tax. The arbitration between France, Germany, Great Britain, and Japan will begin November 21, 1904.	692
800	Mr. Garrett to Mr. Hay.....	Nov. 2	Same subject. Reports names of the agents appointed by France, Germany, and Great Britain.	692
836	Mr. Newel to Mr. Hay.....	Jan. 25	Rights of corporations. Incloses copy of a treaty between the Netherlands and Greece defining the.	689
843	Mr. Garrett to Mr. Hay.....	Feb. 11	Hague Peace Conference of 1899. Incloses a list of the ratifications of, by the powers.	690
886	Same to same.....	May 25	Japanese house tax. Quotes the sentence of the arbitration tribunal.	692
901	Mr. Newel to Mr. Hay.....	June 30	Arbitration treaties between the Netherlands and Denmark, France, and Great Britain. Incloses texts.	693
	Baron de Tuyll to Mr. Peirce.	July 3	Death of Secretary of State John Hay. Condolences.	20

## NICARAGUA, COSTA RICA, AND SALVADOR.

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613	Mr. Loomis to Mr. Merry...	1905. Jan. 13	Concessions granted by Nicaragua. It is represented to the Department that American citizens are seriously injured by reason of. Gives details.	695
1009	Mr. Merry to Mr. Hay.....	Jan. 28	Same subject. Representations will be made to the Nicaraguan Government. Discusses the subject.	698
1028	Same to same.....	Mar. 23	Settlement of the claim of P. S. R. Hugo Farrington against Salvador reported.	702
	Mr. Adee to Mr. Merry.....	Apr. 3	Same subject. Expresses gratification at the settlement of the above claim.	702
1040	Mr. Merry to Mr. Loomis...	Apr. 27	Concessions granted by Nicaragua. Incloses the reply of the Nicaraguan Government to his representations.	699
1044	Same to same.....	May 12	Mosquito Reserve. Incloses treaty between Great Britain and Nicaragua relating to.	702
1045	Same to same.....	....do....	Abolishment of the free port of San Juan del Norte. Incloses treaty between Great Britain and Nicaragua relating to.	704
	President Zelaya to President Roosevelt (telegram).	July 1	Death of Secretary of State John Hay. Condolences.	21
	Mr. Altamirano to Mr. Peirce (telegram).	....do....	Same subject and tenor.....	21
	Mr. Aguilar to Mr. Peirce (telegram).	July 3	Same subject and tenor.....	11
	President Escalon to President Roosevelt (telegram).	....do....	Same subject and tenor.....	23
1072	Mr. Merry to Mr. Adee.....	Aug. 21	Concessions granted by Nicaragua. Reports improvement in the commercial conditions of Nicaragua.	701
1115	Mr. Merry to Mr. Root.....	Dec. 5	Immigration law of Nicaragua transmitted.....	704

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91	Mr. Barrett to Hay.....	1905. Jan. 24	Sanitary conditions on the Isthmus of Panama. Incloses correspondence with the foreign office in regard to the treaty stipulations on the question of proper sanitation.	706
92	Same to same.....	....do....	Same subject. Incloses his note to the foreign representatives in Panama in regard to yellow fever.	707
	Mr. Loomis to Mr. Barrett (telegram).	Apr. 7	Protection of Chinese interests in Panama. Instructs him to ask the Government of Panama whether American representatives may exercise their good offices in behalf of Chinese subjects.	708
131	Mr. Barrett to Mr. Hay.....	Apr. 17	Same subject. Permission asked for in above telegram has been granted.	708
	Same to same (telegram)...	Apr. 28	Difficulty between the police of Panama and Jamaican canal laborers. Reports that a clash occurred between 200 waterworks laborers and 50 policemen, and that a number of them were wounded.	709
139	Same to same.....	May 8	Same subject. Incloses correspondence explaining the difficulty.	709
	Treaty between the United States and Panama.	May 12	For the extradition of criminals. Text.....	713
10	Mr. Sands to Mr. Loomis...	June 10	Difficulty between the police of Panama and Jamaican canal laborers. The Government of Panama is making improvements in the efficiency of the police force.	712
	President Guerrerros to President Roosevelt (telegram).	July 1	Death of Secretary of State John Hay. Condolences.	21
21	Señor de Obaldia to Mr. Peirce.	....do....	Same subject and tenor.....	21
21	Mr. Magoon to Mr. Root....	Nov. 10	Attitude of the United States toward Panama in its internal affairs. Incloses a memorial from the Liberal party in Panama asking intervention by the United States in order to secure an honest election.	716
19	Mr. Root to Mr. Magoon.....	Dec. 4	Same subject. Discusses the relations between the United States and Panama and states that the United States stands in an attitude of perfect impartiality and will do nothing to help either the party in power or the party of opposition.	719

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24	Mr. Magoon to Mr. Root....	1905. Dec. 18	Same subject. Above instruction has been communicated to the Government of Panama.	720
	Mr. Root to Mr. Magoon (telegram).	....do....	Same subject. Department's No. 19 may be communicated to the Liberal party as an answer to their memorial.	721

## PERSIA.

98	Mr. Pearson to Mr. Hay....	1905. Jan. 9	Murder of the Rev. Benjamin W. Labaree. Incloses correspondence and reports details of the arrangements made to bring the case to a satisfactory conclusion.	722
	Mr. Loomis to Mr. Pearson (telegram).	Jan. 11	Same subject. Instructs him to inform Consul Norton to return to his post.	727
	Mr. Pearson to Mr. Hay (telegram).	Feb. 6	Same subject. Reports that Consul Norton has protested against the terms of the settlement. Six of the accomplices have been condemned to imprisonment.	727
	Mr. Hay to Mr. Pearson (telegram).	Feb. 7	Same subject. Consul Norton's special functions ceased upon receipt of Department's telegram of the 11th ultimo.	727
113	Mr. Pearson to Mr. Hay....	Apr. 20	Same subject. Incloses correspondence showing the dissatisfaction of the missionaries with the terms of the settlement and requests precise instructions.	728
115	Same to same.....	Apr. 29	Same subject. Incloses a letter from Dr. I. P. Cochran urging a modification of the agreement.	731
56	Mr. Hay to Mr. Pearson....	June 23	Same subject. The Department agrees with his views, and, being familiar with all the facts, he should be able to handle the case for the best protection of the American missionaries.	731
	Mr. Pearson to Mr. Root (telegram).	Oct. 4	Same subject. Reports that unless protection of the American Government is guaranteed to the Persian witnesses in the Labaree case they will refuse to testify.	732
	Mr. Loomis to Mr. Pearson (telegram).	....do....	Same subject. No effective guaranty of protection can be given to Persian subjects by this Government. Instructs him to demand effective protection of the Persian witnesses from the Persian Government.	732
121	Mr. Pearson to Mr. Root....	Oct. 7	Same subject. Reports that he anticipated Department's telegram of the 4th instant and had asked for protection for the witnesses, and that such protection will be given.	732
62	Mr. Root to Mr. Pearson....	Nov. 6	Same subject. Commends his attitude in the case.	734

## PERU.

1119	Mr. Dudley to Mr. Hay....	1905. May 17	Citizenship of Chinese born in Hawaii. Reports that a Chinaman giving his name as Chung Dai Yau has asked for a passport, claiming that he was born in Hawaii. Asks what evidence of personal identification and proof of American citizenship is required to admit him to the United States.	735
360	Mr. Peirce to Mr. Dudley...	June 30	Same subject. Authorizes him to issue a passport to Chung Dai Yau.	736
	President Pardo to President Roosevelt (telegram).	July 1	Death of Secretary of State John Hay. Condolences.	21
13	Mr. Calderon to Mr. Peirce.	July 4	Same subject and tenor.....	22
1151	Mr. Dudley to Mr. Root....	Aug. 1	Message of the President of Peru. Extract.....	737
1213	Mr. Neill to Mr. Root.....	Dec. 4	Treaty of commerce and customs regulations between Bolivia and Peru. Incloses text.	738

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162	Mr. Bryan to Mr. Peirce....	July 5	Death of Secretary of State John Hay. Condolences.	22
197	Mr. Bryan to Mr. Root.....	Dec. 28	Commercial treaty between Portugal and Switzerland. Incloses text.	740

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199	Mr. Jackson to Mr. Root....	July 22	Death of Secretary of State John Hay. Condolences.	22
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## RUSSIA.

	Mr. Hay to Mr. McCormick (telegram).	1905. Jan. 4	Contraband of war. Prize-court decisions. Instructs him to ascertain status of the <i>Calchas</i> , and if appeal of Russian procurer against decisions of Vladivostok prize court did not extend to cargo, to find out what was done with merchandise declared noncontraband.	742
	Mr. Adee to Mr. McCormick (telegram).	Jan. 5	Same subject. Asks whether appeals in case of the <i>Arabia</i> and the <i>Calchas</i> should be filed at St. Petersburg or at Vladivostok, and whether Mr. Berlinc has received powers of attorney sufficient to effect appeals.	742
	Mr. Eddy to Mr. Hay (telegram).	Jan. 6	Same subject. States that the <i>Calchas</i> was liberated, as well as 1,712 tons cargo; that certain flour, cotton, and timber was seized, while pieces of electric machinery were held over; that he had telegraphed for information regarding whereabouts of liberated cargo.	742
	Same to same (telegram)....	....do....	Same subject. Asks that formal statement that Department has been unable to communicate direct with Vladivostok be sent him as evidence to assist in postponement of cases.	743
	Russian embassy to Department of State.	....do....	Alleged violation of article 27 of The Hague protocol of 1899. States that, according to General Stoessel, Japanese army bombarding Port Arthur directed fire against hospitals, wounding and killing certain inmates. Russia made formal protest through French Government.	754
	Mr. Loomis to Mr. McCormick (telegram).	Jan. 7	Contraband of war. Prize-court decisions. Delay in appeal cases not due to laches of Department or American claimants, but to misunderstanding in regard to procedure, difficulty in communicating with Vladivostok, and refusal of Russian consuls to transmit powers of attorney. Department hopes all American claimants will be given opportunity to be heard on the merits of cases.	743
	Mr. McCormick to Mr. Hay (telegram).	Jan. 7	Same subject. Appeal in case of the <i>Arabia</i> . Mr. Berlinc should be furnished with sworn statement that the Department was unable to communicate directly with Vladivostok, which caused delay, and similar statements from owners of the vessel sworn to before a Russian consul.	744
	The Department of State to the Russian embassy.	....do....	Alleged violation of article 27 of The Hague protocol of 1899. Acknowledges embassy's memorandum of Jan. 6 relative to bombardment of hospitals at Port Arthur by Japanese, and takes due notice of protest.	755
	Mr. McCormick to Mr. Hay (telegram).	Jan. 11	Contraband of war. Prize-court decisions. Case of the <i>Arabia</i> . Sworn statements from owners only of the cargo, relating to facts stated in Department's telegram of 7th instant, required for formal presentation to the admiralty court.	744
177	Mr. Hay to Mr. McCormick.	Jan. 13	Same subject. Controversy Count Lamson's position that articles of dual use consigned to an open port of a belligerent are liable to seizure on account of possible ultimate destination to military or naval forces and that coal and cotton are absolutely contraband of war.	744

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	Count Cassini to Mr. Hay ..	Jan. 13	Neutrality of China in the war between Russia and Japan. Infringement by China, on account of Japanese pressure, alleged. Instances cited and requital threatened.	757
253	Mr. Hay to Count Cassini ..	Jan. 17	Same subject. States that the United States minister in China has been informed of the Russian complaint of transgression of neutrality by China with instructions to bring the matter to the attention of the government. Both China and Japan have affirmed observance of neutrality.	758
	Count Cassini to Mr. Hay ..	Jan. 18	Same subject. Reiterates complaints made in his note of January 13, calling especial attention to the <i>Ryeshitelni</i> incident.	758
	Mr. McCormick to Mr. Hay (telegram).	Jan. 21	Contraband of war. Prize-court decisions. States that dossiers from Vladivostok, upon which decisions of admiralty court were based, contain detailed information and asks whether he should forward translations.	748
	Mr. Loomis to Mr. McCormick (telegram).	....do...	Same subject. Instructs him to forward translations of dossiers mentioned in his telegram of this date.	748
210	Mr. McCormick to Mr. Hay ..	....do...	Same subject. Incloses decisions rendered by council of the admiralty in cases of steamers <i>Tea</i> , <i>Arabia</i> , and <i>Allanton</i> , appealed from Vladivostok prize court.	753
254	Mr. Hay to Count Cassini ..	Jan. 23	Neutrality of China in the war between Russia and Japan. Emphasizes desire of the United States for strict maintenance of China's neutrality, but affirms that the United States does not find it expedient to take an individual course in the matter of conserving neutrality, and suggests that the questions involved be considered in a conference of the powers.	759
	Mr. McCormick to Mr. Hay (telegram).	....do...	Labor troubles and political reforms in Russia. Reports conflict of military with crowds of workmen and others in St. Petersburg, in which a number were killed and wounded. States that much socialistic literature is circulated among workmen, and that great discontent exists in the large towns.	762
	Mr. Hay to Count Cassini ..	Jan. 24	Neutrality of China in the war between Russia and Japan. Transmits reply of Chinese Government to whose notice the complaint of Russia in regard to transgression of neutrality was brought by the United States minister.	760
	Mr. McCormick to Mr. Hay	Jan. 25	Labor troubles and political reforms in Russia. Extensive socialist propaganda has been carried on for years, and much literature distributed throughout Russia. An outbreak at Moscow is expected.	763
	Same to same (telegram) ..	Jan. 28	Contraband of war. Prize court decisions. Requests to be informed whether affidavits mentioned in his telegram of January 11 have been forwarded.	749
211	Same to same .....	Feb. 6	Same subject. Appeal in case of the <i>Arabia</i> . Refers to his telegram of January 7, and says that affidavits therein mentioned have not been received and that therefore owners of cargo may not be able to obtain a rehearing.	749
	Mr. Hay to Mr. McCormick (telegram).	Feb. 14	Neutrality of the United States in the war between Russia and Japan. Instructs him to ask Russian Government what action it will take in case of three officers of the <i>Lena</i> who broke their parole toward the end of January and are said to have reported to the admiralty in St. Petersburg.	786
	Mr. McCormick to Mr. Hay (telegram).	Feb. 17	Labor troubles and political reforms in Russia. Assassination of Grand Duke Sergius reported.	763
	Mr. Hay to Mr. McCormick (telegram).	Feb. 18	Same subject. Instructs him to convey expression of condolence.	763
	Same to same (telegram)...	Feb. 21	Neutrality of the United States in the war between Russia and Japan. Quotes to him the parole formerly given by the three officers of the <i>Lena</i> who left San Francisco to the commandant of the navy-yard there to the effect that they would not leave without permission of the President.	786
187	Same to same .....	Feb. 24	Contraband of war. Prize court decisions. Referring to his 211 incloses letter from Messrs. Butler, Notman, and Myadere stating that they forwarded affidavit for appeal in <i>Arabia</i> case January 10.	749

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## RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. McCormick to Mr. Hay (telegram).	1905. Feb. 27	Neutrality of the United States in the war between Russia and Japan. Reports that the military authorities imposed upon the three officers of the <i>Lena</i> who broke their parole a penalty of loss in grade of promotion and instructed them to return to San Francisco immediately, and states that Admiral Evelan requests that no restriction or restraint be imposed upon them by the United States.	786
	Mr. Hay to Mr. Meyer (telegram).	Feb. 28	Same subject. Instructs him to express appreciation of this government of the action taken in regard to the officers who broke their parole, and says that no discrimination will be made against them by the United States.	787
	Count Cassini to Mr. Hay...	Mar. 2	Neutrality of China in the war between Russia and Japan. Calls attention to renewed activity of Hunghutses in Mongolia and provinces bordering on Manchuria, and emphasizes danger of same. States that Russia will continue to keep military operations restricted to proper sphere if the powers will force China and Japan to do the same and avoid bringing the war into the provinces east of Mongolia.	761
	Mr. McCormick to Mr. Hay.	Mar. 4	Labor troubles and political reforms in Russia. Incloses translations of the manifesto issued by the Emperor February 18, calling on the people of Russia to support the government, and of his rescript of the same date, addressed to the minister of the interior, authorizing him to preside over a body of representatives of the people summoned to carry out reforms.	764
3	Mr. Adee to Mr. Mayer.....	Mar. 31	Removal of the Russian discriminatory tariff duties on American goods. Instructs him to urge the Imperial Government to restore the full benefits of most favored nation tariff treatment to all imports from the United States.	801
4	Mr. Loomis to Meyer.....	Apr. 4	Contraband of war. Prize court decisions. Appeals in the <i>Colchas</i> case. Incloses for Mr. Berlin copy of letter from Messrs. Ralston & Siddons giving list of papers and letters in the matter sent to him.	749
5	Same to same .....	do ..	Treatment of prisoners of war, their release and exchange. Incloses copy of note from Japanese minister calling attention to alleged wrongful treatment of Japanese prisoners in Russia, and instructs him to communicate it to the minister of foreign affairs.	795
10	Mr. Adee to Mr. Meyer.....	Apr. 8	Neutrality of the United States in the war between Russia and Japan. Referring to Department's telegram of February 11, quotes telegram from commandant at Mare Island Navy-Yard to the effect that Midshipman Kyra Dinyan had reported and again given parole not to leave.	787
	Count Cassini to Mr. Loomis	Apr. 10	Same subject. Permission for Commander Berlinsky of the <i>Lena</i> to take leave on account of health requested.	787
	Mr. Loomis to Count Cassini.	Apr. 11	Same subject. It is competent for the President to accept parole of Commander Berlinsky for residence or travel in the United States, but permission for him to leave this country will have to be obtained from Japan.	787
	Count Cassini to Mr. Loomis.	Apr. 12	Same subject. Russian Government considers approval of the United States and Russia sufficient in case of Commander Berlinsky's furlough, and is opposed to asking permission of Japan.	788
	Mr. Loomis to Count Cassini	Apr. 13	Same subject. States that Japanese Government has no objection to Commander Berlinsky's going to Europe.	789
	Same to same .....	do ..	Same subject. Does not agree with him that the United States has the original and exclusive right to transfer the place of internment to the territory of a third power, but states that under the permission already given by Japan, the President grants the furlough requested.	789
	Mr. Meyer to Mr. Hay (telegram).	Apr. 17	Treatment of prisoners of war, their release and exchange. States that the vice-consul at Moscow reports to effect that Japanese prisoners are well treated.	796



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No.	From and to whom.	Date.	Subject.	Page.
7	Mr. Meyer to Mr. Hay .....	1905. Apr. 17	Removal of Russian discriminatory tariff duties on American goods. Incloses copy of note to Russian Government sent by him in accordance with Department's No. 3 of Mar. 31.	802
16	Same to same .....	Apr. 28	Same subject. Reports interview with Mr. Timiryazeff, assistant to the minister of finances, in regard to establishment of full benefit of most-favored-nation tariff treatment, especial reference being made to petroleum products.	803
18	Mr. Adee to Mr. Meyer .....	May 1	Treatment of prisoners of war, their release and exchange. Transmits request of Japanese Government for the exercise by him of good offices to obtain release of noncombatant prisoners.	796
	Count Cassini to Mr. Loomis	May 4	Neutrality of the United States in the war between Russia and Japan. Requests that four months' leave be granted Commander Rytchagow, of the <i>Leana</i> , on account of ill health.	789
23	Mr. Meyer to Mr. Hay .....	May 5	Labor troubles and political reforms in Russia. Reports issuance of imperial ukase granting remission of arrears amounting to 75,000,000 roubles due the government on loans to peasants from 1857 to birth of Tsarevitch.	765
24	Same to same .....	do	Same subject. Reports issuance April 30 of imperial ukase granting religious freedom to all Russian sects except Jews.	767
263	Mr. Loomis to Count Cassini	May 10	Neutrality of the United States in the war between Russia and Japan. Leave of absence with permission to depart from the United States allowed Commander Rytchagow of the <i>Lena</i> , with consent of Japan.	790
	Mr. Meyer to Mr. Hay (telegram).	May 17	Labor troubles and political reforms in Russia. Reports issuance May 17 of imperial ukase granting to Poles right to elect nobles, to rent and purchase land, and to use Polish language more freely.	768
33	Mr. Loomis to Mr. Meyer...	May 26	Contraband of war. Prize court decisions. Instructs him to forward text of decision of the admiralty in <i>Calchas</i> case.	750
	Same to same (telegram)...	June 8	Negotiations for peace between Japan and Russia. Transmits dispatch of the President in which he urges peace negotiations and offers services in arranging preliminaries as to time and place.	807
	Mr. Meyer to Mr. Hay (telegram).	June 12	Same subject. Transmits reply of Russian Government to President's dispatch of June 8 that there is no objection in principle to proposed peace negotiations.	810
	The Department of State to the Russian embassy.	June 15	Neutrality of China in the war between Russia and Japan. Quotes reply of Chinese foreign office to the accusation by Russia of breach of neutrality.	761
68	Mr. Meyer to Mr. Hay .....	June 16	Negotiations for peace between Japan and Russia. Transmits French text and translation into English of Russia's note of acceptance of the President's invitation of June 8.	811
	Mr. Meyer to the President (telegram).	June 18	Same subject. Quotes note from Count Lamsdorff to effect that the Emperor agrees to Washington as a place of conference for the peace plenipotentiaries.	811
	Count Cassini to Mr. Loomis.	June 19	Neutrality of the United States in the war between Russia and Japan. States that the ship <i>Kostroma</i> has been ordered to go to Manila to convey the wounded or sick officers and sailors from the vessels of Admiral Enquist to Russia and asks that the latter be allowed to go on parole.	790
267	Mr. Hay to Count Cassini..	June 22	Same subject. States that orders have been sent to the United States naval authorities in the Philippines in accordance with the request in the above note from him of June 19.	791
	Mr. Hay to Mr. Meyer (telegram).	June 23	Negotiations for peace between Japan and Russia. Instructs him to ask that Russia send names of probable plenipotentiaries to the President and that they be instructed to conclude a treaty of peace.	812
	Same to same (telegram)...	June 24	Same subject. In accordance with request of Japan, asks whether Russia will agree that the plenipotentiaries meet in Washington during first ten days of August.	813

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No.	From and to whom.	Date.	Subject.	Page.
	Mr. Peirce to Mr. Meyer (telegram).	1905. June 26	Same subject. States that Japan has been informed of Russia's consent to have the meeting held in the first ten days of August, and that Japanese envoys will probably be Baron Komura and Mr. Takahira. The President hopes they will be here by August 1.	813
43	Mr. Peirce to Mr. Meyer....	June 27	Contraband of war. Prize court decisions. Instructs him to request Russian Government to make compensation to the Standard Oil Co. for seizure and destruction of a cargo of petroleum shipped on the English S. S. <i>Oldhamia</i> .	750
	Mr. Meyer to Mr. Hay (telegram).	June 28	Labor troubles and political reforms in Russia. Arrival at Odessa reported of Russian battleship <i>Kniaz Potemkin</i> and a torpedo boat, the officers having been murdered. Bombardment of town threatened.	769
89	Same to same .....	June 29	Same subject. Strike at Lodz and conflict between workmen and troops reported.	769
93	Same to same .....	.....do ...	Negotiations for peace between Japan and Russia. Tsar proposes appointing as first plenipotentiary Mr. Nelidoff, Russian ambassador at Paris.	813
94	Same to same .....	.....do ...	Same subject. Incloses copy of note from Count Lamsdorff to effect that, while consenting that the plenipotentiaries meet in the first ten days in August, the Emperor finds this date rather distant.	814
98	Same to same .....	.....do ...	Same subject. States that M. Nelidoff might not be able to serve as plenipotentiary on account of ill health, but that in such case he would be replaced by a man of equal importance. Asks whether there would be objection to a third plenipotentiary.	814
45	Mr. Peirce to Mr. Meyer....	June 30	Treatment of prisoners of war, their release and exchange. Transmits copy of note from Japanese minister requesting use of his good offices with Russian Government for release of three Japanese merchants captured in northern Korea.	796
	Count Cassini to Mr. Peirce (telegram).	July 1	Death of Secretary of State John Hay. Condolences.	23
99	Mr. Meyer to Mr. Hay .....	.....do ...	Negotiations for peace between Japan and Russia. Incloses letter from Count Lamsdorff, stating nomination of Count Mouravieff as plenipotentiary in the place of M. Nelidoff, also appointment of Baron Rosen, and saying that the government reserves right to nominate special delegates.	815
	The President to Mr. Meyer (telegram).	.....do ...	Same subject. States that on following Monday he will announce appointment of plenipotentiaries, with power to negotiate treaty subject to ratification by home governments.	815
	Mr. Meyer to the Secretary of State (telegram).	July 2	Same subject. Proposed action of President, as stated in foregoing telegram of July 1, approved by Count Lamsdorff, who promised to send names of five special delegates same evening.	816
103	Same to same.....	July 3	Same subject. Names of Russian special delegates communicated.	816
109	Mr. Meyer to the Secretary of State (telegram).	July 6	Labor troubles and political reforms in Russia. Trouble at Odessa and mutiny on the battle ship <i>Potemkin</i> . Official account transmitted.	769
50	Mr. Adee to Mr. Meyer.....	July 10	Removal of Russian discriminatory tariff duties on American goods. Instructs him, in case of failure to have discriminations removed, to sound Russian Government as to willingness to enter into a commercial agreement on basis of section 3 of the tariff act of 1897.	804
	Mr. Meyer to Mr. Root (telegram).	July 11	Negotiations for peace between Japan and Russia. States that plenipotentiary and delegates will sail August 9, but reports illness of Mouravieff.	819
	Same to same (telegram) ..	.....do ...	Labor troubles and political reforms in Russia. Assassination of Count Souvaloff, chief of police, at Moscow, reported.	773
48	Same to same.....	July 13	Same subject. Reports project for a representative imperial assembly, drawn up by Mr. Bulygin, minister of the interior.	773
	Same to same (telegram)...	.....do ...	Same subject. Reports appointment of Admiral Birleff, minister of marine, to reorganize the navy.	775

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No.	From and to whom.	Date.	Subject.	Page.
	Mr. Meyer to Mr. Root (telegram).	1905. July 13	Negotiations for peace between Japan and Russia. Appointment of M. Witte as plenipotentiary in place of Mouravieff reported.	819
	Same to same (telegram)..	July 18	Contraband of war. Prize court decisions. Advises that Standard Oil Co. bring suit immediately against Russian Government. Power of attorney should be legalized by a Russian consul.	750
	Same to same (telegram)...	....do...	Neutrality of the United States in the war between Russia and Japan. Russian Government requests permission for Captain Ginter to replace Captain Berlinsky, of the <i>Lena</i> .	791
	Mr. Adee to Mr. Meyer (telegram).	July 19	Contraband of war. Prize court decisions. Asks whether Russia has brought, or will bring, <i>Oldhamia</i> case before prize court.	750
	Mr. Meyer to Mr. Root (telegram).	July 20	Same subject. Reports that prize crew was put on <i>Oldhamia</i> May 21.	751
	Mr. Adee to Mr. Meyer (telegram).	....do...	Same subject. Instructs him that if the Russians seized and destroyed the <i>Oldhamia</i> and cargo and refuse to bring the case before a prize court he should urge the claim, and that if prize proceedings have been begun he should notify Department.	751
4	Mr. Adee to Baron Rosen ..	....do...	Neutrality of the United States in the war between Russia and Japan. States that Japanese Government does not object to leave being granted Lieutenant Speshnoff of the interned Russian transport <i>Lena</i> .	791
	Baron Rosen to Mr. Adee..	....do...	Negotiations for peace between Japan and Russia. States that Russian delegation will sail from Cherbourg July 26. Customary courtesies requested.	819
	Mr. Meyer to Mr. Root (telegram).	July 21	Contraband of war. Prize court decisions. States proper procedure in case Russian commander fails to give notice of capture to prize court. Embassy can not act as party to proceedings, but is bringing diplomatic pressure.	751
	Mr. Adee to Mr. Meyer (telegram).	July 25	Neutrality of the United States in the war between Russia and Japan. Berlinsky permitted to delay departure for America thirty days.	792
	Baron Rosen to Mr. Adee (telegram).	July 26	Same subject. Requests that Sublieutenant Bertenson of the cruiser <i>Aurora</i> be allowed to return to Russia on parole.	792
133	Mr. Meyer to Mr. Root.....	....do...	Removal of Russian discriminatory tariff duties on American goods. Reports efforts toward a commercial agreement based on section 3 of tariff act of 1897.	805
	Mr. Adee to Mr. Meyer (telegram).	July 27	Contraband of war. Prize court decisions. Standard Oil Co. has cabled power of attorney to Berline and wishes ambassador to hand papers to him.	751
	Baron Rosen to Mr. Root (telegram).	....do...	Neutrality of the United States in the war between Russia and Japan. States that Imperial Government proposes to appoint Mr. Barstch to command of cruiser <i>Aurora</i> , at Manila, to replace Captain Igorieff.	792
58	Mr. Adee to Mr. Meyer.....	July 28	Same subject. Transmits for Russian Government report of a board of medical survey upon Lieutenant Speshnoff of the <i>Lena</i> , who was allowed to go to Russia.	792
	Mr. Meyer to Mr. Root (telegram).	July 29	Contraband of war. Prize court decisions. Reported that shells were found aboard the <i>Oldhamia</i> .	752
	Mr. Adee to Mr. Meyer (telegram).	....do...	Neutrality of the United States in the war between Russia and Japan. Permission granted for replacement of Captain Berlinsky by Captain Ginter.	793
5	Mr. Adee to Baron Rosen...	....do...	Same subject. States that Navy Department has been requested to take steps toward granting leave to Sublieutenant Bertenson of the <i>Aurora</i> , to leave Manila on parole.	793
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7	Mr. Loomis to Baron Rosen.	Aug. 26	Same subject. Four months' extra leave for Commander Rytchagow granted.	794
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84	Mr. Loomis to Mr. Eddy....	Sept. 25	Contraband of war. Prize court decisions. Incloses for presentation to Russian Government copies of memorial of the Portland and Asiatic Steamship Co., for losses occasioned by seizure of the S. S. <i>Arabia</i> chartered by them.	752
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	Mr. Loomis to Mr. Meyer (telegram).	Oct. 1	Same subject. Proposal of Japanese Government for reciprocal remittance of punishment of insubordinate prisoners. Japan inquires as to place of exchange.	798
	Baron Rosen to Mr. Root...	Oct. 5	Proposal for a second international peace conference at The Hague. Incloses text of communication from Russia to representatives of South American governments with whom she has no diplomatic relations.	828
	Mr. Adee to Mr. Meyer (telegram).	Sept. 19	Treatment of prisoners of war, their release and exchange. Communicates Japanese proposal for exchange, to be presented to Russian Government.	797
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	Baron Rosen to Mr. Root...	Oct. 19	Same subject. Expresses Emperor's satisfaction at reestablishment of peace and appreciation of the President's efforts toward that end.	823
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	Mr. Eddy to Mr. Root (telegram).	Oct. 28	Same subject. Situation unchanged. No rioting in St. Petersburg.	776
	Mr. Root to Mr. Eddy (telegram).	Oct. 29	Same subject. Instructs him to protect American citizens by all means possible; to give shelter at the embassy and charter a vessel to fly the American flag if necessary.	776
	Mr. Eddy to Mr. Root (telegram).	Oct. 30	Same subject. Reports that a constitutional government would be proclaimed that night, together with special grants of civil liberty; franchise to be extended to all classes. Witte to be prime minister.	776
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173	Mr. Loomis to Mr. Bowen..	1904. Jan. 22	Settlement of arbitrated claims. Instructs him to insist upon prompt payment to claimants under the Hancox and other claims of the commission of 1890.	1003
246	Mr. Bowen to Mr. Hay .....	Feb. 1	Same subject. Refers to foregoing instruction as a "reprimand," and says that President Castro has promised to pay claims without delay.	1004
180	Mr. Hay to Mr. Bowen .....	Feb. 19	Same subject. Informs him that there was no warrant for assuming that Mr. Loomis's instruction of Jan. 22 was intended as a reprimand.	1004
265	Mr. Bowen to Mr. Hay .....	Mar. 5	Same subject. Complaint of creditor nations that 30 per cent of revenues of La Guaira and Puerto Cabello had not been paid them. Considers that Venezuela should agree to pay a minimum of 5,400,000 bolivars annually, and incloses draft of a statement to that effect which he proposes that Venezuela should agree to. As an alternative Belgian officials might be put in charge of custom-houses.	1005
190	Mr. Hay to Mr. Bowen .....	Mar. 28	Same subject. Approves suggestions in foregoing dispatch, and instructs him to advise Department of total amount of awards rendered in favor of Great Britain, Germany, and Italy, and amounts paid thereon; also amount of awards to each creditor nation and time necessary to pay same on the 30 per cent basis.	1006
270	Mr. Bowen to Mr. Hay .....	Mar. 30	Same subject. Incloses statements showing amounts paid to representative of the Bank of England during year ended Feb. 29, 1904, and total income of Venezuela during 1903, and comments on same. Thinks another year will be required for payment of allied powers.	1007

## VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
403	Mr. Bowen to Mr. Hay .....	1904. Apr. 16	Rights of New York and Bermudez Company. States that there was greater injustice exercised toward this company than toward the French Cable Company, in that property of former was seized. Refusal of President Castro to grant audiences to diplomatic representatives.	919
286	Same to same.....	May 14	Settlement of arbitrated claims. Incloses copies of inquiry of Venezuelan executive as to whether he was the authorized agent of the parties interested, and of his reply thereto.	1009
293	Same to same.....	May 28	Same subject. Diplomatic representatives of Germany, Great Britain, and Italy have arranged to have the monthly installments of 30 per cent of the customs revenues of La Guaira and Puerto Cabello paid to them directly.	1010
	Same to same (telegram)...	June 14	Suit against the New York and Bermudez Company. Threat of suit by Government unless the company should pay \$10,000,000. He advised the manager to refuse the payment and to carry the matter to the courts.	919
300	Same to same.....	June 25	Same subject and tenor. Threat of President to seize company's property and bring suit on ground that it gave aid to Matos rebels, and is using lands which do not belong to it.	919
210	Mr. Loomis to Mr. Bowen...	July 19	Same subject. Department wishes to be kept advised in the matter.	920
	Mr. Bowen to Mr. Hay (telegram).	July 22	Same subject. Embargo placed on Bermudez Lake by Venezuelan Government. Advises that United States bring pressure by war ships at La Guaira and seize custom-house.	920
	Same to same.....	July 24	Rights of New York and Bermudez Company. Reports that Venezuelan war vessel Bolivar started yesterday to take possession of Bermudez Lake. Thinks American fleet should seize La Guaira and Puerto Cabello to insure rights of company.	921
309	Same to same .....	do	Same subject and purport. Also sends copy of libel and of protest of company's manager. Proceedings were ex parte. Gives instances of alleged oppression of other foreign corporations.	921
	Mr. Adee to Mr. Bowen (telegram).	July 25	Same subject. Directs him to advise Venezuelan Government, if facts are as reported, that the United States protests.	925
	Same to same (telegram)...	July 26	Same subject and purport. Also directs him to report on facts and law and proceedings in the case, and to ask Venezuelan Government to defer proceedings pending investigation by the Department.	925
	Mr. Bowen to Mr. Hay (telegram).	July 30	Same subject. States that he protested as instructed, and gives substance of Venezuela's complaint. Reports lake was seized on July 27. Answer to complaint must be made Aug. 2 and proofs furnished Aug. 12. Haste made to avoid interference.	925
	Mr. Loomis to Mr. Bowen (telegram).	Aug. 1	Same subject. Instructs him to protest orally and in writing against summary proceedings of the Venezuelan Government, dispossessing the New York and Bermudez of its property without any hearing and directly in the government's interest, and to notify the Venezuelan Government of grave concern with which the United States Government will regard any illegal action against the American company.	926
	Mr. Bowen to Mr. Hay (telegram).	Aug. 3	Same subject. Reports that he has protested orally and in writing. Object of Venezuela is to recover from foreigners the amount due them on claims.	926
213	Mr. Adee to Mr. Bowen.....	do	Same subject. Incloses copy of letter from Messrs. Nicoll, Anable, and Lindsay, requesting that he should be instructed to confer with counsel of the New York and Bermudez Company.	926
	Mr. Bowen to Mr. Hay (telegram).	Aug. 5	Same subject. Superintendent of Bermudez Company said to be imprisoned. Mr. Bowen will protest and request immediate release.	927
	Same to same (telegram) ..	Aug. 6	Same subject. Release of superintendent announced.	927

## VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
310	Mr. Bowen to Mr. Hay.....	1904. Aug. 7	Same subject. Incloses law papers and correspondence in the matter, gives details as to seizure of company's property, and states that Carner, the Venezuelan custodian, is working the property and making arrangements to send the asphalt to company's rivals in the United States. States Castro's unjust intentions toward foreign residents and says force will be needed to oppose him.	928
	Mr. Adee to Mr. Bowen (telegram).	Aug. 15	Same subject. States that the Department has carefully examined the complaint of the Venezuelan Government on which the New York and Bermudez company was dispossessed of Bermudez Lake, and finds, quite apart from any question of illegality, no substantial justification for such seizure, which appears irregular and wholly unnecessary, and the complaint wholly disregards the titles obtained under Venezuelan mining laws and by purchase. Instructs him to request Venezuelan Government to restore lake to Bermudez Company, pending judicial decision, as seizure appears unwarranted.	937
	Mr. Bowen to Mr. Hay (telegram).	Aug. 18	Same subject. He has requested return of property to Bermudez Company. Mr. Bowen is informed that the President of Venezuela wishes him to be recalled.	938
	Same to same (telegram) ..	Aug. 20	Same subject. Venezuela refuses to return property to company, and maintains that diplomatic intervention can be resorted to only after decision of court in the matter.	938
	Same to same .....	Aug. 21	Same subject. Incloses copies of papers and correspondence in the case, comprising notes to and from the foreign office, in which the minister for foreign affairs states that he firmly hopes that the Government of the United States will recommend to the company that it should betake itself in defense of its rights to the courts of this country; also protest of Mr. Wright.	938
	Mr. Adee to Mr. Bowen ....	Aug. 29	Same subject. Directs him to request Venezuelan Government to instruct their consul at Philadelphia to authenticate papers for Bermudez Company necessary for use in Venezuelan courts.	942
	Mr. Bowen to Mr. Hay.....	Sept. 4	Same subject. Venezuelan soldiers at Bermudez Lake. Explanation of minister of foreign affairs of his denial that they were in possession.	942
218	Mr. Adee to Mr. Bowen ....	Sept. 10	Same subject. Incloses affidavits in the case of the New York and Bermudez Company v. Venezuela authenticated by the Venezuelan consul at Philadelphia, and instructs him to request Government to permit them to be filed as if within proper time.	943
219	Same to same .....	Sept. 13	Same subject. Refusal of Venezuelan consul at Philadelphia to certify papers. Incloses copies of affidavit and of letter from the vice-president of the company in the matter.	943
326	Mr. Hutchinson to Mr. Hay.	Sept. 17	Same subject. Incloses sworn statements of five employees of the company in regard to their treatment by the Government receiver and being compelled to work at the point of the bayonet.	943
222	Mr. Adee to Mr. Hutchinson.	Sept. 26	Same subject. States facts showing the injustice of the seizure by Venezuela of Bermudez Lake. Quotes the decree of the Venezuelan Government of July 17, 1900, stating that the New York and Bermudez Company had fulfilled up to date the engagements and obligations of the contract of which it is concessionary, and that therefore the contract was in full force and effect. Also states that when President Crespo attempted on January 4, 1898, arbitrarily to terminate the Hamilton concession, he expressly reserved the rights of the company under its mining titles. Directs him to read this instruction to the minister of foreign relations.	947
328	Mr. Hutchinson to Mr. Hay. ....do....	.....do....	Same subject. States that the affidavits inclosed in Department's No. 218 arrived in time for presentation in due course of procedure.	950

## VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	age.
329	Mr. Hutchinson to Mr. Hay.	1904. Sept. 26	Same subject. States that he will bring the matter referred to in Department's 219 to the attention of the minister of foreign relations.	950
332	Same to same.....	Sept. 27	Same subject. Suit brought by Venezuela against the company for giving pecuniary aid to the Matos revolution. Incloses letter from the managing director of the company and affidavits in the matter. Considers the evidence insufficient.	950
341	Same to same.....	Oct. 14	Same subject. Decision of the court against the company confirming action of Venezuelan Government in taking the property. Incloses copy of letter from the managing director of the company and of decision, and comments on errors in the latter. The company has entered appeal.	960
349	Same to same.....	Oct. 29	Same subject. Reports two conferences with minister for foreign affairs reviewing the case.	962
350	Same to same.....	Nov. 5	Same subject. Interference by Venezuela with cable messages sent by the Bermudez Company.	967
360	Same to same.....	Nov. 20	Same subject. Incloses correspondence relating to the matter; states reasons for action given by the Venezuelan authorities and criticises same.	968
	Mr. Hay to Mr. Hutchinson (telegram).	Nov. 21	Same subject. Instructs him to use strenuous good offices with government to speed prompt and impartial and final decision of the asphalt case.	971
	Mr. Hutchinson to Mr. Hay (telegram).	Nov. 26	Same subject. The Venezuelan minister for foreign affairs is giving out notice that the Department has given in to Venezuela in the matter of the sequestration. This he has denied.	971
368	Same to same .....	do	Same subject. Gives substance of two conversations with the minister of foreign affairs, reviewing the case and urging a prompt and final decision. He stated that the United States had not given in with regard to the removal of the receivers, but reserved the point. Incloses affidavit of Philip Scott, claiming that he was ill treated, arrested, and subsequently expelled from the company's property, where he had gone as the agent of the company. The minister for foreign affairs denied these allegations and branded them as lies.	972
	Mr. Loomis to Mr. Hutchinson (telegram).	do	Same subject. Removal of receiver. States that Department's request in the matter is consistent with its demand of a prompt and fair trial.	976
369	Mr. Hutchinson to Mr. Hay.	Nov. 27	Same subject. Incloses note to minister of foreign affairs in compliance with Department's telegram of the 26th instant.	976
372	Same to same .....	Dec. 10	Same subject. Further correspondence with minister of foreign affairs.	977
378	Mr. Bowen to Mr. Hay .....	1905 Jan. 6	Settlement of arbitrated claims, and proposal for arbitration of pending questions. Venezuelan plan for paying off British and German bondholders. Mr. Bowen's proposition of arbitration submitted to Venezuelan Government and reply thereto.	1010
	Mr. Bowen to Mr. Hay (telegram).	Jan. 7	Same subject. Agreement of President to pay 5,000,000 bolivars annually to allied and peace powers and same sum to bondholders. States that President is willing to have pending diplomatic questions with the United States arbitrated, and will probably make same agreement with other powers.	1012
	Mr. Hay to Mr. Bowen (telegram).	Jan. 9	Same subject. Agreement proposed in foregoing telegram for payment of creditor nations approved by the President; also suggestion for arbitration, except as to contractual claims. Department will cable bases of protocol for arbitration of disputed claims.	1013
	Mr. Bowen to Mr. Hay (telegram).	Jan. 11	Same subject. Suggestions for provisions of protocol. Advisability of showing readiness to resort to force.	1013
	Mr. Loomis to Mr. Bowen ..	Jan. 12	Arbitration of pending questions. Gives text of protocol for settlement of questions between Venezuela and New York and Bermudez, and instructs him to insist on immediate restoration of property.	1014

## VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
232	Mr. Loomis to Mr. Bowen.	1905. Jan. 13	Settlement of arbitrated claims. Instructs him to report, in detail, on progress made in payment of creditor nations, and time needed for completion; also to facts which would justify the United States in having her officials put in charge of Venezuelan custom-houses, whether the Venezuelan Government has in good faith collected and paid over the full 30 per cent of all the revenues of La Guayra and Puerto Cabello, and whether any considerable portion of the revenues of those ports has been diverted by the creation of new ports of entry.	1015
	Mr. Bowen to Mr. Hay (telegram).	....do....	Same subject. Reports presentation of the protocol with the demand of immediate restoration of the property of the asphalt company.	1016
	Mr. Loomis to Mr. Bowen (telegram).	Jan. 16	Same subject. Instructs him to report what other cases besides the asphalt company's, the Crutchfield, Jaurett, and Olcott cases there are for arbitration.	1017
	Mr. Bowen to Mr. Hay (telegram).	Jan. 17	Same subject. Reports that the negotiations must be begun anew on account of the resignation of the minister for foreign affairs.	1017
	Mr. Bowen to Mr. Hay (telegram).	Jan. 19	Same subject. Reports that the President of Venezuela will not submit the Bermudez case to arbitration, and that the discussions are considered as ended.	1017
234	Mr. Hay to Mr. Bowen.....	Jan. 20	Same subject. Department is not disposed to enter into a general arbitration treaty covering all future controversies with Venezuela. After the settlement of questions pending between the United States and Venezuela, either diplomatically or by arbitration, the Department will be ready to take into consideration the subject negotiating a general arbitration treaty.	1018
383	Mr. Bowen to Mr. Hay.....	Jan. 22	Same subject. Reports that the Venezuelan Government is evading the provisions of the Washington protocols by not paying 30 per cent of all duties collected at La Guaira and Puerto Cabello; by reducing the customs receipts at those two ports by the creation of new ports of entry; that President Castro's policy, if not interfered with, will continue to reduce the amounts paid yearly; that no arrangements have been made to pay the British and German bondholders, and that President Castro refuses to pay the award to Belgium.	1018
	Same to same (telegram) ..	Jan. 27	Same subject. Reports that the Venezuelan Government was astounded at the receipt of the Bermudez case protocol.	1020
	Mr. Hay to Mr. Bowen (telegram).	Jan. 28	Same subject. Instructs him to endeavor to have the Venezuelan Government agree to the arbitration of the Bermudez, Critchfield, Jaurett, and Olcott cases.	1020
	Mr. Bowen to Mr. Hay (telegram).	Jan. 30	Same subject. Reports that he has asked the Venezuelan Government to agree to the arbitration of above-mentioned cases.	1020
	Mr. Loomis to Mr. Bowen (telegram).	....do....	Same subject. Department can not agree to submit to any tribunal to decide whether any question is diplomatic or not.	1021
	Mr. Bowen to Mr. Hay (telegram).	Feb. 1	Same subject. Requests further instructions....	1021
	Mr. Loomis to Mr. Bowen (telegram).	Feb. 2	Same subject. Mr. Bowen may use his discretion about communicating this Government's position to the Venezuelan Government.	1022
	Mr. Bowen to Mr. Hay (telegram).	....do....	Same subject. The President of Venezuela declines to arbitrate the four cases.	1022
	Same to same (telegram)...	Feb. 3	Same subject. The President of Venezuela asks for a general treaty of arbitration.	1022
	Mr. Hay to Mr. Bowen (telegram).	....do....	Same subject. The above proposal can not be accepted.	1022
385	Mr. Bowen to Mr. Hay (telegram).	Feb. 5	Same subject. Reports that the telegrams of the Venezuelan chargé at Washington are at variance with his instructions.	1023
	Same to same.....	....do....	Same subject. Incloses correspondence with the foreign office and confirms telegrams.	1023
	Mr. Hay to Mr. Bowen (telegram).	Feb. 6	Same subject. The Venezuelan chargé was told that a general arbitration treaty would be unacceptable.	1025
	Mr. Bowen to Mr. Hay (telegram).	Feb. 10	Same subject. Reports that Venezuela is fortifying mountain passes to the coast.	1026
	Mr. Hay to Mr. Bowen (telegram).	Feb. 13	Same subject. Instructs to take no further action at present.	1025

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Bowen to Mr. Hay (telegram).	1905. Feb. 15	Sequestration of Bermudez Company's property confirmed to-day by the court.	978
	Same to same (telegram)...	Feb. 20	Charges against Assistant Secretary of State Loomis. Reports rumors of bribery.	978
	Mr. Hay to Mr. Bowen (telegram).	Feb. 24	Same subject. He should deny such reports or confirm them.	978
	Same to same (telegram) ..	Feb. 25	Same subject. Offers a transfer to Mr. Bowen....	979
	Mr. Bowen to Mr. Hay (telegram).	....do ...	Same subject. Qualifies his telegram of the 20th.	979
	Same to same (telegram) ..	....do ...	Same subject. Prefers to remain at Caracas .....	979
388	Same to same .....	Mar. 4	Arbitration of pending questions. Incloses correspondence with the foreign office. The rumor that the mountain passes are being fortified and that preparations for war with the United States are being made is now known to be untrue.	1026
242	Mr. Hay to Mr. Bowen.....	Mar. 10	Same subject. No general treaty of arbitration to be made until pending questions settled. Diplomatic nature of disputes not to be settled by arbitration. Refusal of Venezuela to agree to arbitration of pending questions may compel United States to "resort to more vigorous measures."	1027
391	Mr. Bowen to Mr. Hay .....	Mar. 19	Same subject. Reports sending Department's No. 242 to the minister of foreign affairs, and incloses accompanying note.	1028
	Same to same (telegram)...	Mar. 20	Same subject and purport. Reports that Dutch chargé d'affaires has cabled advising coercive measures.	1028
	Same to same (telegram)...	Mar. 23	Same subject. Venezuelan Government, in answer to Department's No. 242, of the 10th instant, denies it has any pending questions with the United States; asks whether the latter respects Venezuelan courts; refuses to reconsider Oleott award. Answer final.	1029
	Same to same (telegram)...	Mar. 25	Same subject. Reports that Señor Paul cabled Venezuelan President that Government of the United States will not answer Mr. Bowen, or will give conciliatory instructions.	1029
394	Same to same.....	Apr. 2	Same subject. Incloses copy of answer of Venezuelan Government to Department's No. 242 of March 10.	1029
274	Same to same.....	Apr. 16	Settlement of arbitrated claims. Extra duties imposed by Venezuela on imports and exports since signing of protocols. Incloses copy of argument submitted by him to Venezuelan Government that in view of these changes a guarantee of payment of 5,400,000 bolivars annually to creditor nations should be made.	1008
	Mr. Adeo to Mr. Bowen (telegram).	Apr. 29	Charges against Assistant Secretary of State Loomis. Instructs him to return to Washington.	979
	Mr. Loomis to Mr. Hutchinson.	May 22	Rights of New York and Bermudez Company. Inquires whether there has been any recent decision in the case.	980
	Mr. Hutchinson to Mr. Hay (telegram).	May 24	Same subject. Court of first instance gave decision against company preceding Saturday, annulling Hamilton concession. Case will be appealed.	980
418	Same to same.....	May 27	Same subject. Incloses copy of decision.....	980
423	Same to same.....	June 7	Message of President Castro to Venezuelan Congress. Copy inclosed.	1037
	Same to same (telegram) ..	June 20	Rights of New York and Bermudez Company. Reports that court of first instance overrules company's exceptions as to incompetency of court and defect in form of demand in revolutionary case.	987
432	Same to same.....	June 22	Same subject. Incloses copy of decision referred to in preceding telegram.	987
434	Same to same.....	....do...	Same subject. Publication by El Constitucional, the government newspaper, of correspondence between foreign office and United States legation.	988
	Mr. Veloz-Goiticoa to Mr. Loomis.	July 1	Death of Secretary of State John Hay. Condolences.	25
444	Mr. Hutchinson to Mr. Adeo.	July 8	Rights of New York and Bermudez Company. Same purport as his No. 434.	989

## VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Russell to the Acting Secretary of State.	1905. July 25	Relations between Colombia and Venezuela. Request for the good offices of the United States in advocating the principle of the free navigation of rivers common to neighboring countries. Incloses copy of note to him from Colombian minister of foreign relations, presenting complaints of his government against Venezuela.	1030
	Mr. Hutchinson to Mr. Root.	Aug. 2	Rights of the New York and Bermudez Company. Final decision in case expected this month.	989
	Mr. Adee to Mr. Russell....	Aug. 4	Relations between Colombia and Venezuela. Instructs to express to the Venezuelan Government the desire of this government to see the principle of free navigation of rivers adopted.	1035
	Mr. Hutchinson to Mr. Root (telegram).	Aug. 8	Rights of the New York and Bermudez Company. Reports that the order of the lower court has been confirmed.	989
	Same to same (telegram) .....	do do	Same subject. Reports that the Bermudez Company has filed protest.	989
468	Same to same .....	Aug. 13	Same subject. Confirms in detail above telegrams.	990
	Mr. Root to Mr. Russell (telegram).	Oct. 18	Settlement of pending questions. Expresses hope that the questions may be settled without having recourse to the alternatives contemplated in Department's No. 242, of March 10, 1905.	1000
	Mr. Russell to Mr. Root (telegram).	Oct. 20	Same subject. Asks further instructions.....	1001
24	Same to same .....	Oct. 29	Suit against the Bermudez Company. Reports appointment of appraisers to assess damages against the company.	101
19	Mr. Root to Mr. Russell....	Nov. 10	Same subject. Instructs him to urge upon the Venezuelan Government a treatment of the situation as being due to that sense of justice which should control the action of a great and powerful government.	1002
28	Mr. Russell to Mr. Root....	Nov. 12	Relations between Colombia and Venezuela. Reports arrival of the confidential agent of Colombia.	1036
22	Mr. Root to Mr. Russell....	Nov. 28	Same subject. The occasion seems to be propitious for discreet compliance with Department's instruction of Aug. 4, 1905.	1036
33	Mr. Russell to Mr. Root....	Dec. 10	Same subject. Reports renewal of diplomatic relations between Colombia and Venezuela.	1036





# CORRESPONDENCE.

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## CIRCULARS.

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### TERRITORIAL INTEGRITY OF CHINA.

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[Circular Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 13, 1905.*

*To the American Ambassadors to Austria, Belgium, France, Germany, Great Britain, Italy, and Portugal.*

It has come to our knowledge that apprehension exists on the part of some of the powers that in the eventual negotiations for peace between Russia and Japan claim may be made for the concession of Chinese territory to neutral powers. The President would be loath to share this apprehension, believing that the introduction of extraneous interests would seriously embarrass and postpone the settlement of the issues involved in the present contest in the Far East, thus making more remote the attainment of that peace which is so earnestly to be desired. For its part, the United States has repeatedly made its position well known, and has been gratified at the cordial welcome accorded to its efforts to strengthen and perpetuate the broad policy of maintaining the integrity of China and the "open door" in the Orient, whereby equality of commercial opportunity and access shall be enjoyed by all nations. Holding these views the United States disclaims any thought of reserved territorial rights or control in the Chinese Empire, and it is deemed fitting to make this purpose frankly known and to remove all apprehension on this score so far as concerns the policy of this nation, which maintains so considerable a share of the Pacific commerce of China and which holds such important possessions in the western Pacific, almost at the gateway of China.

You will bring this matter to the notice of the government to which you are accredited, and you will invite the expression of its views thereon

JOHN HAY.

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*Ambassador Storer to the Secretary of State.*

No. 208.]

AMERICAN EMBASSY,  
*Vienna, January 24, 1905.*

SIR: I have the honor to report that I have this morning received the written answer of the Austro-Hungarian Government from the ministry of foreign affairs to the expressions of views and intentions of

the American Government regarding the integrity of China, which was received by telegram of 13th of January, 1905, and has been already acknowledged.

I beg to inclose a copy and a translation of this note of the ministry of foreign affairs.

\* \* \* \* \*

I have, etc.,

BELLAMY STORER.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Ambassador Storer.*

IMPERIAL AND ROYAL MINISTRY OF FOREIGN AFFAIRS,  
Vienna, January 23, 1905.

The undersigned minister of foreign affairs has the honor to acknowledge, with thanks, the receipt of the note of January 17, 1905, in which the standpoint of the Government of the United States of America regarding the perpetuity of the integrity of China and policy of the open door in the Far East was set forth and the wish to learn the views of the Imperial and Royal Government on this subject was expressed.

It gives gratification to the undersigned to state that the Imperial and Royal Government, in conformity with the views of the Government of the United States of America, has always had in mind both of these objects, the perpetuation of the integrity of China and policy of the open door in the Far East, and intends to observe this attitude also in future.

The undersigned, etc.,

GOLUCHOWSKI, M. P.

*Minister Townsend to the Secretary of State.*

No. 247.]

AMERICAN LEGATION,  
Brussels, January 30, 1905.

SIR: Referring to Department's cable of 13th instant, I have the honor to inform the Department that, in conformity with instructions, I immediately communicated verbally to the minister for foreign affairs the views of the United States Government and invited an expression of opinion.

In addition to the verbal communication, I embraced in a note to the minister the contents of the cable clearly setting forth the position and policy of the United States in regard to the integrity of China, and requested an exchange of views.

I am now in receipt of a reply from the minister for foreign affairs, a copy and translation of which is herewith transmitted, expressing the satisfaction with which the Belgian Government has received the views of the United States, and that, so far as is within the limits of its interest in China, the Belgian Government is entirely in accord therewith.

I have, etc.,

LAWRENCE TOWNSEND.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Townsend.*

MINISTRY OF FOREIGN AFFAIRS,  
Brussels, January 28, 1905.

MR. MINISTER: I have the honor to acknowledge the receipt of the letter that your excellency has been good enough to address to me to inform me that in view of the peace negotiations between Russia and Japan the Government of the United States disclaims any

thought of reserved territorial rights or control in the Chinese Empire, and deems it fitting to make its intentions known in order to remove all apprehensions which might have arisen in this regard.

The Government of the King has received with satisfaction your excellency's communication, as within the limits of its interest in Chinese affairs it is fully in accord with the views thus expressed.

I avail myself of this opportunity, Mr. Minister, etc.,

DE FAVEREAU.

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*Ambassador Porter to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*Paris, January 18, 1905.*

(Mr. Porter reports that the minister for foreign affairs fully concurs in the propositions contained in Department's telegram of the 13th instant, and that France desires no concession of territory in China.)

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*Ambassador Tower to the Secretary of State.*

No. 588.]

AMERICAN EMBASSY,  
*Berlin, January 20, 1905.*

SIR: I have the honor to inclose to you herewith a copy and a translation into English of a note, dated the 18th of January, 1905, which I have received to-day from the Imperial German Chancellor, Count von Bülow, in reply to my note of January 14, in which I communicated to him the contents of your cipher dispatch addressed to me on the 13th of January, in relation to the integrity of China.

As this note of the chancellor contains a very important statement as to the position of the Imperial German Government, I have sent you the substance of it in a cipher telegram this morning. \* \* \*

I have, etc.,

CHARLEMAGNE TOWER.

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[Inclosure.—Translation.]

*The German Chancellor to Ambassador Tower.*

BERLIN, *January 18, 1905.*

MR. AMBASSADOR: I have had the honor of receiving your communication of the 14th of January, 1905, in which you were good enough to set forth the position of your Government in regard to certain questions raised by the present war between Russia and Japan. I am extremely gratified to learn by it that the President and the Government of the United States of America intend to continue to assist in the maintenance and strengthening of the policy of the integrity of China and the open door in the Far East for the benefit of the free commercial intercourse of all nations and that they have no thought of acquiring territorial rights in the Chinese Empire.

This view corresponds entirely with that of the German Government, which has repeatedly declared its adherence to the principles of the integrity of China and the open door in the Far East. Its purpose is absolutely to stand by its former declarations. Germany's position is defined in the Anglo-German agreement of the 16th of October, 1900, which was communicated at that time to all the powers interested and accepted by them. In this agreement the Imperial Government has bound itself to support the principle of the open door in China wherever its influence may be felt. It is therefore scarcely necessary to add that the Imperial Government does not seek for itself any further acquisition of territory in China.

I avail, etc.,

BÜLOW.

*Ambassador Choate to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*London, January 14, 1905.*

(Mr. Choate reports that the British minister for foreign affairs is at Bowood. He has sent him this afternoon by special messenger a letter setting forth full tenor of Department's telegram received this morning and asked for concurrence, and states that he has just received from him the following telegram: "Your confidential letter of to-day. You may rely upon our full concurrence. Lansdowne.")

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*Rome, January 14, 1905.*

(In answer to telegram of the 13th instant Mr. Meyer reports that the acting minister for foreign affairs, Mr. Fusinato, assures him that the Italian Government is in entire accord with the policy of the United States of maintaining the integrity of China and the open door in the Orient.)

*Minister Bryan to the Secretary of State.*

No. 129.]

AMERICAN LEGATION,  
*Lisbon, Portugal, February 21, 1905.*

SIR: I have the honor to confirm my cipher dispatch of February the 18th, in reply to Department's telegram of the 13th instant.

I inclose a copy of a note on this subject from the minister for foreign affairs.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Bryan.**February 18, 1905.*

EXCELLENCY: You communicated to me in the note which you did me the honor to send me on the 14th of last January the determination of the Government of the United States of America to pursue the policy of maintaining the integrity of China and of that called the "open door" in the Orient, a policy previously affirmed, and now reaffirmed, in providing for negotiations which will be entered into for peace between the two nations now at war.

In making me this communication on the part of the Government which your excellency so worthily represents, your excellency requested that I should indicate the views of His Majesty's Government with regard to this question in order that you might communicate the same to Washington.

I now have the honor to inform your excellency that His Majesty's Government when it comes to proceed to negotiations to end the existing war in the Orient will honestly adhere to the policy which has been upheld by the United States and which excludes all thought and reservation as to special rights of any nation or as to the acquisition of territory in the Chinese Empire. I believe with this precise answer I am satisfying the desires and requests of your excellency.

I avail, etc.,

A. EDUARDO VILLAÇA.

**NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND  
JAPAN.**

*The Acting Secretary of State to Ambassador Storer.<sup>a</sup>*

DEPARTMENT OF STATE,  
*Washington, March 24, 1905.*

SIR: \* \* \* I transmit, for the files of your embassy and for communication to the Austro-Hungarian Government, three copies of communications<sup>b</sup> pertinent to the subject [protest of the Russian Government against the alleged violation of neutrality by China]. \* \* \*

I am, etc.,

ALVEY A. ADEE.

**FOREIGN CONSULAR OFFICERS IN THE ISTHMIAN CANAL ZONE.**

*The Acting Secretary of State to the Argentine Minister.<sup>c</sup>*

DEPARTMENT OF STATE,  
*Washington, June 7, 1905.*

SIR: I have the honor to submit to you for your consideration and that of your government a suggestion made by the Honorable the Secretary of War and the Governor of the Isthmian Canal Zone that consuls of your government who may be appointed in the Republic of Panama be located in the cities of Panama and Colon, and be authorized to act in matters arising within the Canal Zone and that the Government of the United States recognize their authority within said Zone.

Such an arrangement, in the opinion of this Department, is desirable and would tend to facilitate business. If it meets with the approval of your government, I would suggest that hereafter when consuls are appointed in Panama, two commissions be issued to them, one addressed to the President of the United States, for the Isthmian Canal Zone; and one addressed to the President of Panama. Upon receipt of requests accompanied by the commissions addressed to the President of the United States, exequaturs will be granted by this government.

If, in the meantime, before these formalities can be observed your government should desire any particular consular officer to enter upon the performance of duties connected with the Canal Zone, provisional recognition will be accorded to him on receipt of a request accompanied by the name of the officer and his place of residence.

Accept, etc.,

F. B. LOOMIS.

<sup>a</sup> The same circular mutatis mutandis to the American diplomatic representatives in China, France, Germany, Great Britain, Italy, Japan, Netherlands, Portugal, Russia, and Spain.

<sup>b</sup> Printed under this subject under China, p. 139; Japan, p. 581; and Russia, p. 757.

<sup>c</sup> The same note mutatis mutandis to all foreign embassies and legations in the United States.

*The Acting Secretary of State to the Argentine Minister.<sup>a</sup>*

DEPARTMENT OF STATE,  
Washington, June 28, 1905.

SIR: Referring to the Department's note of the 7th instant, I have the honor to advise you that, in view of representations made to this government, the suggestion made in said note that two commissions be issued in the case of consuls appointed by your government in Panama—one addressed to the President of the United States, for the Isthmian Canal Zone, and the other to the President of Panama—is hereby withdrawn.

I shall be pleased if, in communicating this information to your government, you will add that the consular officers commissioned by it to the President of Panama, and by him officially recognized as such, can exercise their consular functions within and with reference to the Canal Zone without being commissioned to the President of the United States and without an exequatur or other recognition from the United States than is implied in the present note.

Accept, etc.

HERBERT H. D. PEIRCE.

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**DEATH OF SECRETARY OF STATE JOHN HAY.**

*The Acting Secretary of State to the Diplomatic Officers of the United States.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 1, 1905.

Secretary Hay died unexpectedly at 12.25 this morning. Notify government and display usual symbols of mourning.

PEIRCE, Acting.

*The Acting Secretary of State to the Diplomatic and Consular Officers of the United States.*

DEPARTMENT OF STATE,  
Washington, July 3, 1905.

GENTLEMEN: I append a copy of the proclamation of the President concerning the death of the Hon. John Hay, Secretary of State.

In obedience to this proclamation, and as a mark of respect to the memory of the deceased statesman, and in tribute to his distinguished services, you will cause the flag of the United States to be displayed at half-mast over your respective offices for a period of ten days.

I am, etc.

HERBERT H. D. PEIRCE.

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<sup>a</sup>The same note mutatis mutandis to all foreign embassies and legations in the United States.

[Inclosure.]

*A proclamation by the President of the United States.*

John Hay, Secretary of State of the United States, died on July 1st. His death, a crushing sorrow to his friends, is to the people of this country a national bereavement; and it is in addition a serious loss to all mankind, for to him it was given to stand as a leader in the effort to better world conditions by striving to advance the cause of international peace and justice. He entered the public service as the trusted and intimate companion of Abraham Lincoln, and for well nigh forty-five years he served his country with loyal devotion and high ability in many positions of honor and trust, and finally he crowned his life work by serving as Secretary of State with such far-sighted reading of the future and such loyalty to lofty ideals as to confer lasting benefits not only upon our own country, but upon all the nations of the earth.

As a suitable expression of national mourning, I direct that the diplomatic representatives of the United States in all foreign countries display the flags over their embassies and legations at half-mast for ten days; that for a like period the flag of the United States be displayed at half-mast at all forts and military posts and at all naval stations and on all vessels of the United States.

I further order that on the day of the funeral the Executive Departments in the city of Washington be closed, and that on all public buildings throughout the United States the national flag be displayed at half-mast.

Done at the city of Washington this third day of July, A. D. 1905, and of the Independence of the United States of America the one hundred and twenty-ninth.

THEODORE ROOSEVELT.

[SEAL.]

By the President:

HERBERT H. D. PEIRCE,

*Acting Secretary of State.**The Argentine Chargé to the Acting Secretary of State.*

ARGENTINE LEGATION,  
Washington, D. C., July 1, 1905.

MR. ACTING SECRETARY OF STATE:

With the deepest sorrow I received your excellency's communication under date of to-day, informing me of the sad death of His Excellency the Hon. John Hay, which occurred this morning.

The unexpected death of so eminent a citizen produced a profound impression on the Government and people of the Argentine Republic.

In obedience to telegraphic instructions which I have just received, and in the absence from this city of Minister Portela, I beg of your excellency to be pleased to transmit to President Roosevelt the most heartfelt condolences of President Quintana and of the Argentine people at the irreparable loss which places the American Government and people in mourning.

I reiterate to your excellency the assurances, etc.

CARLOS E. ZAVALIA.

[Telegram.]

*The Austro-Hungarian Chargé to the Acting Secretary of State.*

LENOX, MASS., July 1, 1905.

Following instructions received, I have the honor to present herewith to the Government of the United States the most sincere condolences of the Imperial and Royal Government on the occasion of the deeply regretted death of His Excellency the Hon. John Hay, Secretary of State.

GISKRA.



*The King of Belgium to President Roosevelt.*

[Telegram.—Translation.]

BRUSSELS, July 2, 1905.

I am very much grieved at the death of Mr. Hay, and wish to express to you, Mr. President, my sincere condolences, and to assure you of my keen sympathy with you in your bereavement and that of the American people.

LEOPOLD.

*Minister Sorsby to the Acting Secretary of State.*

No. 185.]

AMERICAN LEGATION,  
La Paz, Bolivia, July 3, 1905.

SIR: I have the honor to confirm the receipt of your sad message of the 1st instant, and to say that I immediately notified the government, which as an expression of sympathy displayed the government flag at half-mast on all government buildings, and that the flag of this legation was displayed at half-mast on the 2d, 3d, and 4th, as a symbol of mourning.

The expression of condolence by the government and officials by the foreign representatives, as well as others of prominence here, has been general and genuine, and, personally, I have the honor to request that my most profound sympathy in this great loss to the country be conveyed to the President.

I have, etc.,

WILLIAM B. SORSBY.

*The Brazilian Ambassador to the Acting Secretary of State.*BRIZILIAN EMBASSY,  
New York, July 2, 1905.

SIR: I have had already the honor to answer by telegram the courteous communication you made to me of Hon. John Hay's death. I then expressed my own deep sense of the loss suffered by the American nation and the President in the removal of Mr. Hay from its midst and from his council.

I am now intrusted by Baron do Rio Branco, our foreign minister, with the duty of expressing to the American Government the sincere sympathy of the whole Brazilian nation.

Accept, etc.,

JOAQUIM NABUCO.

*The President of Brazil to President Roosevelt.*

[Telegram.—Translation.]

RIO JANEIRO, July 3, 1905.

Please accept the assurance of my most profound regret at the death of the Hon. John Hay, who was so intelligent and devoted an exponent of your international policy.

Your good friend,

RODRIGUES ALVES.

*Chargé Wilson to the Secretary of State.*

No. 76, Bulgarian series.] LEGATION OF THE UNITED STATES,  
Athens, July 21, 1905.

SIR: I have the honor to inclose herewith a translation of a letter from General Petroff, the Bulgarian minister of foreign affairs, expressing his sympathy on the occasion of the death of Mr. Hay, of which I had informed him.

I have also to acknowledge the receipt of the Department's circular of the 3d instant, containing the President's proclamation concerning the death of Mr. Hay, and to report that in accordance with instructions the flag of this legation was displayed at half-mast for ten days.

I have, etc.,

CHARLES S. WILSON.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Chargé Wilson.*

SOFIA, 2-15 July, 1905.

MR. CHARGÉ D'AFFAIRES:

I have had the honor to receive your note, No. 26, of June 19 July 2, in which you have announced to me the sad news of the death of Hon. John Hay, Secretary of State of the United States.

Sharing sincerely the sentiment of deep regret that this sad event has caused not only in the United States but also abroad, I beg you, Mr. Chargé d'Affaires, to accept with my sincere condolences the assurance of my high consideration.

R. PETROFF.

*Chargé Ames to the Secretary of State.*

No. 434.]

AMERICAN LEGATION,  
Santiago, Chile, July 6, 1905.

SIR: I have the honor to acknowledge the receipt of Department's cable of July 1, transmitting the sad news of Secretary's Hays death, and directing me to communicate it to the Government of Chile. Immediately upon receipt of the cable—late in the afternoon—I called at the ministry of foreign affairs, and, in the absence of the minister, informed the sub-secretary of its contents. He expressed profound regret on behalf of his government, as did two official representatives of the minister, who called on me on Sunday. I am now in receipt of a note of condolence from the minister of foreign affairs, a copy and translation of which I have the honor to inclose herewith.

\* \* \* \* \*  
I have, etc.,

EDWARD WINSLOW AMES.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Chargé Ames.*

SANTIAGO, July 1, 1905.

MR. CHARGÉ D'AFFAIRES:

With profound regret the Government of Chile has learned of the death of Hon. John Hay, Secretary of State of the United States of America.

The extensive participation which this notable statesman has had on numerous occasions in the public affairs of his country, the lofty spirit in which he has performed the difficult

duties of Secretary of State, maintaining always on terms of perfect cordiality the relations between both countries, have entitled him to the high esteem and respect of this government, which in view of the sad event which occasions this note hastens to put on record its most profound manifestation of condolence.

I renew, etc.,

LUIS A. VERGARA.

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*The Chinese Minister to the Acting Secretary of State.*

CHINESE LEGATION,  
Washington, July 2, 1905.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, announcing the death of the Hon. John Hay, Secretary of State, which occurred at his summer home at Newbury, N. H., on July 1, at 12.25 o'clock in the morning.

Upon the receipt of your announcement I lost no time in telegraphing to my government this sad intelligence. To-day I have received the following telegram from Prince Ching:

"Your telegram of the 1st instant is received. Secretary Hay, during the many years he was in office, always took the lead for the maintenance of peace in the East. I am overwhelmed with sorrow at the news of his death. You will convey to the United States Government the expression of my profound sympathy."

In communicating to you the message of condolence from my government, I can not omit to express to you at the same time my deepest sympathy with the Government and people of the United States by reason of the national loss they have sustained in the death of their foremost statesman and distinguished Secretary of State.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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*The Chinese Minister to the Acting Secretary of State.*

CHINESE LEGATION,  
Washington, July 6, 1905.

SIR: I have the honor to communicate to you the following telegram received this morning from the Waiwu Pu, the foreign office at Peking:

"The Emperor, on receiving the news of Secretary Hay's death from this office, was deeply affected. You are commanded to offer in His Majesty's name proper expressions of sympathy."

Accept, etc.,

CHENTUNG LIANG-CHENG.

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*Chargé Snyder to the Acting Secretary of State.*

No. 63.]

AMERICAN LEGATION,  
Bogotá, July 5, 1905.

SIR: In view of the past relations which have existed between Colombia and the United States, it has occurred to me that it might be of interest to the Department and those most concerned to have the testimonials received at this legation upon the death of the Hon.

John Hay, Secretary of State. I therefore have the honor to forward same herewith.

The news of his death was received everywhere, both in governmental and foreign circles, with profound sorrow, and the flags in the ministry for foreign affairs, presidential palace, and British legation were flown at half-mast for three days out of respect for our dead statesman.

Although all social functions were stopped, nevertheless the legation was besieged yesterday by a host of callers, all desirous of expressing their sympathy for the great loss our government had sustained in one who, by his sterling qualities, far-sightedness, and patriotism, had placed the American nation, diplomatically, among the foremost nations of the world.

I am, etc.,

ALBAN G. SNYDER.

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[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Chargé Snyder.*

REPUBLIC OF COLOMBIA,  
MINISTRY OF FOREIGN RELATIONS,  
*Bogotá, July 3, 1905.*

SIR: The government learned with painful surprise of the deplorable death of the Hon. John Hay, which occurred on the 1st instant, as your excellency informed me in your note of the same date.

I hereby express to your excellency the reiterated assurances of my distinguished consideration.

CLÍMACO CALDERÓN.

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*The Costa Rican Minister of Foreign Affairs to the Acting Secretary of State.*

[Telegram.]

SAN JOSE, COSTA RICA, *July 3, 1905.*

My government expresses to that of your excellency its heartfelt regrets at the death of Secretary Hay.

JOSÉ ASTUA AGUILAR.

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*The President of Cuba to President Roosevelt.*

[Telegram.]

HAVANA, *July 1, 1905.*

Please accept my sincere condolences on the death of the illustrious statesman, the Hon. John Hay, whose memory will always be cherished by the Cubans as that of a good friend.

• ESTRADA PALMA.

*Minister O'Brien to the Acting Secretary of State.*

No. 8.]

AMERICAN LEGATION,  
*Copenhagen, July 5, 1905.*

SIR: Referring to my dispatch No. 7 of the third instant,<sup>a</sup> I now desire to add that on the 4th instant I received a note from Count Raben-Levetzau, minister for foreign affairs, dated the second instant, and being his reply to my telegram advising him of the death of Mr. Hay.

\* \* \* \* \*

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

*The Minister of Foreign Affairs to Minister O'Brien.*

DEAR MR. O'BRIEN:

I am so sorry to hear about the great loss the United States has had by the death of such an eminent statesman as Secretary Hay. Can I ask you the kindness to express my feelings and those of my fatherland to President Roosevelt?

Sincerely yours,

RABEN-LEVEITZAU.

*The President of the Dominican Republic to President Roosevelt.*

[Telegram.]

SAN DOMINGO, *July 1, 1905.*

Accept sympathies for death Secretary Hay.

PRESIDENT MORALES.

*The Dominican Minister of Foreign Affairs to the Acting Secretary of State.*

[Telegram.]

SAN DOMINGO, *July 1, 1905.*

The Dominican Government shares in your grief at the death of Secretary Hay.

MINISTER SANCHEZ.

*The Ecuadorean Chargé to the Acting Secretary of State.*

LEGATION OF ECUADOR,  
*New York, July 3, 1905.*

SIR: With profound sorrow this legation has learned of the unexpected death of Hon. John Hay, Secretary of State.

On behalf of both my government and myself I present to your excellency my heartiest manifestation of condolence for the irreparable loss that the United States has suffered by the death of one of its most prominent statesmen, this sad event being a cause of the greatest sorrow not only to this nation, but to the whole American continent.

Accept, etc.,

SERAFIN S. WITHER.

*The President of the French Republic to President Roosevelt.*

[Telegram.]

PARIS, July 2, 1905.

Being very deeply affected by the death of the eminent statesman whom your excellency has just lost, I wish to express to you the sincere condolences of the Government of the French Republic.

EMILE LOUBET.

*The French Ambassador to the Acting Secretary of State.*

[Telegram.]

BOSTON, MASS.,  
July 3, 1905.

I deeply regretted not to meet you at Department of State when I called July 1 to express the sorrow felt by my government for the great loss sustained by America and by every admirer of noble manhood in the death of Secretary Hay. Permit me to ask you to convey to President Roosevelt the expression of the deep concern of the Government of the French Republic for his being deprived of such a friend and America of such a great citizen.

JUSSERAND.

*The German Ambassador to the Acting Secretary of State.*

[Translation.]

GERMAN EMBASSY,  
Washington, July 4, 1905.

MR. ACTING SECRETARY OF STATE: In reply to your note of the 1st instant, which I received only to-day, as it had been inadvertently addressed to Lenox, Mass., I have the honor to state that I have received the news of the death of Secretary of State Hay with deep sorrow. The American people and the Department of State have suffered an irreparable loss in the death of this eminent statesman, and I assure you that Germany sympathizes heartily with the United States in its loss.

I have known the deceased personally for twenty years, and have had many opportunities to become acquainted with his sterling qualities as a statesman and as a man.

Accept, etc.,

STERNBURG.

*Ambassador Tower to the Acting Secretary of State.*

No. 714.]

AMERICAN EMBASSY,  
Berlin, July 12, 1905.

SIR: Upon the receipt of Mr. Peirce's telegram of the 1st of July, 1905, announcing the death of Mr. Hay, Secretary of State, on the 30th of June, I addressed a note to Baron von Richthofen, imperial secretary of state for foreign affairs, communicating to him this sad intelligence, and I now have the honor to inclose to you herewith a copy and

a translation into English of a note which I have received from Baron von Richthofen in reply, in which he conveys the sympathy of the Imperial Government in the great loss which the Government of the United States has sustained through the death of so worthy a statesman as Mr. Hay and one possessed of such brilliant qualities.

I have, etc.,

CHARLEMAGNE TOWER.

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[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Ambassador Tower.*

BERLIN, July 5, 1905.

The undersigned has the honor to acknowledge the receipt of the note, dated July 3, 1905, from His Excellency Mr. Charlemagne Tower, ambassador extraordinary and plenipotentiary of the United States of America, which contained the confirmation of the sad news of the death, on the 30th of June, 1905, of Mr. John Hay, Secretary of State.

The undersigned cannot refrain from taking the opportunity to express to his excellency the ambassador the sincere sympathy of the Imperial Government in the great loss which the Government of the United States of America and the whole American people have sustained through the sudden death of so worthy a statesman and one possessed of such brilliant qualities.

The undersigned avails himself of this opportunity to renew, etc.

RICHTHOFEN.

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*The British Ambassador to the Acting Secretary of State.*

No. 145.]

Washington, July 4, 1905.

SIR: I am instructed by His Majesty's secretary of state for foreign affairs to communicate to you at once the following telegram which has been received from the governor of New Zealand:

"Premier desires on behalf of New Zealand to tender to the United States the warmest sympathy and condolence in the loss of their greatest statesman, Colonel Hay, whose labors have profited the world and done much to promote good feeling between our Empire, its colonies, and America."

I have, etc.,

FOR SIR H. M. DURAND,  
HUGH O'BEIRNE,  
1st Secretary H. M. Embassy.

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*Ambassador Reid to the Acting Secretary of State.*

No. 21.]

AMERICAN EMBASSY,  
London, July 5, 1905.

SIR: I have the honor to inclose herewith copies of personal letters received by me at my residence on the evening of July 3d from Lord Knollys for His Majesty the King, and from Lord Lansdowne, with reference to the lamentable death of the late Secretary of State. The next morning I returned notes of acknowledgment, and transmitted the substance of the letters to you by cable.

A memorial service for Mr. Hay, to be held in St. Paul's Cathedral on the day of the funeral, was proposed by the Ven. Dr. Sinclair, Archdeacon of London, with a special collect for the occasion. I grate-

fully accepted the proposal. Mr. Van Duzer, honorable secretary of the American Society in London, kindly took charge of the general distribution of the 2,500 tickets to applicants, and the embassy made the proper arrangements for officials of the government and others who applied to it.

The King instructed the Earl of Denbigh, lord in waiting, to attend as his personal representative. The prime minister, Mr. Arthur Balfour, caused a letter to be sent, expressing great regret that the hour conflicted with imperative duties for himself and other ministers in the House of Commons, and requesting cards for a representative he wished to send. Lord Lansdowne attended in person, as did a great many others of high distinction in the government.

It may be proper to add that universal regret for the loss of Mr. Hay has been manifested in the public press, that there has been a constant stream of callers at the embassy and at Dorchester House, including English, Americans, and members of the diplomatic corps, to express sympathy, and that letters of regret and sympathy have been received from personages like Lord Rosebery, the Duke and Duchess of Buccleuch, and very many others.

Copies of the replies to the letters from Buckingham Palace and the foreign office are herewith inclosed; also a copy of the letter from the prime minister, and of the order for the service at St. Paul's Cathedral, with the special collect marked, and also a clipping from to-day's "Times" giving an account of the memorial service.

I have, etc.,

WHITELAW REID.

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[Inclosure 1.]

*Lord Knollys to Ambassador Reid.*

BUCKINGHAM PALACE, July 3, 1905.

DEAR MR. WHITELAW REID:

The King desires me to say that, although he telegraphed to the President respecting Mr. Hay, he is anxious to express his sincere sympathy with you also, who, he believes, was one of Mr. Hay's closest friends, both politically and privately, on the irreparable loss which you have suffered by his death.

His Majesty knew him very well when he was ambassador in London, and he has always entertained a high feeling of regard and friendship for him, and he looks upon his disappearance from the political scene not only as a severe national blow to America, but one of almost equal gravity to England.

Believe me, yours truly,

KNOLLYS.

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[Inclosure 2.]

*The Minister of Foreign Affairs to Ambassador Reid.*

FOREIGN OFFICE,  
July 3, 1905.

MY DEAR AMBASSADOR: As you are aware, we did not lose a moment in instructing Sir Mortimer Durand to express in the proper quarter the deep sorrow with which His Majesty's Government had heard of Colonel Hay's sad death; but I am anxious that you, as one of his greatest friends and the representative of the government of which he was so distinguished a member, should know how sincerely my colleagues and I have felt for your country in this hour of sorrow common to both nations.

Colonel Hay was regarded with universal respect, and with something more than respect, by the British people. He was no stranger to us, but he had endeared himself, not only by his personal qualities, so admirable and so calculated to gain our affection, but because we knew that no public man in America had worked harder or more successfully than he did



to keep the two nations together, and we feel that although our relations are happily of a kind which does not depend merely upon personal influences, his death is, for us all, an irreparable calamity.

We offer the respectful expression of our sympathy to the President, who finds himself deprived of a devoted and trusted colleague, and to Colonel Hay's family in the great misfortune which has overtaken them.

Believe me, etc.,

LANSDOWNE.

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*The British Ambassador to Secretary Loeb.*

[Telegram.]

LENOX, MASS., July 6, 1905.

Following from governor-general Canada: Please personally convey my profoundest and most reverent sympathy to the President on the great personal as well as national loss he has sustained. The sad news has only just reached me on the banks of the Cascapedia.

DURAND.

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*Chargé Wilson to the Secretary of State.*

No. 285, Greek Series.]

AMERICAN LEGATION,  
Athens, July 12, 1905.

SIR: I have the honor to transmit herewith a translation of a letter from the minister of foreign affairs expressing the sympathy of the Greek Government on the occasion of the death of Mr. Hay, the Secretary of State of the United States.

I have, etc.,

CHARLES S. WILSON.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Chargé Wilson.*

ATHENS, July 11, 1905

MR. CHARGÉ D'AFFAIRES: It is with a feeling of grief that I have been informed by your letter, No. 87, of the death of the Hon. John Hay, Secretary of State for foreign affairs of the United States of America.

On the occasion of the loss which has befallen the United States in the person of that eminent statesman, I have the honor to transmit to you the sympathy of the Royal Government and to beg you to offer the same to your government.

Please accept, etc.

D. RALLY.

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*Chargé Brown to the Acting Secretary of State.*

No. 288.] AMERICAN LEGATION TO GUATEMALA AND HONDURAS,  
Guatemala, July 5, 1905.

SIR: I have the honor to transmit herewith copies with translations appended of the expressions of condolence on the death of Mr. Hay received by this legation from the Governments of Guatemala and Honduras.

The spontaneous expression of sympathy from President Estrada Cabrera seems to me to be marked by a sincere appreciation of the dead statesman and a true spirit of friendship toward the United States.

I have, etc.,

PHILIP BROWN.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs of Guatemala to Chargé Brown.*

DEPARTMENT OF FOREIGN AFFAIRS,  
 REPUBLIC OF GUATEMALA, CENTRAL AMERICA,  
*National Palace, Guatemala, July 1, 1905.*

MR. CHARGÉ: With the most profound sorrow informed myself of the contents of your honor's note of this date, informing me of the sad death of the Hon. Mr. Hay, Secretary of State of the United States, that occurred this morning.

The disappearance of that eminent diplomat and illustrious coworker of His Excellency President Roosevelt must resound with a sad echo, not only in his own country, but over the whole world, since his authorized word was listened to with respect by all the governments of the earth.

Kindly accept, your honor, on this sad occasion, the assurance of our heartfelt sympathy, which in my own name and that of the Government of this Republic I present to you.

I renew, etc.,

JUAN BARRIOS, M.

[Inclosure 2.—Translation.]

*The President of Guatemala to Chargé Brown.*

THE PRESIDENT OF THE REPUBLIC OF GUATEMALA, CENTRAL AMERICA.  
*Guatemala, July 1, 1905.*

HONORABLE FRIEND: I have just received the sad notice of the death in Washington of that notable American statesman, John Hay, who was such an honor to the Government of the Republic you worthily represent in the delicate post of secretary of foreign affairs.

Aside from the demonstrations that the government will make owing to this notable occurrence, I desire to directly express for it to your honor my most sincere sorrow, that your honor may kindly communicate same to your government. You well know how occurrences to that great nation affect your obedient servant,

MANUEL ESTRADA, C.

[Inclosure 3.—Translation.]

*The Minister for Foreign Affairs of Honduras to Chargé Brown.*

[Telegram.]

LA PAZ, HONDURAS,  
*July 3, 1905.*

With profound sorrow I have received your excellency's message communicating to my government the sad news of the unexpected death in Washington on yesterday of the most Excellent Secretary of State John Hay. I beg your excellency to be so kind as to transmit to the United States Government expressions of sincere sorrow on the part of the Government of Honduras for this unfortunate occurrence, at the same time expressing to your excellency our profound grief, I subscribe myself with the most distinguished consideration,

Your excellency's obedient servant,

MARIANO VASQUEZ.

*The Haitian Minister to the Acting Secretary of State.*

[Telegram.]

DEER PARK, MD., *July 1, 1905.*

I have heard with sorrow of the death of Hon. John Hay. In my name and in the name of the Haitian Government, I beg to convey our heartfelt condolence to the people and the Government of the United States.

J. N. LÉGER.

*The Italian Ambassador to the Acting Secretary of State.*

[Translation.]

No. 1664.]

ROYAL EMBASSY OF ITALY,  
*Washington, D. C., July 2, 1905.*

HONORABLE SIR: His excellency Senator Tittoni, minister of foreign affairs, telegraphs me from Rome: "I hear of the death of Mr. John Hay, the deserving, illustrious statesman, whom it was my good fortune to know personally. I beg you to present to his government my condolences and those of the Royal Government."

In complying with these instructions I renew, etc.,

MAYOR.

*The Japanese Minister to President Roosevelt.*

[Telegram.]

EAST GLOUCESTER, MASS.,  
*July 1, 1905.*

In thanking you for your telegram of this date announcing the lamented death of the Hon. John Hay, Secretary of State, I hasten to express the deepest sympathy of my government with that of the United States in their sad loss of so distinguished and honored a statesman and the heartfelt regrets of the members of this legation.

TAKAHIRA.

*The Korean Chargé to the Acting Secretary of State.*LEGATION OF KOREA,  
*Washington, July 5, 1905.*

SIR: I am directed by the minister of foreign affairs to express, on behalf of His Majesty the Emperor and the Government of Korea, the warmest sympathy and condolence with the United States on the death of Hon. John Hay, Secretary of State.

Accept, etc.,

YUN CHUNG KIM.

*Minister Lyon to the Secretary of State.*

No. 115.]

THE AMERICAN LEGATION,  
*Monrovia, Liberia, July 13, 1905.*

SIR: Your cablegram dated July 1, announcing the unexpected demise of His Excellency John Hay, the Secretary of State, was received with profound regrets at this post of the 10th instant.

\* \* \* \* \*

I herein inclose copies of the communications received on the subject.

\* \* \* \* \*

I have, etc.,

ERNEST LYON.

[Inclosure.]

*The Liberian Department of State to Minister Lyon.*DEPARTMENT OF STATE,  
*Monrovia, Liberia, July 10, 1905.*

YOUR EXCELLENCY: By direction of His Excellency the Secretary of State, I have the honor to acknowledge receipt of your dispatch of current date conveying the sad intelligence of the demise of His Excellency John Hay, American Secretary of State, and to express the deep sympathy of the Government and people of Liberia with the United States in the loss which she has sustained by the death of one of her most illustrious citizens.

I am to request you to convey these sentiments to his excellency the President of the United States.

I have, etc.,

EDWIN J. BARCLAY,  
*Chief Clerk, State Department.**Chargé Garrett to the Acting Secretary of State.*No. 31. Luxemburg Series.] AMERICAN LEGATION,  
*The Hague, The Netherlands, July 7, 1905.*

SIR:

\* \* \* \* \*

I have the honor to inclose herewith a copy of the telegrams which have passed between this legation and the Luxemburg Government in regard to the death of Secretary Hay.

I have, etc.,

JOHN W. GARRETT.

[Inclosure.—Telegram.—Translation.]

*The Minister of State of Luxemburg to Chargé Garrett.**July 2, 1905.*

The Hereditary Grand Duke and myself sympathize most keenly in the great loss which your country has sustained, and which is doubly painful at the present moment. We express to you our deep condolences.

EYSCHEN.

*Ambassador Conger to the Acting Secretary of State.*No. 36.] AMERICAN EMBASSY,  
*Mexico, July 7, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's telegram announcing the unexpected death of the Hon. John Hay, Secretary of State, and to confirm my telegram in reply.

I immediately addressed a note to Mr. Mariscal, conveying the information of this sad calamity, a copy and translation of whose reply is herewith inclosed.

\* \* \* \* \*

I have, etc.,

E. H. CONGER.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Ambassador Conger.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, July 3, 1905.*

MR. AMBASSADOR: Through your excellency's courteous note of the 1st instant, I have learned with deep regret that the Hon. John Hay, Secretary of State of the United States, died this morning.

Considering the excellent qualities which characterized Mr. Hay, the Mexican Government sincerely deploras the loss which the Government and people of the United States have just suffered; and cognizant of this fact, as soon as I received the advice of the death, I instructed the chargé d'affaires ad interim of Mexico at Washington to convey the proper expression of condolence to the President of the United States and to the family of the deceased, and I now offer to your excellency the expression of my deep sorrow.

I avail myself of this occasion to renew, etc.,

IGNO. MARISCAL.

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*Minister Gummeré to the Secretary of State.*

No. 33.]

AMERICAN LEGATION,  
Tangier, July 17, 1905.

SIR: As I reported in my dispatch of July 3, 1905, according to the directions of the Department I announced the death of Secretary Hay to Sid Hamed Torres, acting minister of foreign affairs, with the request that he communicate the same to his government at Fez. I have now further to report that I have received a letter from the said acting minister of foreign affairs, a translation of which is inclosed, informing me that he had received the reply to his said communication to the court, in which His Majesty the Sultan commands him to express his deep regret and sorrow for the loss sustained by our country in the death of Secretary Hay.

I am, etc.,

S. R. GUMMERÉ.

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[Inclosure.—Translation.]

*The Acting Minister of Foreign Affairs to Minister Gummeré.*

I beg to inform your excellency that, as I informed you, I reported to the Holy Court the death of the Grand Vizier of your great nation, Mr. John Hay. I have now received the answer of the Holy Court, in which my master the Sultan commands me to express his deep regret and sorrow for the loss of the above-mentioned vizier, and also for the loss sustained by your great nation, leaving all hearts with grief and pain, and we pray to God that such loss will not occur again, and remain in peace and with joy.

Tangier, Youmada 1st 9th 1323. July 13, 1905.

HAMED BEN MOHAMED TORRES.

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*The Netherlands Chargé to the Acting Secretary of State.*

[Translation.]

ROYAL LEGATION OF THE NETHERLANDS,  
Newport, July 3, 1905.

MR. ASSISTANT SECRETARY OF STATE:

I had the honor to receive the dispatch by which your excellency was so good as to inform me of the demise of the late Secretary of State of the United States, Mr. John Hay.

I transmitted the sad intelligence by cable to the Government of Her Majesty the Queen, my august sovereign, and have been instructed by telegram to tender the assurance of the profound sympathy it feels for the American nation in the great loss it has just sustained.

Be pleased to accept, etc.,

E. DE TUYLL DE SEROOSKERKEN.

*The President of Nicaragua to President Roosevelt.*

[Telegram.]

*Managua, July 1, 1905.*

I regret the death of the eminent Secretary of State.

ZELAYA.

*The Nicaraguan Minister of Foreign Affairs to the Acting Secretary of State.*

[Telegram.—Translation.]

MANAGUA, NICARAGUA,  
*July 1, 1905.*

The Government of Nicaragua laments the death of the eminent statesman, Mr. Hay.

ALTAMIRANO.

*The President of Panama to President Roosevelt.*

[Telegram.]

PANAMA, *July 1, 1905.*

The Government and people of Panama participate in the sorrow of the Government and people of the United States at the death of their eminent Secretary of State, Mr. John Hay.

M. AMADOR GUERRERO.

*The Panaman Minister to the Acting Secretary of State.*

[Translation.]

No. 21.]

LEGATION OF PANAMA,  
*Washington, July 1, 1905.*

SIR: With profound sorrow have I heard of the demise of the Hon. John Hay, Secretary of State, at Newbury, N. H., at 12.25 this morning.

The flag of the Republic of Panama will be kept at half-mast for three days as an homage paid by my country to the eminent Secretary, whose death is looked upon by it as a great national loss. The Republic of Panama sincerely joins in the mourning of this nation for the everlasting departure of the distinguished Secretary, John Hay.

With sentiments of high regard, etc.,

J. D. DE OBALDÍA.

*The President of Peru to President Roosevelt.*

[Telegram.—Translation.]

LIMA, *July 1, 1905.*

My government participates in the sorrow of the United States at the death of the illustrious Secretary Hay.

PARDO.

*The Peruvian Minister to the Acting Secretary of State.*

No. 13.]

LEGATION OF PERU,  
*Washington, D. C., July 4, 1905.*

SIR: I received with great regret your excellency's note, in which you informed me of the death of His Excellency John Hay, Secretary of State, and I reiterate to your excellency my most sincere condolences.

I communicated the unfortunate occurrence to my government, and the minister of foreign relations has instructed me, also by cable, to express to your excellency the profound regret with which the people and Government of Peru received the unhappy news.

With highest regards, etc.,

MANUEL ALVAREZ CALDERON.

*Minister Bryan to the Acting Secretary of State.*

No. 162.]

AMERICAN LEGATION,  
*Lisbon, Portugal, July 5, 1905.*

SIR: I have the honor to send herewith a copy and translation of a note of sympathy from the minister for foreign affairs on behalf of the Portuguese Government.

King Carlos, who was absent at sea when the sad news reached us, has since expressed to me his earnest condolences and in this feeling of regret his Queen Consort has sincerely joined him.

Fervent words and letters of sympathy have also come from my colleagues of the diplomatic corps, those from the Brazilian and British ministers being especially heartfelt.

I have, etc.;

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Bryan.*

*July 3, 1905.*

EXCELLENCY: I have the honor to acknowledge the note which your excellency addressed to me on the 1st instant, communicating to me the sad news of the death of the Secretary of State of the United States of America, Mr. John Hay.

His Majesty's Government learned with so much the more sorrow of the death of this so illustrious and distinguished statesman because it is sure of and much appreciates Mr. Hay's feelings toward Portugal.

Believe me, excellency, that for this reason the condolences are very sincere, which in the name of the Portuguese Government I send to your excellency on account of this deplorable event.

I avail, etc.,

A. EDUARDO VILLAÇO.

*Minister Jackson to the Secretary of State.*

No. 199. Roumanian Series.]

AMERICAN LEGATION,  
*Sinaia, Roumania, July 22, 1905.*

SIR: I have the honor to report to-day of a note from General Lahovary the Roumanian minister of foreign affairs, in which, in reply to Mr. Wilson's notification of the death of the Hon. John Hay, Secretary of State of the United States of America, the minister asks me to accept the expression of the sincere regrets of the Royal Government.

I have, etc.,

JOHN B. JACKSON.

*The Russian Ambassador to President Roosevelt.*

[Telegram.]

WASHINGTON, D. C., July 1, 1905.

The Imperial Government, being painfully affected by the news of the sudden death of Secretary of State Hay, instructs me to transmit to the Federal Government the expression of its sincere condolences at this sad event.

CASSINI.

*The President of Salvador to President Roosevelt.*

[Telegram.]

SAN SALVADOR, July 3, 1905.

I deplore the death of Secretary Hay.

ESCALON.

*Minister Jackson to the Secretary of State.*

No. 78. Servian series.]

AMERICAN LEGATION,  
Belgrade, July 10, 1905.

SIR: I have the honor to report the receipt to-day of a note from Mr. Zujovic, the Servian minister of foreign affairs, requesting the transmission to my government of the expression of the sincere regrets of the Royal Servian Government at the loss suffered by the people of the United States in the person of that very distinguished citizen and eminent statesman Hon. John Hay.

\* \* \* \* \*  
I have, etc., \_\_\_\_\_ JOHN B. JACKSON.

*The Siamese Minister to President Roosevelt.*

[Telegram.]

EAST GLOUCESTER, MASS.,  
July 2, 1905.

I am commanded by my sovereign to express his deepest sympathy with you and with the people of the United States in the lamented death of your most distinguished and universally respected statesman the Hon. John Hay.

SIAMESE MINISTER.

*Minister Collier to the Acting Secretary of State.*

No. 20.]

AMERICAN LEGATION,  
Madrid, July 3, 1905.

SIR: I have the honor to acknowledge the receipt, at 11.40 p. m. on the 1st instant, of your cable, reading:

"Secretary Hay died unexpectedly at twelve twenty-five this morning. Notify government and display usual symbols of mourning."

"PEIRCE."



I immediately dispatched a note to the Spanish minister of state, conveying to him the sad intelligence of Secretary Hay's death, and I instructed the janitor to half-mast the flag of the legation and to display the usual symbols of mourning.

\* \* \* \* \*

I have received from the minister of state a letter, copy and translation of which I inclose.

\* \* \* \* \*

I have, etc.,

WM. MILLER COLLIER.

[Inclosure.—Translation.]

*The Minister of State to Minister Collier.*

JULY 2, 1905.

EXCELLENCY: I have learned with deep regret, through your excellency's courteous letter of yesterday, of the unexpected death of Mr. John Hay, the United States Secretary of State, of which misfortune I had been acquainted by telegraph.

In declaring to your excellency my profound grief for so grievous a loss which has been sustained by your excellency and by the American Government, I wish in the name of His Majesty's Government and in my own name to express heartfelt sorrow.

I avail, etc.,

F. SANCHEZ ROMAN.

*Minister Graves to the Secretary of State.*

No. 18.]

AMERICAN LEGATION,  
*Stockholm, July 8, 1905.*

SIR: I have the honor to transmit herewith a letter of the minister for foreign affairs, expressing the condolence of the Government of Sweden and Norway at the decease of Mr. Hay.

I have the honor to be, etc.,

CHARLES H. GRAVES.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Graves.*

MINISTRY OF FOREIGN AFFAIRS,  
*Stockholm, July 4, 1905.*

MR. MINISTER: I had the honor of receiving the letter dated yesterday, in which you informed me of the decease of Mr. John Hay, Secretary of State of the United States of America.

I wish to express to you how greatly the King's Government sympathizes in the loss which your country has just sustained by the death of this eminent statesman, with whom the representatives of the King in Washington have always had such excellent relations.

Please except, etc.,

GYLDENSTOLPE.

*The Swiss Minister to the Acting Secretary of State.*

[Translation.]

LEGATION OF SWITZERLAND,  
*Washington, D. C., July 3, 1905.*

MR. ASSISTANT SECRETARY OF STATE: In the name of the Swiss Federal Council, the President of the Confederation, Mr. Ruchet, has just instructed me to express to the Government of the United

States his sincere condolences for the great loss it has just sustained in the death of Mr. John Hay, Secretary of State.

I therefore have the honor to discharge this duty hereby, and to beg you, Mr. Assistant Secretary of State, to be so good as to acquaint President Roosevelt with the share taken in this great mourning by the Swiss Federal Council.

Be pleased, etc.,

L. VOGEL.

*The appointed Turkish Minister to the Acting Secretary of State.*

[Translation.]

IMPERIAL LEGATION OF TURKEY,  
Washington, July 1, 1905.

MR. SECRETARY: I exceedingly regret to learn from the notice I have just received the sad intelligence of the death of His Excellency Mr. John Hay, Secretary of State.

I hasten to transmit to you the keen regrets of the Imperial Government at the untimely loss of that illustrious and great statesman, in which regrets I personally join.

Be pleased to accept, Sir, in this sorrowful circumstance, the expression of my profound and keen sympathy.

CHEKIB.

*The Uruguayan Minister to the Acting Secretary of State.*

[Translation.]

LEGATION OF URUGUAY,  
Washington, D. C., July 1, 1905.

HONORABLE SECRETARY OF STATE:

Since my arrival at Washington I have been indebted to the Hon. John Hay, in the capacity with which I am vested, for attentions that I supremely appreciate and which I have ever endeavored to acknowledge by professions of my high and respectful affection.

On this day of his demise, unexpected and sorrowful, it behooves me to present to your excellency, in the name of my government and in my own, the most profound condolences for this great loss, and I beg that you may be so good as to transmit them to His Excellency the President, of whom the illustrious deceased was a prominent associate in the arduous duties of State, as well as a glorious citizen of the United States, for the leading part he took in international questions of the greatest importance for mankind and universal civilization.

Your excellency will, therefore, consider me a true and grieved participant in the mourning of the great American nation for the austere citizen who has been taken away from it and of whose talents and virtues I was a close admirer.

I salute, etc.,

EDO. ACEVEDO DIAZ.

*The Venezuelan Chargé to the Acting Secretary of State.*

[Translation.]

LEGATION OF THE UNITED STATES OF VENEZUELA,  
Washington, D. C., July 1, 1905.

MOST EXCELLENT SIR: With the most profound sorrow I have read your courteous note of to-day, by which you announce to me the

demise of the Hon. John Hay, Secretary of State, at his country house in Newbury, N. H., at 12.25 this morning.

On this occasion I extend, in the name of my government and in my own, the most sincere expression of condolence for the great loss sustained by the government and the nation.

I beg you to accept, etc.,

N. VELOZ-GOITICOA.

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**APPOINTMENT OF ELIHU ROOT AS SECRETARY OF STATE.**

*The Secretary of State to the Diplomatic and Consular Officers of the United States.*

DEPARTMENT OF STATE,  
Washington, July 19, 1905.

GENTLEMEN: I have to inform you that the President has appointed me to be Secretary of State of the United States, and that I have this day entered upon the duties of the office.

I am, gentlemen, your most obedient servant,

ELIHU ROOT.

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**WITHDRAWAL OF THE AMERICAN LEGATION FROM KOREA.**

*The Secretary of State to the Diplomatic Officers of the United States.*

DEPARTMENT OF STATE,  
Washington, November 25, 1905.

GENTLEMEN: I have to inform you that, in view of the convention signed November 17, 1905, between Japan and Korea, by which Japan becomes the medium for conducting the foreign relations of Korea, the American legation at Seoul has been withdrawn, and that the representation of the United States in diplomatic matters effecting American rights of treaty, persons, and property in Korea will hereafter be dealt with through the channel of the Japanese foreign office.

I am, etc.,

ELIHU ROOT.

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**MOROCCAN CONFERENCE.**

*The Secretary of State to Ambassador Storer.<sup>a</sup>*

DEPARTMENT OF STATE,  
Washington, December 1, 1905.

SIR: I inclose herewith, for your information, copies of the instructions<sup>b</sup> issued to the delegates of the United States to the conference to be held at Algeciras, Spain, on December 15, to consider Moroccan affairs.

I am, etc.,

ELIHU ROOT.

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<sup>a</sup> The same circular mutatis mutandis to the American representatives in Belgium, Denmark, France, Germany, Great Britain, Netherlands, Portugal, Spain, Sweden and Norway.

<sup>b</sup> Printed under the same subject under Morocco, p. 678.

## ARGENTINE REPUBLIC.

### REVOLUTIONARY MOVEMENT IN THE ARGENTINE REPUBLIC.

*Minister Beaupré to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Buenos Aires, February 4, 1905.*

Mr. Beaupré reports that a revolution started to-day in Buenos Aires and several of the provinces. Arsenals and police stations were attacked simultaneously, and some of them were taken with a view of seizing the arsenals and making prisoners of the President and the cabinet ministers and to force them to resign. Vigorous measures were taken, however, by the government and many arrests were made. The city has been placed under martial law. Order will probably soon be restored.

---

*Minister Beaupré to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Buenos Aires, February 5, 1905.*

(Mr. Beaupré reports that order has been restored in the city and that business and traffic are approaching normal conditions. The indications are that the government will be able to suppress the uprising without difficulty. Telegrams and the press are controlled by the censor.)

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*Minister Beaupré to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Buenos Aires, February 8, 1905.*

(Mr. Beaupré reports that the insurrection has been suppressed.)

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*Minister Beaupré to the Secretary of State.*

No. 119.]

AMERICAN LEGATION,  
*Buenos Aires, February 8, 1905.*

SIR: Supplementing my telegrams of the 4th, 5th, and present instant, I have the honor to report that on the afternoon of the 3d instant rumors of an intended movement subversive of the established government of this country came to the Federal authorities from vari-

ous parts of the Republic. These rumors were at first discredited, but finally proved so persistent that the President and heads of the various departments of the government proceeded to take measures of precaution. In the early hours of the morning of the next day, the 4th instant, the anticipated outbreak came simultaneously in the capital, Rosario, Mendoza, Cordoba, and Bahia Blanca, these being the largest cities of the Republic and the principal political and military centers.

In the capital the plan of the revolutionists seems to have been to attack the police stations and military arsenal, with a view perhaps of forcing the police of the capital into their ranks and of supplying themselves with arms and munitions. At the arsenal, by a simple stratagem of the minister of war, the malcontents were lured into the building and arrested. About the police stations there was some fighting, particularly at Station No. 14; but the insurgents proved unprepared and insufficiently organized, so that by dawn the movement had completely failed in this city. Except that many of the shops remained closed throughout the day of the 4th, and except for the presence of armed police in the streets, there were no evidences of any revolutionary effort. Some half dozen fatalities are reported.

The prompt and effective suppression of the revolution in this city is due in large measure to the energy and judgment displayed by the President and his ministers, who spent the entire night in the Government House in council. Following up the precautionary measures of the 3d instant and the active measures of the night of the 3d and 4th, the President proceeded at 8 a. m. of the 4th to declare the Republic in a state of siege for a period of thirty days, to call out the reserves and to establish a censorship of the press and of the telegraph service.

The movement in Rosario was about as brief and unsuccessful as that in the capital, so that by the forenoon of the 4th it was known to have failed in the two principal cities of the Republic. Here there was also some blood shed.

In the meantime the real center of the movement was the city of Cordoba, while serious trouble seemed in view in the city of Mendoza, where the revolutionists were said to be in a strong position, and in the province of Buenos Aires, where troops and marines were already in movement from Bahia Blanca upon the capital. To prevent concentration from these points upon the capital all railway service was suspended, the rails even being removed in various places by order of the government. Then the government proceeded to take the aggressive. General Winter was sent at noon of the 5th by rail to Cordoba with two batteries of the Second Artillery, 150 men, and 100 marines. He was joined by the Fifth Artillery from Parana and 300 prison guards. He was further joined en route by forces of country police. On the same day General Saturnino García was sent from Tucuman with the Fifth Cavalry, Third Mountain Artillery, and First Chasseurs to join General Winter. The same day General Fotheringham was ordered to Mendoza with the Thirteenth infantry and the Fourth Artillery, and was joined by Lieutenant-Colonel Rawson with 300 men and by Colonel Tiscornia with the Fourth Infantry and Second Artillery. To meet the forces proceeding under Major Villamayor across the province of Buenos Aires from Bahia Blanca upon the capital the gendarmeria of the province was concentrated in La Plata. Thence there were sent out two divisions by train, the first under Colonel Zeballos, consisting of 450 gendarmes armed with Remingtons and

Mausers; and the second under Captain Baez, consisting of 400 gendarmes and prison guards armed with Mausers and a Maxim gun.

At an early hour of the morning of the 7th instant General Fotheringham's forces arrived before Mendoza. At sight of the Federal troops the revolutionists, having learned that the movement had failed in the capital, fled toward the borders of Chile, where some of the leaders have since been taken and await extradition. They had taken possession of the city of Mendoza with some bloodshed and had sacked the Bank of the Nation; the money stolen, being some \$300,000 Argentine paper currency, they carried away with them.

The defeat of the forces in the province of Buenos Aires was equally complete, there being some 7 killed and 10 wounded. Major Villamayor fled toward the west and is being pursued. Later reports may give more casualties.

The revolutionary forces at Cordoba had made prisoners of the vice-president of the Republic, Dr. Figueroa Alcorta, and other prominent citizens. These prominent men they are reported to have proposed putting in their vanguard unless concessions were made to them. This and the conditions of the revolutionists the vice-president telegraphed to the Executive, who did not allow himself to be moved by threats or even by sympathy for his colleague. Consequently the revolutionists, finding threats and resistance vain, fled yesterday before the government troops arrived. With the failure of the movement in Cordoba the revolution is considered at an end and the country has returned to its former condition of peace and tranquillity.

This movement came as a surprise to the inhabitants of this city and is universally condemned and deplored. The President is the recipient of congratulations from all quarters, various bodies of business men having presented formally and in person resolutions of sympathy and approval. In the end it will serve, I believe, to strengthen the existing government.

\* \* \* \* \*  
I am, etc., A. M. BEAUPRÉ.

*Minister Beaupré to the Secretary of State.*

No.122.]

AMERICAN LEGATION,  
*Buenos Aires, February 24, 1905.*

SIR: Referring to my No. 119, of the 8th instant, in regard to the revolutionary movement that began here on the morning of the 4th instant, I have the honor to report that the same terminated with the events recounted in my dispatch above referred to. From the moment when the revolutionary forces of Cordoba gave up their cause as lost and dispersed, the revolution, or mutiny as it is preferably called here, has been considered an episode of the past, and the government has been occupied solely with the judicial phase of the movement. A council of war was at once appointed and proceeded to try the offenders and to pronounce sentence upon the leaders. Thus Maj. Anibal Villamayor has been condemned to eight years, Lieut. Eduardo Gibelli to five years, and Lieut. Horacio Guillermon to three years imprisonment and others to shorter terms, and a large number of prisoners is awaiting trial. The state of siege that was declared on the morning of the 4th instant for a period of thirty days continues, and the censorship

of the press has been extended, so that besides other subjects that of the attitude and actions of the vice-president of the Republic during the days of trouble, the 4th to the 8th instant, is exempted from comment of any sort.

A matter that occasioned considerable discussion and might have led to a misunderstanding between this country and the neighboring Republic of Chile was the disposal of the revolutionary fugitives from Mendoza, who took refuge in the latter country, carrying with them some 300,000 pesos from the National Bank of Mendoza, particularly Dr. José Nestor Lencina. Doctor Lencina with others was arrested by the Chilean authorities and held for some time apparently awaiting the demand of this government for his extradition. It being impossible by the terms of the treaty in force between the two Republics to secure their extradition as political refugees, it was thought that they might be brought back on the charge of bank robbery. It is, however, probable that the robbery of the National Bank of Mendoza will be viewed as an incident of the revolutionary movement, and hence as a political offense and the matter be dropped as outside the treaty provisions. In the meantime the good feeling between the two countries does not seem to have suffered any change.

\* \* \* \* \*  
I am, etc.,

\* \* \* \* \*  
A. M. BEAUPRÉ.

**RESUMPTION OF DIPLOMATIC RELATIONS BETWEEN THE  
ARGENTINE REPUBLIC AND URUGUAY.**

*Minister Beaupré to the Secretary of State.*

No. 136.]

AMERICAN LEGATION,  
Buenos Aires, March 16, 1905.

SIR: I have the honor to report that the relations between this country and the neighboring Republic of Uruguay, which have long been very strained, have again been restored to their normal condition of good understanding by the cooperation of the foreign offices in the two countries. It is now expected that Uruguay will promptly send a diplomatic representative to this capital to succeed Dr. Daniel Muñoz, recently transferred to London, and the Argentine minister, Señor Alejandro Guesalaga, recently appointed from Asuncion to Montevideo, but detained in the former city by the state of affairs in the Republic of Paraguay, will proceed without delay to his new post. The interrupted representation of the two countries will then have been resumed and the rupture and bad feelings of the past months will, it is hoped, soon be forgotten

I am, etc.,

A. M. BEAUPRÉ.

*The Acting Secretary of State to Minister Beaupré.*

DEPARTMENT OF STATE,  
Washington, April 26, 1905.

SIR: The Department has read with pleasure the announcement contained in your dispatch No. 136, of the 16th ultimo, of the resumption of diplomatic relations between the Argentine Republic and Uruguay.

I am, etc.,

ALVEY A. ADEE.

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

*Minister Beaupré to the Secretary of State.*

No. 151.]

AMERICAN LEGATION,  
*Buenos Aires, May 2, 1905.*

SIR: I have the honor to transmit herewith the usual number of copies of the message delivered yesterday by the President of this Republic at the opening of the ordinary session of Congress.

\* \* \* \* \*

President Quintana's inaugural address, delivered on October 12, last, the day of his inauguration as President of the Argentine Republic, was warmly received by the people and press of this country, as it truly deserved to be, for it was tempered with sincerity and serious, honest purpose and abounded in promises for the future; it called up all the most evident needs of the hour and assured the expectant public of the necessary corrective measures. This welcome message was followed up by the inauguration of a vigorous policy with the full immediate prosecution of which the season and the recess of Congress have necessarily interfered, but which, it is expected, will now be carried forward with satisfactory and lasting results.

The present message to Congress begins with a frank subscription to the inaugural message, thus: "Before giving you an account of the general state of the Republic—as prescribed by the constitution—let me ratify in every detail the inaugural programme of my government. I have nothing to modify in its solemn engagements, which I undertook with sincerity and patriotism, which have been strengthened by public verdict." This is followed up by a bold statement of the President's honest and progressive intentions: "My government shall be progressive and institutional. \* \* \* I can not forget that I, as the Executive, must be the first guarantee of all rights. \* \* \* My only ambition is the public good." The courage of the present incumbent of the Presidency is next clearly shown in that he speaks in no evasive terms, but openly and frankly, of the recent subversive movement of February 4-8 last, admitting that he had knowledge of the "conspiracy in the army when" he "assumed power," speaking with satisfaction of the prompt and thorough manner in which said movement was checked and of the impartiality with which justice was administered in the case of the offenders and offering consoling and sure promises for the future.

The President then proceeds to treat individually of the various departments of the government.

\* \* \* \* \*

In the department of foreign affairs the President finds matter for satisfactory comment in the approximate conclusion of the Chilean boundary survey, in the reestablishment or continuation of cordial relations with the republics of Uruguay and Paraguay after their internal difficulties. A consular and diplomatic bill has been framed by this department, reorganizing these services, and will be the first matter presented to Congress. And within the past two weeks this country has entered into an agreement with the Republic of Uruguay to suppress all lotteries in both countries.

\* \* \* \* \*



The tone of the message as a whole is most hopeful as regards both the present condition of the country and the outlook for the future. Honest administration and reform legislation along the most necessary lines are the burden of its assurance for the future of this administration. There is much that is in project that will pass through the winnowing process of congressional debate, and emerge, it is to be hoped, the pure grain of good legislation. There are some projects, too, that only the future can test, and it will rest with Congress to prepare them for that test. But the promise of the whole is hopeful.

I am, sir, etc.,

A. M. BEAUPRÉ.

**TREATY BETWEEN THE ARGENTINE REPUBLIC AND URUGUAY  
FOR THE SUPPRESSION OF LOTTERIES.**

*Minister Beaupré to the Secretary of State.*

No. 154.]

AMERICAN LEGATION,  
*Buenos Aires, May 10, 1905.*

SIR: I have the honor to report that there has been signed by the presidents of the Argentine Republic and the Republic of Uruguay through their respective plenipotentiaries, Dr. Carlos Rodriguez Larreta, minister of foreign affairs of this government, and Señor Daniel Muñoz, envoy extraordinary and minister plenipotentiary of Uruguay before this government, a treaty having for its end the suppression of all lotteries within the territory of the respective republics. This treaty was on the 4th instant sent to Congress accompanied by an executive message urging its ratification, and has been referred by that body to its committee on constitutional affairs. I inclose a copy of the treaty cut from the daily record of the Senate, with translation; also a copy of the executive message above mentioned, likewise with translation.

\* \* \* \* \*

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

[From the daily record of the National Congress: "Camara de Senadores," No. 3, of May 6, 1905, reporting session of May 4, 1905.]

**TREATY WITH THE REPUBLIC OF URUGUAY FOR THE SUPPRESSION OF THE LOTTERY.**

The President of the Argentine Republic and the President of the Oriental Republic of Uruguay, with the desire to combat gambling in their respective countries, have resolved to this end to enter into a treaty and have named their plenipotentiaries, to wit:

The President of the Argentine Republic, Dr. Carlos Rodriguez Larreta, minister of state in the department of foreign affairs and worship:

The President of the Oriental Republic of Uruguay, Señor Daniel Muñoz, envoy extraordinary and minister plenipotentiary of said Republic, who having exchanged their full powers, which were found in good and due form, have agreed upon the following:

Article I. The contracting governments agree to suppress from the 1st of July, 1907, the lotteries of charity and philanthropy, whose drawings are at present made under official patronage in the two republics.

Article II. Each one of the high contracting parties promises to prohibit and to prosecute every lottery undertaking, public or private, which shall intend to establish itself or which shall establish itself in its territory, whether in the Argentine provinces or in the departments of the Oriental Republic of Uruguay.

Article III. None of the governments shall grant the character and privileges of legal personality to anonymous societies that under any pretext whatever may propose to exploit gambling by means of drawings and the distribution of prizes that depend upon chance. Before the 1st of July, 1907, the contracting governments likewise promise and agree to withdraw the legal personality which they have given to societies of this sort.

Article IV. The authorities of both nations will lend one another reciprocal aid in prosecuting clandestine lotteries and also those which exist under authority of the governments of other countries. In order to make more difficult the introduction of foreign lotteries, the high contracting parties will negotiate the adhesion of the republics of Brazil, Paraguay, Bolivia, and Chile to the clauses of the present treaty, which shall not enter into effect so long as such adhesion shall not have been obtained.

Article V. This convention shall continue in force for the term of ten years counting from the 1st of July, 1907. But if none of the contracting parties announces to the other one year before this term expires its intention to make it cease of effect, it shall continue in force until one year after the day on which the denunciation made by one of the contracting parties shall come to the knowledge of the other.

Article VI. The present treaty shall be ratified and the ratifications shall be exchanged in Buenos Aires eight months after this date, or earlier if possible.

In faith of which the plenipotentiaries have signed the present treaty in duplicate and have sealed it in the city of Buenos Aires, the 27th day of the month of April, 1905.

[L. s.]  
[L. s.]

C. RODRIGUEZ LARRETA, Jr.  
DANIEL MUÑOZ.

**ADDITIONAL PROTOCOL TO THE EXTRADITION TREATY IN FORCE  
BETWEEN THE ARGENTINE REPUBLIC AND ITALY.**

*Minister Beaupré to the Secretary of State.*

No. 156.]

AMERICAN LEGATION,  
*Buenos Aires, May 10, 1905.*

SIR: I have the honor to report that there was agreed upon and signed at Rome on June 9, 1904, by the duly authorized representatives of this country and Italy, Señor Enrique B. Moreno, envoy extraordinary and minister plenipotentiary of Argentina to Italy, and Hon. Tommaso Tittoni, Italian minister of foreign affairs, an additional protocol to the extradition treaty now in force between the two said countries. This protocol was to-day submitted to Congress for its approval, accompanied by an executive message urging its ratification.

I inclose herewith a copy of the protocol cut from the record of the Chamber of Deputies, No. 4, of to-day's date, with a translation.

\* \* \* \* \*

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

[From the daily record of the Chamber of Deputies of the National Congress, No. 4, reporting session of May 10, 1905.]

ADDITIONAL PROTOCOL TO THE TREATY OF EXTRADITION WITH ITALY.

Met in the ministry of foreign affairs of the Kingdom of Italy, their excellencies Tommaso Tittoni, minister of foreign affairs, and Don Enrique B. Moreno, envoy extraordinary and minister plenipotentiary of the Argentine Republic, with the object of harmonizing the convention of June 16, 1886, with the provisions of the Italian penal code, which went into effect on January 1, 1890, and in which the distinction between criminal and correctional penalties was eliminated and the death penalty was abolished, and, desiring further to remove the

doubt to which the interpretation of said convention might give rise in the cases indicated, agreed upon the following:

I. That extradition shall always be conceded for the crimes of homicide, corporal injury, rape, seduction, criminal assault, polygamy, pretended marriage, incendiarism, falsification, and bankruptcy, in the cases described as such crimes in numbers 1, 2, 3, 4, 7, 9, and 10 of article VI of said convention whatever the penalty applicable or applied to those crimes may be.

II. That extradition shall be conceded for the other crimes indicated in the above-mentioned article VI whenever they are subject to punishment restrictive of personal liberty for a period greater than one year or punishable by a fine that exceeds the sum of one thousand pesos, Argentine national currency, or its equivalent in Italian liras.

III. That in the case of extradition of an individual accused or condemned of a crime which the laws of the country requesting the extradition punish by a greater penalty than those of the country of which extradition is requested, the latter may on granting extradition impose the condition that the lesser penalty be inflicted. When it is a question of the death penalty, for it shall be substituted that immediately inferior according as the laws of the respective countries may prescribe.

IV. That extradition shall be conceded although the guilty party alleges a political motive or end, if the deed for which it was requested constitute primarily a common crime.

V. That an attempt upon the life of the chief or sovereign of one of the contracting States, or upon the members of their respective families, or upon the ministers of state, shall not be considered a political crime, or even connected with a political crime, when this attempt constitutes homicide or poisoning, punishable by a penalty of whatever degree.

In faith of which the undersigned, duly authorized to this effect, have signed and sealed the present additional protocol to the convention of extradition of June 16, 1886.

Done in duplicate copies in the city of Rome on June 9, 1904.

The minister of foreign affairs of the Kingdom of Italy.

TOMMASO TITTONI.

The minister of the Argentine Republic, near His Majesty, the King of Italy.

ENRIQUE B. MORENO.

## PENSION LAW FOR DIPLOMATIC OFFICERS IN THE ARGENTINE REPUBLIC.

*Minister Beaupré to the Secretary of State.*

No. 165.]

AMERICAN LEGATION,  
*Buenos Aires, June 26, 1905.*

SIR: I have the honor to report that, following up the course of reforms and reorganization in the diplomatic and consular services of this country inaugurated by the present administration, Congress has adopted and the Executive approved a law for the pensioning of the diplomats of the country that have grown or shall grow old in the performance of the duties of office. I inclose the usual number of copies of the law cut from the Boletín Oficial (Official Bulletin), No. 3499, of the 20th instant, and the usual number of copies of a translation of the same into English.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

[From the "Boletín Oficial," No. 3499, of June 20, 1905.]

### LAW FOR THE PENSION OF DIPLOMATS.

Whereas, the Senate and Chamber of Deputies of the Argentine nation, united in Congress, etc., have sanctioned with the force of law:

Art. I. The ministers plenipotentiary of the Republic, accredited abroad, who shall have reached the age of seventy years, and performed the duties of their office for a period of not less than fifteen consecutive years, shall be retired and pensioned with one thousand national pesos, legal tender.

Art. II. The ministers plenipotentiary of the Republic, accredited abroad, who shall in the future attain the age of seventy years, and shall have performed the duties of their office for a

period of not less than fifteen consecutive years, shall be retired on the full salary which they may enjoy at the moment of coming under the provisions of this present law, and to this effect the respective paragraphs of the budget shall always represent money of legal tender.

Art. III. Let it be communicated to the Executive.

Given in the Hall of Sessions of the Argentine Congress, in Buenos Aires, the twelfth day of June, one thousand nine hundred and five.

J. FIGUEROA ALCORTA.

B. OCAMPO,

*Secy. of the Senate.*

ANGEL SASTRE.

ALEJANDRO SORONDO,

*Secy. of the Ch. of D.*

Registered under No. 4555.

Therefore: Let it be the law of the nation, let it be communicated, published in the official bulletin, and given to the national register.

QUINTANA.

C. RODRIGUEZ LARRETA.

**LAWS REGULATING THE PRACTICE OF THE PROFESSIONS OF  
ENGINEERS, ARCHITECTS, AGRICULTURISTS, PHARMACY,  
DENTISTRY, AND MEDICINE, ETC.**

*Minister Beaupré to the Secretary of State.*

No. 166.]

AMERICAN LEGATION,  
*Buenos Aires, June 28, 1905.*

SIR: I have the honor herewith to transmit the usual number of copies of a law passed by Congress on the 16th instant and approved by the Executive on the 26th instant entitled: Law regulating the professions of engineers, architects, and agriculturists. By the terms of this law it is required that all civil and mechanical engineers, architects, chemists, agronomists and surveyors, with the exception of those already established and of special foreign experts, to whom for lack of corresponding native talent the Executive may be compelled to intrust special tasks, must, in order to practice their professions in this country, have received diplomas from the universities and special schools of the nation, or if holding titles from foreign institutions, must "revalidate" their titles in accordance with the regulations here in force.

The general intention of this law is, I take it, to provide for the uniform qualification of those who practice the professions in question, as has long since been done in the case of physicians, dentists, etc. As in these last-mentioned cases, for the purpose of "revalidation" the applicant will doubtless be required to pass here examinations in the whole matter of his profession that will necessitate the reviewing if not the repetition of his studies.

I inclose also a translation of the law.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

[From the Boletín Oficial, No. 3503, of June 27, 1905. Ministry of Justice and Public Instruction. Division of Justice.]

**LAW REGULATING THE PROFESSIONS OF ENGINEERS, ARCHITECTS, AND AGRICULTURISTS.**

The Senate and Chamber of Deputies of the Argentine Nation united in Congress, etc., sanction with the force of law:

Art. I. After the promulgation of this law the Executive and tribunals of the nation shall not confer charge, employment, or commission in the professions of civil and mechanical

engineers, in architecture, chemistry, husbandry, and surveying except upon such as have received diplomas from the universities and special schools of the nation, or upon such as revalidate their foreign titles in accordance with the regulations now in force.

Art. II. There shall be excepted from the provisions of the preceding article—

(a) The persons now actually found in the discharge of charges, employments, or commissions of the character of those referred to in Art. I.

(b) There shall also be excepted from the provisions of the preceding article the persons who possess technical knowledge, to whom the Executive is compelled to intrust special tasks which can not be performed by the talent of the country.

(c) Persons of the professions indicated in Art. I, who have degrees given by provincial universities, schools, or tribunals previous to January first, one thousand nine hundred and four, or who were found previous to that same date matriculated or recognized in any national or municipal bureau of the capital.

(d) The same persons who in the provinces or national territories, where they were not given their diplomas, exercise the professions above enumerated subject to the regulations that may be enacted.

Art. III. Let it be communicated to the Executive.

Given in the Hall of Sessions of the Argentine Congress, in Buenos Aires, the sixteenth of June, one thousand nine hundred and five.

J. FIGUEROA ALCORTA.

ENRIQUE MALDES,

*Prosecy. of the Senate.*

ANGEL SASTRE.

A. M. TALLAFERRO,

*Prosecy. of the Ch. of Deputies.*

Registered under No. 4560.

DEPARTMENT OF JUSTICE,

*Buenos Aires, June 26, 1905.*

Let it be the law of the nation, let it be executed, communicated, published, and inserted in the National Register.

QUINTANA.

J. V. GONZALES.

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*Minister Beaupré to the Secretary of State.*

No. 227.]

AMERICAN LEGATION,

*Buenos Aires, September 28, 1905.*

SIR: I have the honor to refer to my No. 166 of June 28 in regard to the practice of professions in the Argentine Republic and to report that, actuated apparently by the same considerations as in the cases discussed in my above-mentioned No. 166, this government adopted, on the 14th instant, a law regulating the practice of pharmacy within the Republic. I inclose the usual numbers of copies of the law, cut from the Boletín Oficial, No. 3569, of the 16th instant, and a translation of the same.

I am, etc.,

A. M. BEAUPRÉ.

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[Inclosure.—Translation.]

[Law of pharmacies translated from the Boletín Oficial, No. 3569, of September 16, 1905.]

MINISTRY OF THE INTERIOR REGULATING THE PRACTICE OF PHARMACY—LAW NO. 4687.

Buenos Aires, *September 14, 1905.*

Whereas the Senate and Chamber of Deputies of the Argentine Nation, united in Congress, etc., have sanctioned with the force of law:

ART. 1. After the promulgation of this law only those pharmacists may establish new pharmacies who possess a diploma authorized or revalidated by the National University, and they shall have the effective and personal direction of the same.

ART. 2. For the purposes of the preceding article there shall be considered as the establishment of a new pharmacy every modification in the firm or partnership, as well as the reopening of any pharmacy that may have remained closed more than thirty days.

ART. 3. The maximum period of four years shall be accorded for the actually existing pharmacies to place themselves within the provisions of the first article.

ART. 4. The qualified pharmacists that may be proprietors of pharmacies before the fifteenth of July of one thousand nine hundred and five, that have passed in the capacity of qualified pharmacists for three consecutive years immediately previous to that date, are qualified to matriculate in the courses in pharmacy of the national universities.

ART. 5. In the case of the death of a pharmacist, only his widow or his minor sons shall be allowed to keep open the pharmacy until the termination of the four years, the pharmacy to be directed during this period by a pharmacist.

ART. 6. The pharmacist shall in every case be personally responsible for the purity and legitimacy of the products that he dispenses or that he employs in making his preparations, of whatever origin they may be.

ART. 7. Those who infringe this law and the regulation of the same that may be decreed shall be subject to a fine of one hundred to a thousand pesos, the closing of their establishment, and the suspension from and disqualification for the practice of their profession according to the gravity and circumstances of the case.

ART. 8. The penalties shall be imposed by the National Department of Hygiene, it being permitted to appeal from its decisions within five days to the respective criminal or titular judge.

The sentences shall be executed by the corresponding tribunals.

ART. 9. The Executive with the intervention of the National Department of Hygiene shall regulate this law, establishing everything that refers to the conducting of pharmacies, to the preparation and dispensing of drugs, serums, vaccines, and other curative preventative or diagnostic agents, decreeing all the measures tending to safeguard the morale of the profession and the public health.

ART. 10. Let it be communicated to the Executive.

Given in the Hall of Sessions of the Argentine Congress, at Buenos Aires, on the eleventh of September of one thousand nine hundred and five.

J. FIGUEROA ALCORTA,  
ADOLFO J. LABOUGLE,  
*Secy. of the Senate.*  
ANGEL SASTRE.  
A. M. TALLAFERRO,  
*Prosecy. of the Ch. of Dep.*

Therefore, let it be law of the nation, let it be complied with, communicated, published, inserted in the National Register, and recorded in the archives.

QUINTANA.  
RAFAEL CASTILLO.

*Minister Beaupré to the Secretary of State.*

No. 274.]

AMERICAN LEGATION,  
*Buenos Aires, December 14, 1905.*

SIR: Referring to my No. 166 of June 28, 1905, and No. 227 of September 28, 1905, concerning the practice of professions, the former relating to engineers, architects, chemists, and surveyors, and the latter to pharmacists, I have the honor to report that the graduates of American medical and dental colleges, with the appropriate degrees, who wish to enter the Argentine medical or dental faculty, in order to practice their profession in this country, must present the following documents:

The diploma of the college in which the student graduated. The signatures of the rector and secretary on the diploma must be authenticated by the Secretary of State, ratified by an Argentine consular officer there resident, and his signature in turn certified by the Argentine minister of foreign affairs. As a matter of convenience, the signatures on the diploma might be authenticated by a local State officer before being sent to the Secretary of State at Washington.

The diploma is then to be presented at the office of the secretary of the faculty, accompanied by a translation of the same into Spanish, made by a public translator, on stamped paper. The public translator must also call at the office of the secretary and sign a document acknowledging and confirming the genuineness of his signature.

When the diploma has been accepted by the faculty, a day will be fixed on which the candidate shall appear at the secretary's office, accompanied by two witnesses, who must not be relatives or minors, and who shall declare in writing that the candidate is the real and lawful owner of the diploma presented.

In addition to this, the candidate must present a petition, written on stamped paper of the value of one dollar, asking to be inscribed in the faculty, and to be allowed to take the examinations necessary for the "revalidation" of his diploma.

The examinations made by the faculty are, of course, in the Spanish language, and embrace the same groups of subjects, and are conducted in the same order and form as prescribed for the alumni of the local school. Provisions are made for reexaminations, in case of failure in the first instance.

The fees for revalidation are: Medical diploma, \$900 paper money (\$382.14 United States money); dental diploma, \$350 (\$148.61).

I am, etc.,

A. M. BEAUPRÉ.

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**INTERNATIONAL SANITARY CONVENTION BETWEEN THE  
ARGENTINE REPUBLIC, BRAZIL, PARAGUAY, AND URUGUAY.**

*Minister Beaupré to the Secretary of State.*

No. 191.]

AMERICAN LEGATION,  
*Buenos Aires, August 3, 1905.*

SIR: I have the honor to refer to my No. 57 of October 6 last <sup>a</sup>, in which I transmitted a single copy of the Spanish text of an international sanitary convention that was agreed upon by the representatives of the three Republics of the River Plate and of that of Brazil in Rio de Janeiro and signed by them in that city on June 12, 1904, and in which I reported the approval of said convention by the Argentine Congress. The ratifications of this convention were duly exchanged in the city of Montevideo, in the Republic of Uruguay, on June 21 last. I inclose the usual number of copies of the above-mentioned international sanitary convention and act of exchange of ratifications, cut from the *Boletín Oficial* (Official Bulletin) of this government, No. 3,509, of the 5th ultimo; likewise the usual number of copies of an entire translation of the same into English.

I am, etc.,

A. M. BEAUPRÉ.

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<sup>a</sup>Not printed.

[Inclosure.]

[Boletin Oficial No 3509 of July 5, 1905.]

MINISTRY OF FOREIGN AFFAIRS AND WORSHIP, MANUEL QUINTANA, CONSTITUTIONAL  
PRESIDENT OF THE ARGENTINE REPUBLIC.

To all to whom this present comes, greetings:

Whereas between the Argentine Republic, the United States of Brazil, the Republic of Paraguay, and the Oriental Republic of Uruguay there was negotiated and signed in the city of Rio de Janeiro the twelfth day of June of the year one thousand nine hundred and four an international sanitary convention, the tenor of which is as follows:

His Excellency the President of the Argentine Republic, His Excellency the President of the Republic of the United States of Brazil, His Excellency the President of the Republic of Paraguay, and His Excellency the President of the Oriental Republic of Uruguay, desiring to safeguard the public health without putting useless obstacles in the way of commercial transactions and the transit of travelers, resolved to celebrate a sanitary convention in order to subscribe to the fundamental articles of international hygiene that are calculated to avoid the importation and dissemination in their respective countries of oriental plague, of Asiatic cholera, and of yellow fever, and to this end named their delegates, to wit:

The President of the Argentine Republic, Doctors Luis Agote and Pedro Lacavera.

The President of the Republic of the United States of Brazil, Doctors Antonio Augusto de Azevedo Sodré and Oswaldo Goncalves Cruz.

The President of the Republic of Paraguay, Doctor Pedro Pena.

The President of the Oriental Republic of Uruguay, Doctors Federico Susviela Guarch and Ernesto Fernandez Espiro.

Who, with the exception of Dr. Federico Susviela Guarch, met on the fifth day of the month of June, one thousand nine hundred and four, in the chamber of honor of the ministry of justice and internal negotiations in the city of Rio de Janeiro, having communicated their full powers, which were found in good and due form, agreed upon the following provisions:

CHAPTER I.—*General provisions.*

ART. I. Each one of the contracting governments promises immediately to notify the others of the appearance of the first cases of oriental plague, yellow fever, or Asiatic cholera in their respective countries.

The notification shall be made by telegraph, by the sanitary authority of the country infected, to the sanitary authorities of the other countries without interfering with the information that the diplomatic or consular agents may transmit, and must supply the following data:

Indication of the locality in which any of these diseases may appear, date of its inception, certain or probable origin, number of cases, clinical form, mortality, and measures taken to extinguish the disease. In case of plague it shall be indicated whether the first cases were preceded by an unusual mortality of rats or not.

ART. II. The sanitary authority of the infected country shall send weekly to those of the other countries detailed information concerning the progress of the epidemic, giving the number of cases and of deaths occurring since the last notification, the measures adopted to avoid the dissemination of the disease and its transmission to the other contracting countries.

ART. III. The sanitary authority of the country that adopts precautionary measures shall communicate to the infected country the measures taken to this end, and the date on which they began to operate.

ART. IV. To facilitate the communication between the sanitary authorities the Governments promise to arrange a sanitary telegraphic code for their exclusive use.

ART. V. There shall be considered infected the locality in which repeated cases, not imported, of cholera, yellow fever, or plague occur.

ART. VI. The appearance of the first cases in a determined locality shall not be ground for the application of measures of defense against the locality whence they proceed unless the respective authorities shall not have taken the necessary provisions to extinguish the disease.

ART. VII. There shall be considered suspicious every locality that, being next to or in easy communication with other infected localities, does not suitably provide for avoiding contamination.

ART. VIII. Prophylactic measures may not be taken against whatever proceeds from localities near those declared infected or in easy communication with them after the moment in which the necessary provisions for avoiding contamination are made.

ART. IX. A locality shall cease to be considered infected when ten days shall have elapsed after the last case of any one of the three diseases referred to; provided, always, that those still sick are kept isolated.



ART. X. The high contracting parties shall send to the country that they may consider infected or suspicious sanitary delegates for the purpose of gathering such information (elementos de juicio) as they may consider pertinent, the authorities of the country being bound to aid them in the fulfillment of their mission.

ART. XI. The high contracting parties agree in adopting as the most efficacious means for the prophylactic treatment, maritime or terrestrial, isolation of the sick or suspected persons, disinfection, institution of sanitary ship-inspectors, sanitary vigilance, preventive vaccination, the old quarantine procedure, and any other measures not explicitly defined in this convention being in consequence eliminated from such treatment.

ART. XII. By sanitary vigilance is meant medical observation exercised by the sanitary authority of passengers or travelers proceeding from infected or suspicious points for a time that may not exceed the period of incubation of the disease against which precautionary measures are being taken.

(a) In the case of passengers of 1st or 2nd class, the sanitary vigilance shall be applied on land without affecting the freedom of transit of the same, the authorities being able to resort to the system of sanitary passports, to demand a deposit of money, which shall be returned at the end of the period of sanitary vigilance, or to adopt any other analogous course that they may judge more adequate for the purpose of guaranteeing the efficacy of the medical observation;

(b) In case of passengers of 3rd class the sanitary vigilance shall be exercised in the buildings and under the restrictions that the sanitary authority may believe wise.

ART. XIII. Postal correspondence shall be admitted without any restriction whatever, only there shall be submitted to the appropriate treatment such postal parcels as contain used objects susceptible of contamination.

ART. XIV. The high contracting parties obligate themselves to receive without distinction into their establishments, destined for the aid of isolation of the sick, those in transit, to whatever destination or from whatever place of departure they may be proceeding.

#### CHAPTER II.—*Prophylactic measures on land.*

When the infected locality is near the frontiers of the contracting countries, measures for sanitary defence shall be applied in accordance with the following principles:

(a) Communications between the infected country and those that are not infected shall be intercepted, the sanitary cordons and the land quarantines being abolished;

(b) The high contracting parties reserve to themselves the right to limit the points of the frontier at which the transit of passengers and merchandise may be effected;

(c) The passengers shall be submitted to a medical inspection, the authorities being enabled to prohibit the passage of sick, suspicious, or convalescent persons of any of the diseases referred to;

(d) The passengers shall be kept under observation for a period corresponding to that of incubation of each one of the diseases, the importation of which it is sought to avoid;

(e) In the case of cholera or plague, clothing in general and all objects susceptible of transmitting the disease shall be disinfected.

#### CHAPTER III.—*Maritime and fluvial prophylaxy.*

##### ITEM I.—*General dispositions.*

ART. XVI. The high contracting parties agree in not closing their ports, whatever be the sanitary condition of the ships and the points whence they come.

Likewise they reserve to themselves the right to limit the number of the ports to be devoted to commercial operations with the infected countries.

ART. XVII. No vessel shall be turned away, from whatever place it may come or whatever be its sanitary condition, always provided that it submits to the prophylactic treatment indicated in this convention.

ART. XVIII. When a vessel touches at a contaminated or suspicious port, the treatment applied to the baggage shall be limited to that of the passengers that embark there, always provided that they are quartered in distinct places and completely isolated.

##### ITEM II.

ART. XIX. The high contracting parties agree to recognize as:

(a) An uninfected ship, such an one as, though proceeding from an infected or suspicious port, has had on board no cases or deaths from plague, cholera, or yellow fever, and no epidemic of rats previous to its departure, during the voyage or at the moment of arrival.

(b) An infected ship, every one that proceeding from or touching at an infected or suspicious port shall have had on board cases of deaths from plague, cholera, or yellow fever, and epidemics of rats before departure or during the voyage or at the moment of arrival.

ART. XX. In order to enjoy the privileges and advantages of the present convention, every vessel destined for the transportation of passengers must have permanently on board a physician, apparatus of disinfection for the extermination of rats, mosquito nets, medical supplies, disinfectants, and rooms intended for the isolation of the sick.

ITEM III.—*Sanitary ship inspectors.*

ART. XXI. The high contracting parties agree to establish a corps of sanitary ship inspectors with international functions.

§1. Each country reserves to itself the right to determine the number of inspectors, according to the demands of its navigation, except in the case of being unable to assist in this service because of special circumstances.

§2. Only physicians having a diploma from the official faculties of the respective countries shall discharge the duties of sanitary ship inspector.

§3. The appointment of these functionaries shall be made by means of competition and after a special examination and according to the programme formulated by the sanitary authority of each country.

§4. The appointment of each inspector shall be communicated to the sanitary authorities of the other countries, giving his name, his scientific titles, and the date of the competition or examination.

§5. The sanitary ship inspectors must present to the sanitary authority of the ports of call or destination a minute report of all the happenings of the voyage with the measures taken at the point of departure or during the voyage.

§6. The declarations of the inspectors, of whatever nationality, shall be valid before the sanitary authority of the high contracting parties and must be taken into consideration for the application of the ultimate treatment.

ART. XXII. Every time that it is shown that the sanitary ship inspector has been negligent in the discharge of his commission he shall be suspended for the term of one to three months. If he presents a false declaration to the sanitary authority he shall be dismissed from office.

ART. XXIII. A passenger vessel that does not carry a sanitary inspector shall be submitted to the treatment that corresponds to ships classified in Art. 19, letter b, the sanitary authority reserving to itself in such cases the right to supplement these measures by others that offer greater guarantee.

ITEM IV.—*Treatment of oriental plague.*

*Measures to be taken at the infected port before departure.*

ART. XXIV. Ships that call at infected or suspicious ports shall take precautionary measures to prevent the entrance of rats into the ship by the ropes, mooring cables, chains, and other means of communication between the ship and the land.

ART. XXV. Ships that leave infected or suspicious ports, being the port from which they proceed, shall, once the operation of loading is completely terminated, be submitted to the processes considered most efficacious for the extermination of the rats.

ART. XXVI. The sanitary ship inspectors shall be present at the embarkation of passengers in the infected port and must prevent the admission into the ship of such persons as present evident or suspicious signs of oriental plague. They may also previous to the embarkation of the passengers of third class demand the disinfection of their baggage when they believe it to be expedient.

*Measures to be taken during the journey.*

ART. XXVII. During the journey the sanitary ship inspector shall with minute vigilance watch over the health of the passengers and crew, investigate and verify the appearance of rats on board, and gather all the data necessary to be able to determine in the most precise form possible the sanitary condition of the vessel.

ART. XXVIII. If cases of plague occur on board during the journey, the sanitary ship inspector shall proceed rigorously to isolate the sick in a room intended for that purpose and to disinfect the articles of use of the same.

He shall proceed in case it is accepted to the vaccination with serum of the other passengers and of the ship's crew.

*Measures to be taken in the port of destination.*

ART. XXIX. In the port of destination uninfected ships shall be submitted to the following treatment:

Ships that were in the last infected or suspected port submitted to the measures indicated in Arts. 24, 25, and 26, and during the voyage have not been in contact with infected or

suspicious sources shall be freely received. The passengers and crew must be submitted to sanitary observation which shall not exceed five days, counting from the last port or infected or suspicious source to which exposed.

ART. XXX. In ships in which the precautions indicated in Art. 24 have not been taken or which have not been submitted to the measures indicated in Art. 25 the disembarkation of passengers shall be permitted with the observance of what is ordered in Art. 29, and they shall proceed before the discharge of cargo to the extermination of the rats that the vessel may contain.

ART. XXXI. Infected vessels shall be submitted to the following treatment:

(a) The sick shall be disembarked and isolated.

(b) The other passengers shall be disembarked after vaccination and submitted to sanitary observation for not more than five days, counting from the hour of disembarkation.

(c) The passengers that do not accept vaccination shall be submitted to sanitary observation, in such quarters and under such restriction as the sanitary authority may designate, during the period provided for in the preceding paragraph.

(d) The crew shall be allowed to disembark without previous vaccination, but must be submitted to the same sanitary observation as indicated in the preceding paragraph.

(e) After the disembarkation of the passengers the vessel shall be disinfected, and the rats shall be exterminated previous to the discharge of its cargo. These operations shall be effected with the Clayton apparatus or any other system that in the judgment of the high contracting parties meets the condition of this convention.

(f) The clothing and other objects of personal use of the passengers and of the crew shall be properly disinfected.

ART. XXXII. The freight vessels that come from an infected or suspected port shall be submitted to the measures indicated in Art. 31, letter e, whatever may have been its treatment in the port of departure, or in the last infected or suspected port. These operations having been effected, the cargo, whatever its nature, shall be received without any restriction.

ITEM V.—*Treatment of yellow fever.*

*Measures to be taken in the infected port before departure.*

ART. XXXIII. Vessels that touch at infected or suspected ports must take the necessary precautions for the purpose of avoiding their being invaded by mosquitoes of the place.

ART. XXXIV. Vessels that sail from infected or suspected ports as their original port of departure shall, once the operation of loading has been terminated, be submitted to the treatment considered most efficacious by the sanitary authority for the extermination of the mosquitoes that may exist there.

ART. XXXV. The sanitary ship inspectors must be present at the embarkation of the passengers in the infected port and must prevent the admission on board of persons that show evident or suspicious symptoms of yellow fever.

*Measures to be taken during the voyage.*

ART. XXXVI. During the voyage the sanitary ship inspectors must proceed to a minute observation of the health of the passengers and crew, inquire into and verify the existence of mosquitoes, larvæ, or nymphs on board, employing every means that they may believe calculated to destroy them, and shall gather all the data necessary to enable them to determine in the most precise form possible their sanitary condition.

ART. XXXVII. If during the voyage there appear suspected or confirmed cases of yellow fever, the sanitary ship inspector shall proceed to isolate them by means of adequate mosquito nets, by every means preventing the sick being stung by mosquitoes in addition to the other prophylactic measures that they may deem it wise to adopt.

*Measures to be taken in the port of destination.*

ART. XXXVIII. In the port of destination, vessels proceeding from ports infected or supposed to be infected with yellow fever, shall be submitted to the following treatment:

(a) Vessels free of disease that in the infected port shall have taken the precautions indicated in Art. 33, or been submitted to the treatment of Art. 34, shall be freely received, the passengers and crew having to be submitted to sanitary observation for not more than six days, counting from the last infected or suspected port. The clothing and objects of personal use of the passengers shall be submitted to special prophylactic treatment in the judgment of the sanitary authority.

(b) Vessels free of disease that shall not have taken the precautions indicated in Art. 33, or been submitted to the treatment prescribed in Art. 34, shall likewise be freely received, all the provisions of the preceding paragraph being observed previous to the discharge of the cargo, the mosquitoes that may exist on board being exterminated.

ART. XXXIX. Infected vessels shall be submitted to the following treatment:

(a) The sick shall be disembarked in such manner as not be stung by mosquitoes and shall be properly isolated.

(b) The other passengers shall be disembarked and be submitted to sanitary observation for not more than six days, counting from the moment of disembarkation.

(c) After the disembarkation of the passengers the mosquitoes, larvæ (eggs), and nymphs on board shall be exterminated, and other prophylactic measures in relation to the clothing and objects of personal use of the passengers may, in the judgment of the sanitary authority, be effected.

ART. XXXX. The cargo, of whatever nature it may be and of whatever sanitary classification the boat that carries it may be, shall be received without any restriction whatever.

ITEM VI.—*Treatment of Asiatic cholera.*

*Measures to be taken in the infected port before departure.*

ART. XXXXI. Vessels that touch at ports infected or suspected to be infected by Asiatic cholera shall not allow the passengers in transit or the crew to land, except for the unavoidable purposes of the ship's service.

ART. XXXXII. Vessels that leave an infected or suspected port as their original port of departure shall, previous to their departure, proceed to clean and disinfect their water tanks and provide themselves with water that in the judgment of the sanitary authority is pure.

ART. XXXXIII. The sanitary ship inspectors shall be present at the embarkation of the passengers in the infected port, and must prevent the admission on board of persons that present evident or suspicious symptoms of cholera, and must likewise require the previous disinfection of the baggages of the passengers and of that of the crew before departure.

*Measures to be taken during the voyage.*

ART. XXXXIV. During the voyage the sanitary ship inspector shall proceed to a minute observation of the health of the passengers and crew, and shall gather all the data to enable them to determine in the most precise form possible their sanitary condition.

ART. XXXXV. If during the voyage there shall present themselves suspicious or confirmed cases of Asiatic cholera the sanitary ship inspector shall proceed to isolate them and rigorously to disinfect the quarters, clothing, and objects of personal use of the same.

*Measures to be taken in the port of destination.*

ART. XXXXVI. In the port of destination vessels proceeding from ports infected or supposed to be infected with Asiatic cholera shall undergo the following treatment:

(a) Vessels free of disease that in the infected port shall have taken the precaution indicated in Art. 41 or undergone the treatment presented in Arts. 42 and 43 shall be freely received, the passengers and crew being submitted to sanitary observation for not more than five days, counting from the last infected port or point of contact.

(b) Vessels free of disease that shall not have undergone the treatment prescribed in Arts. 42 and 43 shall only be freely received after the disinfection of the passengers' and crew's baggage.

(c) The passengers and crew shall be submitted to sanitary observation for a period not exceeding five days, counting from the moment of disembarkation.

ART. XXXXVII. Infected vessels shall be submitted to the following treatment:

(a) Fulfillment of the requirements of the sanitary authority in respect of avoiding contamination of the water of the port.

(b) The sick shall be disembarked and properly isolated.

(c) The other passengers shall be disembarked and submitted to sanitary observation for not more than five days, counting from the moment of disembarkation.

(d) The clothing and other objects of personal use of the passengers and crew shall be submitted to proper disinfection.

(e) After the disembarkation of the passengers the vessel shall be unloaded and submitted to rigorous disinfection.

(f) The cargo, of whatever nature it may be, shall not suffer any treatment whatever.

CHAPTER IV.—*Supplementary provisions.*

ART. XXXXVIII. The high contracting parties recognize as valid the measures that may be applied to vessels in any one of the four countries when the same are accredited by official document.

ART. XXXXIX. The high contracting parties agree to take sanitary precautions against vessels proceeding from infected ports and countries foreign to this convention, according to the principles provided in it.

ART. 50. In case the progress of the science supply to the sanitary practice new elements that are judged efficacious, the sanitary authorities of the high contracting parties may, proceeding in common accord, incorporate them in this convention.

ART. 51. The duration of the present convention shall be for four years, and, not being denounced by any one of the high contracting parties six months before the termination of this period, it shall be considered extended for four years more.

ART. 52. The present convention shall go into effect immediately after being ratified by the high contracting parties.

ART. 53. The present convention must be ratified in the city of Montevideo within six months, counting from the date when it was signed.

The delegates sign four duplicate copies of the present convention.

City of Rio de Janeiro, the twelfth day of June, one thousand nine hundred and four.

P. LACAVARA,  
GONCALVEZ CRUZ,  
LUIS AGOTE,  
Dr. A. A. DE AZEVEDO,  
P. PENNA,  
E. FERNANDEZ ESPIRO.

Therefore the before-inserted convention having been seen and examined, and having been approved by Congress by law No. 4475, of the twenty-ninth of September, of one thousand nine hundred and four, I accept, confirm, and ratify it, promising and obliging myself in the name of the nation to observe it and to have it observed faithfully and inviolably.

In faith of which I sign with my hand the present instrument of ratification, sealing it with the great seal of the arms of the Republic and endorsed by the minister secretary of the department of foreign affairs and worship.

Given in the city of Buenos Aires, capital of the Argentine Republic, on the thirty-first day of the month of October, of the year one thousand nine hundred and four.

[L. S.]

MANUEL QUINTANA,  
C. RODRIGUEZ LARRETA, JR.

Met in the ministry of foreign affairs of the Oriental Republic of Uruguay, their excellencies Dr. José Romeu, minister of this branch; Señor Francisco Xavier da Cunha, envoy extraordinary and minister plenipotentiary of the United States of Brazil; Dr. Mariano Demaría, envoy extraordinary and minister plenipotentiary of the Argentine Republic, and Señor Antonio Sosa, envoy extraordinary and minister plenipotentiary of the Republic of Paraguay, with the object of proceeding to the exchange of the ratification of the international sanitary convention, signed by the plenipotentiaries of the respective countries in Rio de Janeiro, on June 12, 1904.

The minister, Dr. Romeu, made known that he was provided with the necessary plenipotency and with the three instruments of ratification to proceed to the exchange.

The minister, Dr. Demaría, made like declaration and to that effect exhibited his full powers and corresponding documents.

The minister of Brazil, Don Francisco Xavier da Cunha, made known that, owing to fortuitous circumstances, he could not present the documents indispensable to effect said exchange, which according to telegraphic advice he ought soon to receive, for which a prudential period could be fixed.

The minister of Paraguay, in his turn, made known that he also lacked the respective plenipotency and instruments of ratification, which he had not received because of the state of war in which his country found itself involved, which rendered communication difficult, accepting for himself the proposal of the plenipotentiary of Brazil relative to the fixing of a new period for the exchange.

The minister Demaría declared that he did not consider himself authorized to agree to this proposition, because the period was stipulated in the convention itself, sanctioned by the Argentine Congress, and that he would limit himself to submitting the case to his government and to awaiting instructions.

The minister Dr. Romeu proposed that the period be one month, and requested the ministers to consult their governments in order to establish it with the least possible delay in a new protocol, which should be framed to this effect.

In faith in which the plenipotentiaries had the present act framed, of which they shall receive a legalized copy, which they signed and sealed with their seals in Montevideo on the twelfth day of the month of December of 1904.

JOSE ROMEU.  
F. XAVIER DA CUNHA.  
MARIANO DEMARÍA.  
ANTONIO SOSA.

*Act of exchange.*

Met in the ministry of foreign affairs of the Oriental Republic of Uruguay their excellencies Doctor Alexander Gueselaga, envoy extraordinary and minister plenipotentiary of the Argentine Republic; Doctor José Romeu, minister of the department; Señor Francisco Xavier da Cunha, envoy extraordinary of the Republic of the United States of Brazil, and Doctor José Z. Caminos, envoy extraordinary and minister plenipotentiary of the Republic of Paraguay, with the object of appointing a date for the exchange of the ratifications of the international sanitary convention of Rio de Janeiro, in virtue of that which was agreed upon in the 1st reunion of the twelfth of December, one thousand nine hundred and four, having expressed that they were authorized by their governments to proceed to such end, and being provided with the documents required in order to verify the exchange, resolved that the same should take place at once, because there was no reason that justified new delay.

In virtue thereof their powers having been exhibited by the plenipotentiaries and found in good and due form, the instruments of ratification of the convention in question having been duly read and their agreement to the stipulations of the same having been manifested, the exchange was verified in the usual form.

In faith in which the plenipotentiaries had the present act prepared in four copies, which they signed and sealed in Montevideo on the twenty-first day of the month of June, one thousand nine hundred and five.

[SEAL.]  
[SEAL.]  
[SEAL.]  
[SEAL.]

ALEJANDRO GUESELAGA.  
JOSÉ ROMEU.  
F. XAVIER DA CUNHA.  
JOSÉ Z. CAMINOS.

**PROHIBITORY TARIFF ON PARTS OF AGRICULTURAL MACHINERY, ETC.**

*The Acting Secretary of State to Minister Beaupré.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, September 14, 1905.*

(Mr. Loomis informs Mr. Beaupré that, according to telegraphic advices from leading manufacturers of agricultural implements, the Argentine Government proposes to impose a prohibitory tariff upon all repair parts of agricultural machinery, and as the imposition of such tariff will inflict great loss upon an important American industry and will work great harm instructs him to represent to the Argentine Government the injustice of applying a higher rate of duty to the necessary integral parts of the machine than to the machine itself and to keep the Department informed.)

*Minister Beaupré to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Buenos Aires, September 15, 1905.*

(Mr. Beaupré quotes the rather ambiguous clause of the tariff bill passed by the House and now before the Senate, which declares agricultural machinery free of duty, and which reads as follows:

Repair pieces, by which are to be understood such as form an integral part of the machines for which they are intended, shall enjoy the benefits accorded by this law only when they are imported with the machines.

From which it appears that repairs not accompanying the machines of which they are an integral part shall pay ad valorem duty of 25 per cent.)

*The Acting Secretary of State to Minister Beaupré.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, September 16, 1905.*

(Mr. Loomis instructs Mr. Beaupré to obtain a clear construction of the clause of the tariff law relating to machinery repairs and to endeavor in every proper way to secure the free admission of integral parts, whether accompanying original machines or sent in separate shipments. It will work a hardship on the Argentine farmer if any duty be levied on these repairs, as it is manifestly impossible for the purchaser of agricultural machines or implements to know in advance what repairs such machines may need, which can only be determined by time and use.)

*Minister Beaupré to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Buenos Aires, September 16, 1905.*

(Mr. Beaupré reports that in submitting to the minister of finance to-day the question of duty on machinery repairs the probability of the clause levying duty on repairs working injury to the importers and farmers was discussed, and that the minister favored such alteration as will satisfy the importers here. A meeting of the Senate committee in charge of the bill will take place on Monday or Tuesday, and he, as well as the importers, will be present. Belief is expressed by the most prominent importers that the matter will be satisfactorily arranged.)

*Minister Beaupré to the Secretary of State.*

No. 229.]

AMERICAN LEGATION,  
*Buenos Aires, October 5, 1905.*

SIR: Referring to previous telegraphic correspondence, I have the honor to inclose the usual number of copies of the *Diario de Sesiones* of the Chamber of Deputies, No. 55, of August 29 last,<sup>a</sup> which contains the law in the form in which it was reported to the Chamber of Deputies by the budget committee.

\* \* \* \* \*

As stated in my telegram of the 15th ultimo, the bill had passed the House in this form before notice was given to the home manufacturers by their agents here and was under consideration of the Senate committee when I received the Department's first telegram of the 14th ultimo. I at once took the matter up and did everything that seemed wise or possible to secure alterations to meet the wishes of the local agents of our manufacturers. A substitute for article 26 that received the approval of said agents was drafted and submitted to the committee, which has received favorable consideration by the majority of the

<sup>a</sup> Not printed.

same. The closing of the ordinary session of Congress has left the matter in this state. The bill will be considered in the extraordinary session. I am hopeful of the satisfactory conclusion of the matter and shall not relax my efforts to secure the adoption of the agents' substitute for article 26.

\* \* \* \* \*  
I am, etc., A. M. BEAUPRÉ.

*Minister Beaupré to the Secretary of State.*

No. 236.]

AMERICAN LEGATION,  
*Buenos Aires, October 10, 1905.*

\* \* \* \* \*

SIR: I have the honor to report that on the 5th instant the Senate budget committee reported on the pending tariff laws, and the following day was indicated for the discussion of the same. I inclose the usual number of copies of the substitute reported by the committee for article 26 of said law, referring to the repair parts of agricultural machines, which in translation reads as follows:

Repair pieces of whatever metal and material and of whatever form and nature which show themselves to be such and the application of which to the machines for which they are destined can be proven, whether comprised in the tarifa de avaluos (list of valuations for the tariff purposes) shall enjoy the benefits accorded in this law to whole machines.

There shall not be considered as repair pieces nor as forming an integral part of a machine belting, of whatever material it may be, fixed (unadjustable) wrenches, or so-called English (monkey-wrenches), asbestos packing, hand oil cans, bolts, nuts, carriage bolts, pins, (metal pins for fastening machinery), belt hooks, washers, spring cotters, chains, pulleys, faucets (or cocks), saws, rings, with or without incisions of cloth or metal (steam packing cut to size), eveners, (carriage) poles, and filters of whatever nature.

The importers here express themselves as satisfied with the law in this form and believe it will be approved by the Congress and the Executive. They also believe that it will receive a liberal interpretation and prove entirely satisfactory in practice.

I am, etc., A. M. BEAUPRÉ.

**CONVENTION BETWEEN THE ARGENTINE REPUBLIC AND PARAGUAY FOR THE DETERMINATION OF THEIR BOUNDARIES IN THE PILCOMAYO RIVER.**

*Minister Beaupré to the Secretary of State.*

No. 230.]

AMERICAN LEGATION,  
*Buenos Aires, October 5, 1905.*

SIR: I have the honor herewith to transmit a copy, cut from the Boletin Oficial of this government, No. 3569, of September 16, 1905, of a convention between this Republic and that of Paraguay, which provides for the appointing of a double commission to determine which is the principal branch of the river Pilcomayo, declared by treaty of February 3, 1876, and by President Rutherford B. Hayes in arbitration to be the boundary between this country and Paraguay in the region of the territories of the Chaco.

I am, etc., A. M. BEAUPRÉ.



[Inclosure.—Translated from the Boletín Oficial, No. 3569, of September 16, 1905, of the Argentine Government.]

MINISTRY OF FOREIGN AFFAIRS AND WORSHIP.

*Convention between the Argentine Republic and that of Paraguay for the nomination of a double commission for the purpose of determining which is the principal branch or channel of the Rio Pilcomayo that serves as the boundary of the two countries.*

In the city of Buenos Aires, on the 11th day of the month of September of 1905, met in the office of the ministry of foreign affairs and worship of the Argentine Republic: His excellency Dr. Carlos Rodríguez Larreta, minister of said department, and his excellency Dr. José Z. Caminos, envoy extraordinary and minister plenipotentiary of Paraguay, with the purpose of defining which is the principal branch or channel of the river Pilcomayo which, according to the treaty of the 3d of February, 1876, celebrated between the two Republics and the opinion in arbitration of Mr. Rutherford B. Hayes, President of the United States of America, uttered on November 12, 1878, is the boundary line of the two countries in the region of the territories of the Chaco, have agreed upon the following:

ART. I. The Government of the Argentine Republic on the one hand and the Government of the Republic of Paraguay on the other agree to name a double commission, composed of two experts for the first and two other experts for the second, charged to make the necessary studies in the river Pilcomayo in order to determine which is the principal branch or channel of said river, according to the treaty and opinion in arbitration to which reference has been made.

ART. II. These studies and the investigation of the river having been concluded, the result of which the commission shall have set forth in a diary of navigation to be delivered in duplicate, the commissioners shall present them to their respective governments with a report and a descriptive chart of said river, giving account of the fulfillment of their mission.

ART. III. Upon receipt of this chart and of the documents mentioned in the preceding article the Argentine and Paraguayan Governments shall, through their representatives, examine the matter in the city of Buenos Aires in order to determine the branch of the river Pilcomayo that is to be considered the principal channel according to the treaty of 1876 and the opinion in arbitration above mentioned.

ART. IV. Each one of the contracting governments shall pay the expenses of its delegates and half of the common expenses that the commission shall incur in the performance of the duties enumerated in article second.

In faith of which the plenipotentiaries of both Republics duly authorized to this end sign and seal in two copies the present convention in the city and on the date ut supra.

C. RODRIGUEZ LARRETA.  
JOSÉ Z. CAMINOS.

MINISTRY OF FOREIGN AFFAIRS AND WORSHIP,  
Buenos Aires, September 11, 1905.

Approved. Let it be made known to the Congress.

QUINTANA.  
C. RODRIGUEZ LARRETA.

**THE "MONROE DOCTRINE" AND SOUTH AMERICAN GOVERNMENTS.**

[NOTE.—See Foreign Relations, 1903, p. 1.]

*Minister Beaupré to the Secretary of State.*

No. 244.]

AMERICAN LEGATION,  
Buenos Aires, October 24, 1905.

SIR: Inasmuch as I have heretofore had occasion to send to the Department copies and translations of articles from the Buenos Aires press, commenting unfavorably upon the Monroe doctrine, and as similar articles have appeared within the past few days, it gives me pleasure to record the official opinion of the Argentine Government on this question.

On September 12 last, Dr. Carlos Rodríguez Larreta, Argentine minister for foreign affairs, appeared in the Chamber of Deputies in support of his bill for the reorganization of the diplomatic and consular services, and in reply to several interrogations, said that the relations of cordial friendship between the Argentine Republic and all other nations were most satisfactorily maintained, and that—

In regard to the United States of America, they are for us an example of peace and progress. The Monroe doctrine I have understood in no other way than as a doctrine of friendship between the republics of this continent and our great model of the north, which has reached its place—I say it with American pride—at height of the most powerful nations of the earth.

The minister's remarks were received with applause.

I inclose herewith a clipping from the *Diario de Sesiones*, of the Chamber of Deputies, No. 63, of September 13, 1905, containing the above extract from the minister's remarks.

I am, etc.,

A. M. BEAUPRÉ.

#### LICENSE LAW IN THE ARGENTINE REPUBLIC.

*Minister Beaupré to the Secretary of State.*

No. 284.]

AMERICAN LEGATION,  
*Buenos Aires, December 27, 1905.*

SIR: I have the honor to inclose herewith a copy of license law No. 4934,<sup>a</sup> which was passed by the National Congress on the 11th instant, approved by the Executive on the 20th instant, published in the Official Bulletin No. 3651 of the 26th instant, and which takes effect January 1, 1906.

Under this law every individual branch of commerce, industry, and the professions in the Republic must pay an annual license fee of from \$5 to \$60,000 each. While internal regulations of this kind can not, in the main, be of particular interest abroad, yet there are some provisions of this law which affect foreigners doing business in this country. I therefore enumerate some of the items, giving the amount of license fees to be paid in certain cases:

Dentists, \$100; physicians, \$100; engineers, \$50; architects and surveyors, \$100; brokers, \$150; insurance experts, \$150; representatives of foreign houses whose business is not open to the public, and commercial travelers, \$500; importers of general merchandise, \$300 to \$5,000; importers and exporters, \$500 to \$6,000; general experts and commission merchants, \$50 to \$700; wholesale and retail business houses, \$150 to \$3,000; retail business houses, \$20 to \$2,000; maritime agents, \$60 to \$800; manufactories with mechanical motor power, \$50 to \$5,000; manufactories without mechanical motor power, \$10 to \$500; banks of deposit, \$7,000 to \$60,000; branches of banks, \$1,000; gas companies, \$10,000 to \$20,000; telephone companies, \$1,000; telegraph companies, \$1,000; cooperative societies, \$1,000 to \$7,000; corporations not mentioned in this law, \$500 to \$5,000; insurance companies capitalized and managed in the country, operating upon a single risk, \$2,000 to \$3,000; insurance companies capitalized outside the country, operating on a single risk, \$3,000 to \$6,000; insurance com-

<sup>a</sup> Not printed.

panies operating on more than one risk, 50 per cent additional on each risk insured against; branches of insurance companies, \$250. Every foreign insurance company shall deposit in the conversion treasury or the national bank the following amounts in bonds: Fire insurance companies, \$300,000 national money; insurance companies of other classes operating upon a single risk, \$150,000; insurance companies operating upon more than one risk shall deposit \$100,000 in bonds for each risk against which they insure; no insurance company can commence operations without having deposited the bonds mentioned, and infractions shall be punished by from six months to one year's imprisonment, and the closing of the house or agency.

I am, sir, etc.,

A. M. BEAUPRÉ.

## AUSTRIA-HUNGARY.

### TRANSPORTATION OF EMIGRANTS FROM HUNGARY.

(NOTE.—Continuation of correspondence in Foreign Relations, 1904, pp. 86-94.)

[Memorandum from Austro-Hungarian Embassy.]

WASHINGTON, *January 1, 1905.*

My attention having been directed to some reports which have lately appeared in the newspapers with regard to the confiscation from Hungarian emigrants of so-called "prepaid tickets" by the royal Hungarian authorities, I have had the honor to make a verbal communication on this matter to the State Department. Referring to what I then stated, I beg now to repeat that such confiscation, so far as it has taken place in the past and is to take place in the future, is based on the Hungarian emigration law<sup>a</sup>, and is limited to only such prepaid tickets which have been issued by unlicensed companies or agencies.

I have caused a copy of the Hungarian emigration law to be transmitted to the United States Commissioner of immigration in New York, and, if I am not mistaken, the United States Department of Commerce and Labor has also been put in possession of another copy. The object of the law is to control and, if possible, to restrict emigration from Hungary, and the object of the confiscation measure, based on Chapter VI, paragraph 46 [45], is to stop or counteract all illicit propaganda and incentive for emigration.

It has never been the intention of the Hungarian Government to inflict unnecessary hardship on emigrants or to interfere with the freedom of travel of foreigners. Their officials have therefore been instructed to keep strictly within the letter of the law and to confiscate only such prepaid tickets which have been issued by unlicensed companies or agencies and not to confiscate tickets sent to emigrants by their relatives.

Tickets belonging to American citizens or citizens of other foreign countries are not to be confiscated at all, by whatever company or agency they might have been issued. Foreigners are also absolutely free as to the choice of the route by which they travel and are not obliged to have a passport.

I do not know whether confiscations such as referred to above have actually occurred through mistake or error in the administration of the law; but the Hungarian officials have been informed that they will be held accountable for the strict observation of their instructions, and any individual case or error will be remedied by the Hungarian Government on proper application and proof. The object of my present communication is to draw the attention of the Federal Government to

<sup>a</sup> Printed in Foreign Relations, 1904, p. 47 et seq.

the principles on which the Hungarian emigration law and its administration are based, and I venture to express the hope that they will be found to be in harmony with the letter and spirit of their own legislation on the subject of immigration.

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*The Secretary of State to Ambassador Storer.*

No. 130.]

DEPARTMENT OF STATE,  
Washington, January 3, 1905.

SIR: Referring to previous instructions respecting the various complaints by American citizens concerning the seizure of prepaid steamship tickets and other acts of Hungarian officials, I inclose copies of correspondence relative to the complaint of Miss Ella Burger, a native-born citizen of the United States, and her cousin, Miss Esther Schenker.<sup>a</sup>

The case appears to be one of peculiar and unwarrantable hardship. You will add it to the list of complaints already presented to the foreign office and in course of investigation by the embassy, reserving any further representation in the matter.

I am, etc.,

JOHN HAY.

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*The Secretary of State to the Austro-Hungarian Ambassador.*

DEPARTMENT OF STATE,  
Washington, January 5, 1905.

DEAR MR. AMBASSADOR: I have had the pleasure to receive your memorandum dated the 1st instant in reference to the newspaper statements regarding the action of the Royal Hungarian authorities in confiscating prepaid passage tickets to the United States.

Various complaints have been presented to me where the Hungarian authorities have confiscated passage tickets issued and paid for in the United States, and where American citizens visiting Hungary have been detained and prevented from going to an Atlantic or North Sea port to take returning passage. These cases are being pressed by the American embassy. The Austro-Hungarian Government has admitted that unlawful acts have been done by the Hungarian officers through zeal in the performance of their supposed duty. I am in hopes of hearing soon that an effective remedy and rebuke has been applied and proper reparation made in these cases, especially in the extreme instances where it is reported that American citizens holding return tickets by other lines have been arrested, their time-limit tickets taken up and rendered useless by expiration, and they themselves ordered to take passage by the subsidized Hungarian line from Fiume. Your memorandum gives me additional assurance that this will be done and the abuse checked.

Thanking you for the information you convey, I am, etc.,

JOHN HAY.

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<sup>a</sup> Not printed.

*The Secretary of State to Ambassador Storer.*

No. 142.]

DEPARTMENT OF STATE,  
*Washington, March 11, 1905.*

SIR: With reference to previous correspondence on the subject of the seizure by the Hungarian authorities of prepaid steamship tickets purchased in this country by American citizens for the purpose of sending for their families, and with particular reference to the case of Mrs. Anna Tirpak, an American citizen, whose ticket was confiscated by the Hungarian authorities, I inclose copy of a letter from Messrs. C. B. Richard & Co., 31 Broadway, New York City,<sup>a</sup> from which it appears that the United Austrian Steamship Company now invites the turning over to it of the money paid in this country by Mrs. Tirpak and others.

This phase of the question is communicated to you for the embassy's use in dealing with the whole subject.

I am, sir,

JOHN HAY.

*The Secretary of State to Ambassador Storer.*

No. 165.]

DEPARTMENT OF STATE,  
*Washington, June 23, 1905.*

SIR: Inclosed herewith is a copy of a letter dated the 15th instant from Mr. S. C. Neale<sup>a</sup> in relation to the alleged discrimination practiced by the Hungarian Government against the American Line, a corporation organized in the State of New Jersey, in favor of other steamship lines in the matter of the granting of a license to transport passengers between Hungary and the United States.

While it is not the ordinary usage of the Department to lend its assistance to American citizens in procuring licenses or concessions from foreign governments, this appears to be an exceptional case in which an undue and unfriendly discrimination is practiced against a most reputable American line of steamers. You will take the matter up with the Austro-Hungarian Government and make such representations as may be suitable to obtain for the American Line the same license and opportunity of service as is accorded by the government to other lines of steamers.

I am, sir, etc.,

JOHN HAY.

*The Acting Secretary of State to Ambassador Storer.*

No. 170.]

DEPARTMENT OF STATE,  
*Washington, June 28, 1905.*

SIR: The International Mercantile Marine Company, an American corporation, represents that it is the owner of two steamers, the *Finland* and the *Kroonland*, which are engaged in the transportation of passengers from Europe to the United States. It is further represented that the Hungarian authorities prevent those holding tickets calling for passage on these steamers from reaching them and embarking upon them. Inclosed herewith are copies of letters dated June 15 and June 27, 1905, from Mr. S. C. Neale, counsel for the said company,

<sup>a</sup> Not printed.

which give instances of discriminations and wrongs practiced by the Hungarian authorities.<sup>a</sup> You will furnish copies of these letters to His Majesty's Government and you will make urgent representations to the end that the wrongs and discriminations practiced against this highly reputable American line of steamers, and apparently in favor of the Cunard Line, may be discontinued, and you will invoke the good offices of His Majesty's Government to the end that the same privileges and opportunities may be accorded to the steamers owned by the American line in the matter of a license as are accorded to the vessels of other lines of steamers.

It is represented that the Belgian Steamship Company, the Société Anonyme de Navigation Belge-Américaine, also owns two vessels against which similar wrongs and discriminations are practiced. While the Department can not authorize you to take any official action in support of the complaint of the Belgian corporation, you may nevertheless cooperate as far as you properly can with the Belgian minister at Vienna in support of any action he may take with His Majesty's Government to secure the discontinuance of these injurious practices against the steamers of the Belgian corporation and to secure a license for the vessels owned by the Belgian line, which are engaged in the common service with the steamers owned by the American line.

I am, etc.,

HERBERT H. D. PEIRCE.

*Chargé Rives to the Secretary of State.*

No. 253.]

AMERICAN EMBASSY,  
Vienna, July 13, 1905.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 170, bearing date of June 28, 1905, with inclosures, and to say that the Department's intentions expressed therein, as well as those of the instruction No. 165, of 23d of June, 1905, have been carried out to the best of my judgment.

\* \* \* \* \*

I have, etc.,

GEORGE BARCLAY RIVES.

*Ambassador Storer to the Secretary of State.*

No. 259.]

AMERICAN EMBASSY,  
Vienna, July 30, 1905.

SIR: I have the honor to report that I have received from the I. and R. foreign office a communication giving the views and decision of the Hungarian Government on the subject of its control of emigration from that country, as well as its explanations of sundry of the frequent complaints of the rigorous and arbitrary treatment accorded by the functionaries of that government to persons seeking to emigrate. This communication seems of such importance that I beg to inclose a copy and a translation for the careful perusal and subsequent instructions of the Department.

<sup>a</sup> Not printed.

As will be seen, this letter discusses on principle the right of the Hungarian Government to carry out its own internal laws and regulations with regard to its own citizens—both those who leave the country for the first time, and that numerous class who have already in the past gone to America, have come back for a longer or shorter period to their native country without having acquired legal American citizenship, and who wish to go to America a second time.

The laws and governmental decrees and regulations of Hungary on this subject have been long since transmitted to the Department by me, and afford in complete detail the basis of the present attitude of the government of that country toward its own citizens.

It will be observed that, so far as all emigrants of Hungarian nationality are concerned, the Hungarian Government will not allow its right as an independent country to make such arrangements as will necessarily and avowedly give rise to a complete monopoly of this traffic to be called into question, and will, with all the official and police influence in its power, enforce that monopoly. The fusion of interests between the Hungarian Government and the Cunard company to the exclusion of all competing vessels, to which I have so often referred, remains complete, and, to judge from the instructions of the Department at the instance of the American Line and Red Star Line, is becoming effective.

It will also be observed that the Hungarian Government asserts that it has repeatedly and in the strongest terms instructed all its officers and all the magistracy of that Kingdom to maintain the utmost care not to molest or interfere with persons desiring to emigrate who are not Hungarian citizens, and to pay the utmost respect to treaty rights.

This is undoubtedly the fact, but it is to be presumed, for reasons already given the Department at different times—for instance, in my No. 186 of the 29th of November, 1904<sup>a</sup>—that such instructions are largely disregarded; at least that if there be the slightest question in any case, it will always by the officials and police be resolved in favor of the government and the Cunard company.

The remarks of the Hungarian Government tending to explain the difficulty of investigation and identification by its officers of persons who display documentary evidence tending to show rights of American citizenship, arising from manifold differences of language, have a substantial basis of truth. A large proportion of cases arising on applications for passports, or on complaint and demand for protection, show inaccuracies and differences in name and spelling most liable to mislead and often giving rise to grave suspicion. It has occurred that a former passport contained the alleged name of the bearer spelled in one way, his naturalization paper spelling it in another, while the new application spells and writes it still in a third. Quite often these signatures are in quite dissimilar handwriting, and the names otherwise distorted.

Attention, it will be seen, is also called by the Hungarian Government to the variety in form and wording of the various official documents relied on to prove American citizenship. The Department will remember the various changes in minor details in the form and decoration of passports in past years. From what I have had submitted

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<sup>a</sup> Printed in Foreign Relations, 1904, p. 89.



on applications for passports made to me during the last eight years, it is my opinion that no two States of the Union have any identical form of certificate of citizenship, and in many cases the same form is not used in all counties in the same State, or even all courts of the same county. The substance and effect of the law may be there expressed, but the varieties of wording and expression, of general appearance, of armorial decoration, and seals are often enough to cast a doubt as to the genuineness of the certificate even in the mind of an English-speaking official. I have no doubt that this excuse for misunderstanding and delay in many cases is a sincere and justifiable one, and in such cases the penalty must be borne by the person who seeks to prove his American citizenship.

Taking up the individual cases alluded to by the Hungarian Government, I beg to say that the letters of complaint of the embassy spoken of as addressed to the foreign office "as my letters Nos. 128, 131, and 149" were written in January, 1905, under the instructions of the Department. \* \* \*

I have, etc.,

BELLAMY STORER.

[Inclosure. Translation.]

*The Minister of Foreign Affairs to Ambassador Storer.*

IMPERIAL AND ROYAL MINISTRY OF FOREIGN AFFAIRS,  
Vienna, July 20, 1905.

With the esteemed notes of the 31st of December, 1904, Nos. 124 and 125, it has pleased his excellency the ambassador of the United States of America, Mr. Bellamy Storer, to ask for the interference of the undersigned with the Royal Hungarian Government in cases in which prepaid tickets for the journey to America via Antwerp and Bremen have been confiscated from emigrants and American citizens.

The undersigned has not failed to transmit these communications, as well as the esteemed notes Nos. 128, 131, and 149, which have analogous cases to their subjects to the Royal Hungarian ministry of the interior with the request to make careful investigations of these cases of complaint and to communicate the result.

The reply of the said Royal Hungarian central office (ministry of the interior) has now reached this office, and though the same does not comprise all the cases above referred to, the undersigned, in compliance with the request of the Royal Hungarian Government, thinks that he should not delay to inform his excellency the ambassador of the United States of America of the point of view in principle from which the latter looks at this question, as well as of the result of investigations of the cases which have been cleared up to this date.

The regulation of the Hungarian emigration by means of law had the intention on the one hand to restrict emigration and on the other to assist those Hungarian citizens who could not be prevented from emigrating and to protect their interests.

For this reason the Royal Hungarian Government orders the seizure of letters, printed matter, and ship tickets which are sent to Hungary by unlicensed enterprises and secret agents, in accordance with the terms of Article IV [VI] of the law of 1903. As these measures are taken only against Hungarian citizens and are practised on Hungarian territory only, they represent an internal home affair of Hungary, which is beyond protest on the part of a foreign government.

If, therefore, the described mode of procedure has been modified in the case of bona fide holders of prepaid tickets who have received the same by mail from their relatives, this has been done solely in the interest of the Hungarian citizens concerned. For the reasons above given, the introduction of this modified practice can not be regarded as something done out of consideration for the interests of the navigation companies and their open and secret agents nor a concession to foreign governments.

The matter is a different one if foreign citizens are concerned thereby. The utmost regard has been paid to the treaty rights of foreigners both in Article IV [VI] of the law of 1903 and in all ordinances issued by the government for its putting in effect. The duty of the observance of greatest regard as to foreigners has been repeatedly called to the attention of the officials in the strongest terms, and their attention has also repeatedly been called to the fact that foreigners are not obliged to exhibit passports or other proofs of identity unless this

seems to be necessary for police reasons. The mode of procedure by the authorities in this regard is strictly supervised, and severe disciplinary punishments are insured in case of neglect.

On this occasion attention must be called to the fact that the procedure of the Hungarian authorities in the case of citizens of foreign countries is hampered in an extraordinary degree by the difficulty of fixing the identity of persons from the documents exhibited in doubtful cases, in consequence of the difference of language; and in most of these cases the same can only be finally decided by the superior authorities. In cases of former Hungarian citizens who have acquired the citizenship of the United States this identification is still more complicated by the fact that the authorities are strongly misled by the variety in form and mode of expression, as well as the legal effect, of the American certificates of naturalization. It has occurred, for instance, that a Hungarian authority took such persons as American citizens who held only a so-called "first paper" and whose citizenship was not recognized afterwards by the consul-general of the United States of America at Budapest. In addition to the above there has also been observed with regret the circumstance that Hungarians who had sojourned for some time in the United States regard themselves as American citizens or pass themselves off for such ones, and on this ground take advantage of the authorities of the United States, and that they also try to deceive both the Hungarian authorities and those of the United States by the purchase of forged documents.

As confirmation of the above said the following cases may be mentioned:

The consul-general of the United States at Budapest interfered last year in the case of one Sebastian Rucz, from whom the *Stadthauptmannschaft*, (office of the town militia) at Iglo had taken away his American certificate of naturalization.

From investigation made in this connection it was shown that the certificate of naturalization was issued in the name of one of Markus Rusini and certainly belonged to him. Rusini immigrated into the United States at an age of 18 years, while S. Rucz, according to his own subsequent confession, was at that time already 24 years old. The consul-general at Budapest afterwards refused to recognize S. Rucz as an American citizen and retained the document to have an investigation of the matter made at Washington to ascertain thereby who the intermediary was by whose aid S. Rucz got possession of the certificate of naturalization of Rusini.

The other case concerns the complaint of Josef and Lizzie Harvan, known to his excellency the American ambassador from the communication of the undersigned No. 9971, ex 1905. The latter (Lizzie Harvan) made complaint that she and her daughter, being 4 years of age, had been prevented from going back to America, while investigations turned out that it was not her daughter whom Mrs. Harvan attempted to smuggle over the frontier, but a relative of Hungarian citizenship, 14 to 16 years old, and who held no passport.

These cases show already that the watchfulness of the Hungarian authorities is founded on good reason and that the same is especially well applied in cases where former Hungarian citizens, naturalized in the United States, go to America accompanied by emigrants.

The Hungarian Government, at its regret, becomes aware for some time that the secret emigrant agents of the navigation companies are recruited in an increasing measure from Hungarians established in America, who use their certificate of naturalization of the United States only for carrying out in an easier way their unlawful and often cheating maneuvers. For this reason cases increased where American citizens had to be sentenced to punishment on condemnation for soliciting persons to emigrate. Josef Gerzsan, of New Haven, for instance, was sentenced to thirty days' imprisonment and a fine of 300 crowns; Moritz Wilhelm Weisz, of Montana, to five days' arrest and a fine of 60 crowns; and the American citizen, Leopold Schreter, to two months imprisonment and a fine of 600 crowns.

The gathering of further data is continued, and the Royal Hungarian Government declares its willingness to communicate their result to his excellency the ambassador of the United States of America at a later date for the information of the United States authorities.

After having made these introductory remarks, the undersigned has the honor to pass on to the different cases of complaint, whose result of investigation has been established up to this day. First of all, what regards the list of those 21 persons whose complaint formed the subject of the note of his excellency the ambassador of the United States of America, of December 30, 1904, No. 123, it may be allowed to remark that those persons were without exception Hungarian citizens. As they were in possession of tickets of the Belgian Red Star Line, a company not licensed for transportation of emigrants in Hungary, it was not only the right of the local authorities, but their duty, to proceed against them in accordance with the law. If these emigrants were not satisfied with the steps taken against them by the authorities, they should have made complaint, as Hungarian citizens, direct to the superior Hungarian authorities.

On this occasion it may also be laid down that the Red Star Line is that navigation company which practices an unbridled emigration propaganda, which attracts especially women and minor girls, by spreading the untrue assertion that no passports are required for women traveling on its ships; that complaints have been made repeatedly against this company's ships; that on board of this company's ship *Vaderland*, 11 Hungarian citizens have

died, and that the result of the investigations made in the last-mentioned case is in contradiction to the information (of a deeply compromising character) which the Hungarian Government in this connection has received from America.

Concerning the case of the American citizen Mrs. Anna Tirpak (see esteemed note of February 17, 1905, No. 131), the result of investigation has shown very considerable exaggerations in the complaint. It is true, indeed, that on the 25th of November, 1904, Mrs. Tirpak, coming to Budapest from Kassa, was brought to the police there. But after having stated that she was an American citizen she was brought, still on the same day, to the American consulate-general, and, as her American citizenship was recognized at this office, at once set free.

The statement that she was forcibly brought back to Kassa by the police is a pure invention.

Similar severe treatment was endured, but quite through their own fault, by the American citizens Esther Schenker and Ella Burger. (See esteemed note of January 19, 1905, No. 128.) The said ladies, traveling from Kassa to Antwerp, when invited to show their certificates of identity, on the 10th of November, 1904, did not produce American documents, but a certificate issued by their Hungarian parish. The officials therefore took them for Hungarian emigrants, who intended to leave the country without the prescribed passport, and brought them back to their former place of residence, Miskolez, on which occasion 280 crowns were taken from them to prevent them from escaping over the frontier. This amount was returned to them on the 17th of November, 1904, against a receipt. Miss Schenker made request for the return of her ship ticket from the Royal Hungarian ministry of the interior only at a later date, whereupon the same was returned to her on the 6th of January, 1905. Contrary to their allegation of having made repeated fruitless appeals, the said ladies have made complaint neither to the ministry of the interior nor to any other authority, and departed unmolested for America in February, 1905.

The undersigned will communicate to his excellency the ambassador of the United States of America the result of the remaining investigations, which are still going on, as soon as the same will be known to this office, and avails himself, etc.

For the minister.

LAD. MÜLLER, *M. P.*

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*Ambassador Storer to the Secretary of State.*

No. 274.]

AMERICAN EMBASSY,  
*Vienna, October 7, 1905.*

SIR: I have the honor to report that, following the Department's instructions numbered 165 and 170, bearing date, respectively, 23d and 28th of June, 1905, I conveyed formally to the ministry of foreign affairs the views therein expressed in regard to the action of the Hungarian Government as to the traffic in emigration and the treatment by it given to the International Mercantile Marine Company, otherwise known as the American Line, in connection with the Société Anonyme de Navigation Belge-Américaine, both in unjustifiably and arbitrarily interfering by its official agents in the traffic of these steamship lines and in unjustly discriminating against them by refusing a reply to the demands for a license formally made by these companies under the terms of law.

For a better understanding of the matter I venture to inclose a copy of my official letter of complaint, addressed to Mr. de Mérey, under-secretary of foreign affairs, who was acting minister at the time.

I have the honor to inclose a copy and a translation of the full and formal answer of the minister of foreign affairs, which, covering as it does the whole principle involved, gives evidence that the matter has been carefully considered and fully weighed by the Hungarian Government. It will be seen that the broad ground is taken that no traffic monopoly can be said to be created by the arrangement with the Cunard Company, because the Hungarian Government has the right to issue a license to do similar business to any other line than the

Cunard whenever it may see fit to do so. Further, that as an inherent government right it is for the Hungarian Government to issue such license or withhold it, as it sees fit. Further, that the complaints contained in the letters of the counsel of the International Mercantile Marine Company, which I was instructed to transmit to the foreign office, that no answer had been given by the Hungarian Government to the applications for a license, is specifically denied; and the dates are given of the answers of the Hungarian Government to the communications of that company.

\* \* \* \* \*

I have, etc.,

BELLAMY STORER.

[Inclosure 1.—Translation.]

*Ambassador Storer to the Minister of Foreign Affairs.*

AMERICAN EMBASSY,  
Vienna, July 13, 1905.

YOUR EXCELLENCY: I have the honor to bring to your excellency's attention and to that of the Royal Hungarian Government the complaint of the International Mercantile Marine Company that unjust discriminations and privileges are accorded by the Royal Hungarian Government to other foreign and competing corporations engaged in the same business, and are refused to the company in question. The International Mercantile Marine Company is an American corporation, and is the owner of two large transatlantic steamers, the *Finland* and the *Kronland*, now engaged in the transportation of passengers from Europe to the United States, acting in connection with a Belgian corporation La Société Anonyme de Navigation Belge-Américaine, and performing a common service therewith in the transportation of passengers.

I have had the honor to address to His Excellency Count Goluchowski on several previous occasions complaints on behalf of this common service generally known as the "American Line" (and under that name incorporated as an American corporation) of the treatment their agents have received on the part of the officials of the Royal Hungarian Government, and in particular have called his excellency's attention to numerous cases where travelers intending to make the voyage to America by one or other of the vessels of this line, having already purchased tickets, have been prevented from leaving Hungary by the route they had selected and paid for.

In many instances such tickets have been forcibly taken from these travelers by the Hungarian authorities, and on some occasions, it is alleged, that all the money in their possession has also been confiscated, and their journey either absolutely prevented or very much delayed under circumstances of great expense and hardship to individuals.

In all such cases, so far as any reason is given or can be discovered, it is on account of the desire and intention of the Hungarian Government to force all passenger travel from the Royal dominions to pass by Fiume, and to give an entire monopoly of such international passenger traffic to the Cunard Company, a British corporation, to the exclusion of all other competing companies of any and all nations. Applications for a license or permission to carry on business at Fiume on behalf of these two American corporations have received no attention or reply whatever from the Royal Hungarian Government.

I beg to allude in this general subject to my previous letters to His Excellency Count Goluchowski, Nos. 117, 123, 124, 125, 128, 131, and 149, all of which relate to instances of this course of conduct on the part of the Royal Hungarian officials.

Renewed complaints having been made to my government, I have received instructions to submit to your excellency copies of the letters of the International Mercantile Marine Company and the American Line giving in detail the grounds of complaint and instances of this arbitrary and unjust action on the part of the Royal Hungarian officials, and such copies I have the honor to inclose herewith.

I am instructed to make urgent representation to your excellency to the end that the wrongs and discriminations practiced against this highly considered and respected American corporation, the International Mercantile Marine Company and its steamers, apparently in favor of a competing British company may be discontinued by the officials of the Royal Hungarian Government.

While it is not the usage of my Government to lend its assistance to American citizens in procuring licenses or concessions from foreign Governments the present case appears to be an

exceptional one and an entire departure from the spirit of just and fair dealing and friendly feeling which has for so many years marked commercial intercourse between the United States and the Imperial and Royal Dominions, and I am therefore instructed to invoke your excellency's intervention with the Royal Hungarian Government in order that the same privileges and opportunities may be accorded by that Government to steamers of the American Line in the matter of licenses and opportunity of service as are accorded to the vessels of any other line of steamers of any other country.

I take, etc.,

BELLAMY STORER.

[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Ambassador Storer.*

IMPERIAL AND ROYAL MINISTRY OF FOREIGN AFFAIRS,  
Vienna, September 11, 1905.

Referring to the esteemed note of July 13, 1905, the undersigned, after having had an interchange of views with the Royal Hungarian ministry of the interior, has the honor to inform his excellency the ambassador of the United States of America, Mr. Bellamy Storer, that the complaints of the International Mercantile Marine Company and the American Line seem to be based on an erroneous interpretation of the Hungarian emigration bill and of paragraph 7 of this law in particular.

According to this paragraph those companies who wish to engage in the transportation of emigrants must obtain beforehand the permission of the ministry of the interior to this end. By such a permission (which the ministry of the interior can grant to native citizens or to foreigners, but without being under obligation to do so) the business for the transportation of emigrants received the character of a licensed business. Since, as a matter of course, neither citizens of this country nor foreigners are entitled to demand as a right the conferring of a license, there can not be seen, in the granting of a license for the transportation of emigrants to the Cunard Steamship Company and in the refusal to grant such a license to the International Mercantile Marine Company and to the American Line a discrimination in favor of the first-named company and against the last-mentioned companies.

Furthermore, the two said American corporations are not entitled to make complaints with regard to the granting of a license to the Cunard Steamship Company and to infer from this granting an analogous right for themselves, as they have been placed on the same basis as the home navigation companies, which did not obtain a license for the transportation of emigrants. With this explanation of the legal side of the question the undersigned thinks to have rectified the fundamental error which has crept into the judgment of this case, and begs to pass to the discussion of the several details of the esteemed note above referred to.

First of all it is not correct that the communications of the American line have not been answered. The undersigned, to whom an opportunity was offered to take an insight into the correspondence on this subject of the Royal Hungarian ministry of the interior with the said navigation company, was able to ascertain that the letters of the American line of the 27th and 28th July and 14th October, 1904, were answered on the 15th of November, 1904. A reply to the communication of December 8, 1904, was sent on the 17th of December, 1904, and the application of January 26, 1905, was answered on February 11, 1905.

Likewise it is untrue that a monopoly for the transportation of Hungarian emigrants was given to the Cunard Steamship Company by granting the license. On the contrary, the Hungarian Government is at any time in a position to give licenses also to other transportation companies if it be thought necessary, and in case the issuance of the license in question to other companies should become necessary will consider the application of the American line with the same favor as those of other transportation companies, of course on the supposition that the American line submits to every point of the stipulations of the Hungarian Article IV of the law of 1903.

It is, however, the effort of the Hungarian Government to concentrate the emigration as far as possible at Fiume, as by this means only can an effective supervision and control of emigration be carried through, and because the policy of the transportation (verkehrspolitische) and economical interests of Hungary require it.

As to the cases of complaint enumerated in the list (being an inclosure of the above-mentioned esteemed communication) each one will be examined separately and conscientiously and the result communicated to his excellency the American ambassador.

Finally, the undersigned may be allowed to make the following remarks to the last paragraph of the repeatedly mentioned communication.

During the first five months of 1905 there emigrated from Hungary (not including Croatia and Slavonia) 97,583 persons to the trans-Atlantic countries. Of this number 18,250 traveled on steamers of the Cunard Line. The other 79,333 emigrants have taken the steamers of those companies which, as far as known to this office, are combined without exception to the

International Mercantile Marine Company or united with it and which at the present have no license in Hungary. The undersigned believes that in good conscience he can leave it to the wise judgment of his excellency the American ambassador to decide whether under these circumstances the assertion that the officials of the Hungarian Government act unfairly and partially toward the unlicensed companies is correct.

Furthermore, the undersigned begs to call the attention of his excellency the American ambassador to the circumstance that the dimensions which the emigration from Hungary to the United States has taken produces not only great alarm in Hungary, but it is discussed also in the United States in a way which shows great annoyance. The press of the Union discusses this immigration in a tone which unfortunately is very unjust and sometimes hostile, and the American legislation has followed for some years past an undeniable tendency to increase the severity of immigration regulations.

As the granting of a license to the American line and to a corporation like the International Mercantile Marine Company, which has so many branches and which is united with a great number of other companies, would probably raise the Hungarian emigration to an immeasurable degree, it is difficult to reconcile the present demand of the American Government with the attitude followed up to the present by the American legislation and what is expected also to be followed in the future.

On the other hand, it is clear that the Hungarian Government can not be inclined to contribute to the boundless promotion of emigration by granting new licenses at a moment at which the public opinion of the United States looks with an unfavorable eye upon the emigration from Hungary and when the same might be threatened by an aggravation of American immigration regulations.

Therefore the undersigned hopes that his excellency the American ambassador will weigh considerably the motives by which the Royal Hungarian Government has been guided in its present policy of granting licenses, and will come to the conclusion after consideration of the above said that the reproach made to the Hungarian Government that in the present matter it has allowed itself not to be guided by that spirit of just and friendly feeling which has for so many years marked commercial intercourse between Austria-Hungary and the United States is in every respect unjustified.

The undersigned avails, etc.,

GOLUCHOWSKI.

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**COMMERCIAL AND TARIFF TREATY BETWEEN AUSTRIA-HUNGARY AND GERMANY.**

*Ambassador Storer to the Secretary of State.*

No. 214.]

AMERICAN EMBASSY,  
Vienna, February 17, 1905.

SIR: I have the honor to forward by this mail, under separate cover, addressed to the diplomatic bureau, an official copy of the commercial treaty just signed between Austria-Hungary and Germany, which has been already the subject of correspondence with the Department.

I have, etc.,

BELLAMY STORER.

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[Inclosure.—Translation.]

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, on the one hand, and his Majesty the German Emperor, King of Prussia, in the name of the German Empire, on the other hand, animated by the desire to revise the commercial and tariff convention of December 6, 1891,<sup>a</sup> existing between Austria-Hungary and the German Empire have decided to conclude an additional convention to this convention and have named for that purpose as plenipotentiaries:

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, his chamberlain, actual privy councillor, ambassador extraordinary and plenipotentiary near his Majesty the German Emperor, King of Prussia, Ladislaus Szögyény-Marich von Magyar-Szögyén and Szolgaegyhaza.

His Majesty the German Emperor, King of Prussia: his minister of state, actual privy councillor, secretary of state of the interior, Arthur Count von Posadowsky-Wehner, and his actual privy councillor, secretary of state of the foreign office, Oswald Baron von Richthofen, who, under reservation of reciprocal ratification, have arrived at the following agreements:

## ARTICLE 1.

The separate articles of the existing convention are modified as follows:

I. The following is substituted for Article 3 with the therein-named annexes A and B: *a*  
Upon importation into the German tariff territory of Austrian and Hungarian agricultural and industrial products denoted in Annex A and upon importation into the Austro-Hungarian tariff territory of German agricultural and industrial products denoted in annex B no import duties, respectively, none higher than those fixed in these annexes shall be levied.

Should one of the contracting parties place a new domestic tariff or an addition to the domestic tariff on any of the articles mentioned in Annex A, respectively B, of the present convention, a like and corresponding tariff may be placed on a similar article upon importation.

II. The following new paragraph is added to Article 14 of the existing convention:

With reference to the dispatch and expedition of goods which are being transported from the territory of the one party into that of the other or are in transit through the latter, in so far as they are forwarded therein by shipping enterprises on rivers and canals and with reference to those transportation charges of these enterprises which are instituted by governmental action for specified goods, the contracting parties agree to make no regulations by which such advantages are not granted to goods of the other party.

III. The following stipulation is substituted for the second and third paragraphs of Article 16:

The contracting parties assure to each other reciprocally every possible assistance in the matter of railway tariff, also especially in applications for the preparation of direct passenger and freight tariffs, according to actual requirements.

IV. The following clause is added to Article 17:

They will work to that end that the needs of the through transit will be given the most practicable consideration by the preparation of interlocking train schedules for passenger and freight service.

V. The fifth paragraph of Article 19 is worded as follows:

Stock companies and other commercial, industrial, or financial companies, including insurance companies, which are domiciled in the territories of one of the contracting parties and which exist legally according to its laws shall be entitled in the territories of the other party also upon observance of the respective laws and regulations there in force to enforce all their rights and especially to conduct suits at law before the courts as plaintiffs or defendants. The question whether and to what extent such companies can acquire real estate and other property in the territories of the other party is to be decided according to the laws in force in these territories. As to the permission to conduct their business in the territories of the other party, the legal and regulating ordinances there in force must be applied. In every case the said companies shall enjoy in the territories of the other party the same rights which are accorded to similar companies of a third country which have been recognized as legally existing or which will in the future be accorded to them.

VI. The following new paragraph is added to Article 20:

With reference to the immunities in the matter of direct taxation, an agreement exists that the consuls of both parties shall profit thereby only if they do not possess the citizenship of that state in which they exercise their functions and not in the broader sense as the diplomatic representatives of the contracting parties.

## ARTICLE 2.

The following new article is inserted in the existing convention:

Article 23a. If a difference of opinion occurs between the contracting parties over the interpretation or application of the tariffs of the present convention (annexes A and B) *a* and of the additional stipulations of these tariffs, or over the application of the most favored nation clause in reference to the actual application of other treaty tariffs which are in force, it shall upon demand of either of the parties be decided by arbitration.

The tribunal of arbitration is formed in such a manner that each party appoints from its nationals two qualified persons as arbitrators and that both parties choose a national of a third friendly state as umpire. Both parties reserve the right to come to an agreement in

*a* Annexes A and B, containing the German and Austro-Hungarian tariffs, not printed. Copy deposited in the library of the Department of State.

advance and in a specified period of time about the person who is to be appointed as umpire in the specific case. In the case and on condition of a special agreement the contracting parties will submit differences of opinion other than those denoted in paragraph 1 over the interpretation and application of the present convention to arbitral decision.

### ARTICLE 3.

Annex C of the existing convention is modified as follows:

I. In the list of articles under Figure 3, which under certain assumptions may by indirect means have free entry or export, strike out the words "beehives with live bees" and add before "peat" the words "firewood, coal."

II. Figure 5 is worded as follows:

5. For cattle brought temporarily for work from one territory into the other and returned from work from the latter to the former, likewise for agricultural machines and implements brought for temporary use from one frontier district into the other and returned after use to the former, further, for cattle imported and reexported for weighing, free entry is granted under the registry method of existing boards of control.

III. Figure 8 is worded as follows:

8. The concessions existing in the traffic between the inhabitants of both frontier districts relative to articles for personal use in repairs or mechanical trades, which is to be classed with domestic hired labor and which may extend also to the dyeing of yarns and fabrics, are continued. In the manufacturing traffic with materials for the manufacture of clothing free entry is also extended to trimmings used in the manufacture.

IV. The following new number is added:

11. Curds (Topfen) and gypsum which originated in the German frontier district and which is introduced into the Austrian frontier district for use therein are admitted free of duty in Austria-Hungary. Equal treatment is given to onions and garlic from the neighborhood of Zittau which are brought into the Bohemian frontier districts by wagon traffic.

Cranberries which originate in the Austrian frontier districts and are imported into the German frontier districts for consumption therein are admitted free of duty in the German Empire.

Each of the contracting parties reserves the right to couple these favors, as far as they concern its territory, with the performance of specific conditions.

### ARTICLE 4.

The tariff cartel in force (Annex D of the existing convention), with the autonomous modifications for its execution pertaining thereto, is continued in force without prejudice to a reorganization of the latter.

### ARTICLE 5.

The final protocol of the existing convention is modified as follows:

I. The following figure (2<sup>a</sup>) is added to the stipulations of Article 1 of the existing convention:

2<sup>a</sup>. The transit of weapons, munitions, explosive materials, as well as goods of every sort of which the transit state has a monopoly, shall be delayed as little as possible.

If a special permit for the said articles is required for their transit, a decision to grant or refuse a permit shall be rendered by the competent authority as soon as possible.

When munitions or explosive materials are reported for transit, samples of specimens can, as a rule, be subjected to examination only at the first transit of such articles, preparations, etc. A repeated examination can take place only in cases of urgent doubt, and only then when shipments are not covered by regular certificates from the competent authorities of the country of origin about the quality of the goods. These certificates must be attached to the application for the grant of the permit for transit. The contracting parties will come to an understanding in regard to the authorities which shall be competent to issue certificates in the country of origin, as well as in regard to the regulations corresponding to the existing state of technics which are to be observed in issuing them. The transit country has the privilege, according to its judgment, to take from the shipments covered by such certificates specimens and samples without detaining the shipments themselves. Whenever an abuse of these privileges is established, the transit country has the privilege to prescribe corresponding restrictions of the same.

II. Figure 4 of the stipulations pertaining to Article 1 of the existing convention is worded as follows:

4. The contracting parties will communicate all prohibitions and restrictions upon importation, exportation, or transit issued against each other.

III. The following additions are made to the stipulations of Article 1 of the existing convention:



5. The contracting parties concur to enter into an agreement in regard to the reciprocal recognition of the proving stamp of small arms.

6. Goods of precious metals which are imported by commercial travelers solely as samples for the purpose of exhibition in the import registry proceedings for tariff protection and which, therefore, can not pass into free traffic shall, upon request of the party, be exempted from the compulsory stamping when corresponding guarantee is furnished, which is forfeited in case the reexportation of the samples does not take place within the proper period.

7. In the treatment of the transit of goods which takes place to or from the Bavarian community Balderschwang through Austrian territory to or from the rest of Bavaria, the existing facilities remain in force.

8. Unadulterated wines (select Tokay, Szamorodner) which were raised in Hungary in the community of Tokay and in the remaining community of the Tokay wine district, are not to be considered as dessert wines (southern wines, sweet wines) of foreign origin in the sense of the German imperial law of May 24, 1901, relating to the traffic in wines, beverages containing wine and resembling wine. (Reichs-Gesetzblatt, 1901, p. 175.) The enactment of §2 of the said law is therefore not applicable to them, that in the recognized cellar treatment, inclusive the preservation of dessert wines (southern wines, sweet wines) of foreign origin a greater quantity of alcohol than one cubic measure to one hundred cubic measures of wine may be added without finding therein an adulteration or imitation of the wine in the sense of §10 of the German imperial law of May 14, 1879, relating to the traffic in provisions, table luxuries, and articles of use. (Reichs-Gesetzblatt, 1879, p. 145.) In conformity with §3 No. 3, §5, §13, §16, and §18 of said law of May 24, 1901, it is further forbidden in the district where the latter is in force to manufacture professionally or to imitate beverages which come into traffic under the designation of Tokay, medicinal Tokay, select Tokay, Szamorodner, or under any other designation pointing to localities of the Tokay wine district, by the use of dried fruits (also of extracts or decoctions) or by condensed grape juice, or to sell or to offer for sale such beverages in so far as they have been manufactured, even if not professionally, by the use of such fruits and materials.

The Tokay wine district includes:

(a) In the territory of the Comitát Zemplén, the territory of the community Bekecs, Erdőbénye, Erdőhorváti, Golop, Jósefalva, Károlyfalva, Bodrogkeresztur, Kisfalud, Legyesbénye, Mád, Monok, Bodrogolasi, Olaszliszka, Ond, Petrahó, Rátka, Sárostatak, Sátorajauhely, Szegilong, Szerencs, Szőlöske, Tállya, Tarczal, Tokaj, Tolcsva, Kistoronya, Vámosujfalu, Végardó, zombor, Bodrogszadány;

(b) In the comitat Abauj-Torna, the territory of the community Abaujszántó.

IV. The following stipulations are added to Article 2 of the existing convention:

1. Upon the export of barley or barley malt from the free traffic of the German tariff territory certificates of importation will be issued with the provision only that the determination of its tariff valuation is based upon the lowest tariff rates which are for the time being in force for separate kinds of barley or its uses.

2. The Austro-Hungarian export tariff on rags (Hadern) and other waste for the manufacture of paper will not exceed 9.60 K. for 100 kilograms.

3. It is agreed that in reference to the enactment of laws relating to sugar, neither of the contracting parties can be restrained by the enactments of the present convention from carrying out the requirements imposed upon them by the Brussels convention of March 5, 1902.

V. The following is substituted for Figure 1 of the stipulations of Article 3 of the existing convention:

1. Articles produced in the territory of one of the contracting parties by the manufacture of foreign materials having a favored tariff for refining purposes are not excluded from the treatment as trade products of that contracting party.

In the traffic between the contracting parties the granting of the tariff favors of the present convention upon the articles named therein which are of greater economic importance for the export country, are subject to the production of proof of origin only when the requirement of an urgent commercial policy exists therefor.

VI. For Figures 3 and 4 of the stipulations of Article 3 of the existing convention the following is substituted:

3. Tariffs A and B—import tariffs in both tariff territories.

(a) Under the general German tariff A (annex to the present convention) and the stipulations pertaining thereto, the tariff of December 25, 1902, as framed in the law of like date is understood, and under the general Austro-Hungarian tariff B (annex to the present convention) and the stipulations pertaining thereto, the draft of the new general tariff for the Austro-Hungarian tariff territory is understood.

(b) When a basic tariff and additional or supplemental tariff is to be levied on articles mentioned in one of the appended convention tariffs A and B, in the calculation of the tariff rate the basic tariff of the lowest rate to be levied on the products of the other party is used, unless the two convention tariffs provide special exceptions. Under the same condition, in

case of tariff reference for an article mentioned in both convention tariffs, the lowest rate of tariff to be levied by the other party must be taken as basis, if the purport of the several concessions in accord with the convention which come into consideration for this tariff are in accord with such procedure. The words "of the general tariff" added to the nomenclature of tariff numbers, sections, or classes in the convention tariffs A and B, constitute no exception to the above rule.

(c) Hops in closed air-tight metallic cylinders may be dispatched without examination of the contents if the shipment is accompanied by a certificate from a customs or finance bureau, certifying that the contents of the cylinder consists of hops, and, furthermore, that the cylinder was officially closed by the respective bureau; or that in shipments of entire railway car-loads the latter were placed under customs lock and seal.

(d) Bottles, jugs, and similar vessels which have served for the export of mineral water into the territory of the other party are, upon their return, when empty, admitted free of duty by each of the contracting parties upon request of the party and upon observance of the forms of the registry proceedings.

(e) For buttons of horn, horn material, or bone as well as for such made of vegetable ivory, arca, and the like, concurrent administrative regulations will be issued that only the cards of pasteboard or paper to which the buttons are sewed or otherwise fastened will be considered as belonging to the dutiable net weight of the goods, and that pasteboard boxes (cartons), including those having a sample button fastened thereto, into which the buttons or the cards with attached buttons are packed, are not subject to the tariff.

(f) No. 107 of tariff A. Upon payment of duty on live chickens of all kinds and on other live fowl (except geese) which are imported without special packing in railway cars, the valuation of the dutiable net weight will be determined by weighing on the railway scales (centesimal balance) in such a manner that the weight of the empty car (adding in coop cars and other railway cars specially prepared for the transportation of fowls the weight of the fixed appliances) is deducted from the total weight of the car including the cargo. Upon importation of chickens, etc., in special packing (cages, coops, and the like) four-fifths of the total weight are taken as the net weight as a basis for the tariff valuation.

VII. Figure 2 of the stipulations of Articles 6 of the existing convention is worded as follows:

2. In import traffic by both parties the following articles are admitted free, subject to local revocation or restriction of this favor in case of abuse of the same:

Meat, butchered, fresh and prepared, in quantities of not more than two kilograms.

Mill products of grain and legume, common pastry (bread), in quantities of not more than three kilograms, provided these goods for the inhabitants of the frontier district are not imported by mail.

But each of the contracting parties reserves the right to abrogate entirely or in part the favors agreed upon in Figure 2 after six months' notice has been given.

VIII. The following new stipulation is added:

To Article 9 of the convention.

As long as Austria and Hungary collect the internal beer revenue on German beer on the basis of the saccharimetric strength of its wort, the certificates of this strength issued by German scientific institutions are recognized by the Austrian and Hungarian authorities. The shipments of beer accompanied by such certificates will not be subjected anew to an examination in regard to the saccharimetric strength, provided that the respective prescriptions are complied with by the scientific institution, and that no special doubts as to the correctness of the certificate exists.

The customs authorities by whom imported shipments of beer are expedited have the right to take samples now and again without detaining the shipment. These samples must be provided with the prescribed identification marks and must be sent under seal of the authorities and of the party to the examination bureau of the technical finance control at Vienna, respectively Budapest, for examination as to the exact strength of the wort. Should this examination disclose faults in the preparation of the certificate, notice of the same must be given immediately to the respective ministry of finance.

On the other hand, the German authorities will recognize the certificates of the result of the examination of Austrian or Hungarian wine which were issued by Austrian or Hungarian scientific institutions, in cases where the examination is necessary for the expedition by the customs authorities. The shipments of wine accompanied by such certificates will not be subjected anew to an examination, provided that the respective prescriptions are complied with by the scientific institution, and that no special doubts as to the correctness of the certificate exists.

The governments of the contracting parties will arrive at an agreement in regard to the scientific institutions which shall be empowered to issue the certificates, as well as to the prescriptions to be observed in issuing the certificates and the preceding examination of the beer and wine.

Each of the contracting parties reserves the right, in case abuses should occur, to withdraw under six months' notice from this agreement.

IX. The first paragraph of the stipulations of Article 15 of the existing convention is eliminated. At the beginning of the second paragraph the words "The contracting parties" are substituted for the words "The same."

X. Figure 4 of the stipulations of Article 16 and 18 of the existing convention is worded as follows:

For the tariff despatch in reciprocal railway traffic and for the application of the sealing of vessels the stipulations specially agreed to are in force.

XI. The following new Figure 1 is inserted under the stipulations of Article 19 of the existing convention:

1. In the valuation of duties of every kind on commerce and trade the origin of the goods handled in these enterprises will not in itself result in a more unfavorable calculation of these duties.

The former No. 1 will be denoted as 1<sup>a</sup>.

XII. The following new number is added to the stipulations of Article 19:

3. Under freight-conveyance enterprise, in the sense of the fourth paragraph of Article 19, the professional expedition of goods and persons on land routes, excepting railroads, must be understood. Under license tax every tax imposed on industrial traffic, including the tax on the income from the same, must be understood, no matter whether the tax is collected for the account of the State, of the community, etc.

In so far as the industrial carries on transportations between separate localities lying within the territory of the other contracting party he is subject to the tax in accordance with the laws of the land, taking into account the existing agreements in order to avoid the imposition of a double tax.

If the industrial is engaged in the territories of the other contracting party, in addition to freight conveyance or shipping enterprises in another independent business not directly dependent upon the pursuit of these enterprises or possesses real estate, he is subject to the taxes for the same also, without reduction in accordance with the laws of the country.

In the shipping enterprise the management of another independent business is not considered to mean that the industrial transmits on the stations lying in the territories of the other party the goods which have arrived from his home country by means of his transportation facilities to the recipients residing at that locality direct or by means of the railroads, etc., and vice versa, that he receives the goods designated for transportation by his transportation facilities and directs them to be brought to his transportation facilities for embarkation, nor can the mere maintenance of a permanent business connection with an independent forwarding agent resident within the territories of the other party be construed as constituting such business.

XIII. The following new stipulations are added:

To Article 20 of the convention.

It is understood that with reference to the stated stipulation of reciprocity the privileges, functions, and favors to be granted to the consuls of the one party in the territories of the other in accordance with the most favored nation clause cannot be granted in a greater measure than are granted to the consular representatives of the latter party in the territories of the first party.

To Article 23<sup>a</sup> of the convention.

With reference to the procedure in cases in which, in conformity with the first and second paragraphs of Article 23<sup>a</sup> arbitration takes place, the following is agreed to between the contracting parties:

In the first litigation the arbitration tribunal has its session in the territories of the defendant party; in the second litigation in the territories of the second party, and thus alternating in the territories of one or the other party, in a city which will be designated by the respective contracting party.

This party has to provide for the preparation of the rooms, the clerical force, and the servants required by the arbitration tribunal for its work. The umpire is president of the arbitration tribunal which decides by a majority of votes.

The contracting parties will come to an agreement in each separate case or once for all about the procedure of the tribunal of arbitration. In default of such agreement the procedure will be decided upon by the tribunal of arbitration itself. The procedure may be written if neither of the contracting parties enters protest. In this case the stipulations of the preceding article may be waived.

Concerning the summons and examination of witnesses and experts, the authorities of each of the contracting parties will, upon the request to be made by the tribunal of arbitration to the respective government, give legal assistance in the same manner as upon request by the local civil courts.

## ARTICLE 6.

The contracting parties obligate themselves in friendly cooperation to investigate the treatment of workmen of the one party in the territories of the other in regard to the protection and insurance of the workmen for the purpose of insuring reciprocally to these workmen, through suitable agreements, a treatment which offers them the most equitable advantages.

These agreements will be put in force by a special convention, irrespective of the taking effect of the present additional convention.

## ARTICLE 7.

The present additional convention will take effect February 15, 1906.

The existing commercial and tariff convention of December 6, 1891, with the modifications and additions stipulated by the additional convention, shall remain in force until December 31, 1917.

But each of the contracting parties reserves the right to denounce the convention twelve months before December 31, 1915, with the effect that the same expires on that date.

In case neither party takes advantage of this right nor gives notice twelve months before December 31, 1917, that the convention is to become inoperative on that day, the convention with its said modifications and additions shall remain in force beyond December 31, 1917, until the expiration of one year from the day on which one or the other of the contracting parties shall have denounced it.

## ARTICLE 8.

The present convention shall be ratified and the ratifications shall be exchanged as soon as possible.

In witness whereof both plenipotentiaries have signed the present additional convention and have affixed their seals thereto.

Done in duplicate at Berlin, January 25th, 1905.

**LIABILITIES OF AMERICAN CITIZENS OF AUSTRO-HUNGARIAN  
ORIGIN UPON THEIR RETURN TO AUSTRIA-HUNGARY.**

*Chargé Hale to the Secretary of State.*

No. 221.]

AMERICAN EMBASSY,  
*Vienna, April 15, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's No. 147 of the 1st instant,<sup>a</sup> inclosing copy of a letter from the Hon. Henry M. Goldfogle, M. C., from New York, in regard to the case of a naturalized American, a native of Austria, who is desirous of visiting his former home, but is apprehensive that his desertion from the Austrian army at the time of his emigration may cause him trouble should he visit this Empire.

Concerning the facts desired by Mr. Goldfogle, viz, regarding an alleged amnesty decree issued by the Emperor, under which the person in whose behalf Mr. Goldfogle writes, could return in safety to his native land, and the liability to extradition from Germany to Austria of a person still deemed guilty of desertion under the laws of this country, I beg to report as follows:

1. By order of the Emperor an amnesty decree (copy of which is inclosed herewith) was issued on December 2, 1898, on the occasion of the celebration of the fiftieth anniversary of His Majesty's accession to the throne. This decree applied only to those who had been summoned for military service, but had failed to appear for examination as to their fitness for same. I am reliably informed that the above amnesty decree is the only one dealing with military offenses ever issued by the Emperor. It does not cover the act of desertion, and

<sup>a</sup> Not printed.

consequently the person in question would on return to his native land be liable to trial and punishment for nonfulfillment of his military duty in conformity with the treaty of September 20, 1870, between the United States and Austria-Hungary.

2. I find upon inquiry at the German embassy that an extradition treaty for the delivery of military fugitives, made in 1831 and still in effect, exists between Austria and the Kingdom of Prussia and that practically similar treaties likewise exist between the monarchy and all the other states forming the present North-German confederation. Such being the case, it seems to me that if the person in whose behalf Mr. Goldfogle writes should come to Germany he would, despite his present American citizenship and in conformity with the treaties last above referred to, and also with our naturalization treaty with Austria-Hungary of 1870, be theoretically liable to extradition. I believe, however, that the gentleman in question, if bearing an American passport, could in reality safely come to Germany for an indefinite sojourn without fear of such molestation.

I have,

CHANDLER HALE.

[Inclosure.—Translation.]

*Circular order of December 3, 1898, Section 4, No. 2416.*

No. 237.—Act of amnesty for persons who fail to present themselves for military service in the kingdoms and provinces represented in the Imperial council, and members of the Austrian Landwehr.

The amnesty act contained in the circular order of the Austrian minister for national defense of November 23, 1898, No. 3188 (army orders for the Austrian Landwehr, No. 53, of November 26, 1898), on account of the fiftieth anniversary of His Majesty's accession to the throne, is hereby proclaimed as follows:

His Imperial and Royal Apostolic Majesty on December 2, 1898, deigned to grant:

1. To all subjects of the kingdoms and provinces represented in the Imperial council who are now undergoing punishment for failure to present themselves for military service or whose term of military liability has merely been prolonged for this reason remission of the remaining punishment and of the prolongation of the military liability, unless they are also undergoing punishment or criminal prosecution for another offense; to those above-mentioned persons who are undergoing investigation or trial for failure to present themselves for military service or who have already been criminally prosecuted or who are merely awaiting a prolongation of their term of military liability, unless they are undergoing punishment, or prosecution for another crime, remission of further investigation and punishment, as well as of the prolongation of the military liability administered in connection therewith or as the sole punishment; to those who are being criminally prosecuted and to those who are awaiting criminal prosecution or merely a prolongation of their term of liability on condition that within one year from this proclamation of amnesty they shall comply with the obligation of presenting themselves for military service and perform any such service to which they may be liable according to law.

2. To all members of the Landwehr of the kingdoms and provinces represented in the Imperial council who are undergoing punishment because of failure to obey a command to perform exercises under arms or because of desertion by disobedience of such command, unless they are also undergoing punishment or criminal prosecution for another crime, the remission of the remaining punishment; furthermore, to all members of the Landwehr of the kingdoms and provinces represented in the Imperial council who, owing to disobedience of a command to take part in exercises under arms or owing to desertion by disobedience of such command are undergoing investigation or criminal prosecution or are awaiting criminal prosecution or disciplinary punishment on this score, unless they are also being punished or criminally prosecuted for another crime, remission of further investigation and punishment; to persons undergoing criminal prosecution and to those awaiting criminal prosecution or disciplinary punishment, on condition that within one year after the proclamation of this amnesty they shall request to be included within it, and in case they have already been declared deserters, but have not yet been sentenced as such, that they shall relinquish the grade they are holding. (Imperial decisions of November 20, 1898.)

EDLER VON KRIEGHAMNER,  
General of Cabinet.

No. 238. Similar to above order, but referring to Hungary.

## BELGIUM.

### INTERNATIONAL MARITIME CONFERENCE IN REGARD TO SALVAGE AND COLLISIONS AT SEA.

*The Acting Secretary of State to Minister Townsend.*

No. 209.]

DEPARTMENT OF STATE,  
*Washington, February 1, 1905.*

SIR: This Government having accepted the invitation extended to it by the Government of Belgium to take part in the International Maritime Conference in regard to salvage and collisions at sea, to be held at Brussels, beginning on the 21st of the present month, this Department will be pleased to have you attend the conference as one of its delegates, and to inform the Belgian Government that you will do so, and that your colleague will be Mr. William W. Goodrich, of New York City, who was chairman of the delegation of the United States to the International Marine Conference held at Washington in 1889.

The object of the Brussels Conference is to consider the drafts of two proposed international conventions approved by the International Maritime Committee at their Hamburg Conference in 1902. These drafts have been put in conventional form by the Belgian Government and will by that Government be laid before the conference. Copies of the drafts can be obtained by application to the Belgian Government.

As the proposed conventions conflict in important particulars with existing laws of the United States, this Government has consented to participate in the conference only on the accepted condition that it would not be in any way bound by the determination of the conference. For this reason it is not expedient to invest you with plenary power. Should you in the light of the practical, technical, and legal knowledge you have on the subjects to be considered think it advisable to sign the proposed conventions, you will do so ad referendum and subject to such legislation as may be necessary by the United States to make them effective. The Department will be pleased to have you furnish it with a full report of the proceedings of the conference.

I am, etc.,

FRANCIS B. LOOMIS.

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*The Secretary of State to Minister Townsend.*

No. 211.]

DEPARTMENT OF STATE,  
*Washington, February 9, 1905.*

SIR: I inclose herewith a copy of a letter addressed to this Department by Mr. Robert D. Benedict, president of the Maritime Law Association of the United States, embodying suggestions in regard to the

projects which are to be considered by the International Maritime Conference at Brussels.<sup>a</sup>

As these suggestions have the concurrence of the Department of Commerce and Labor, they may be accepted as the views of the Government of the United States. This Department thinks, therefore, that instead of signing the proposed conventions with the reservation stated in its No. 209 of the 1st instant it would be preferable for the delegates of the United States to have provision made in the conventions for subsequent adhesion by nonsignatory governments, and thus leave the matters open for legislative action.

The Department will be pleased to have you and Mr. Goodrich freely consult it by telegraph as occasion may require after his arrival in Brussels.

I am, etc.,

JOHN HAY.

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LEGATION OF BELGIUM,  
*Washington, March 14, 1905.*

MEMORANDUM.

The conference on maritime law which has just met at Brussels has adjourned after having signed a protocol, the terms of which the delegates have agreed to submit to the examination of their governments concerning two projects of conventions on collisions and salvage.

This protocol was signed by the delegates of Belgium, the Kongo, Spain, France, Italy, Japan, Norway, the Netherlands, Roumania, Russia, and Sweden.

The delegates of the United States did not consider themselves authorized to sign this protocol.

The various States represented, and the Government of Belgium in particular, would be greatly pleased if the minister of the United States at Brussels were authorized to sign this protocol.

It will be noticed that this protocol does not imply any engagement. It provides only for the submission of the projects to the examination of the governments.

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[Inclosure.]

*International Conference on Maritime Law.*

PROTOCOL.

The undersigned delegates, convinced of the great advantages which from every point of view would result from a uniform law on maritime collisions and assistance, and certifying to the favorable dispositions shown in the premises by all the members of the conference during the course of its labors, unanimously agree:

1. To submit to their respective governments, with a view to examination, the annexed projects<sup>a</sup> prepared by the conference.

2. To suspend the deliberations of the conference and to adjourn them to a date to be proposed by the Belgian Government.

Done at Brussels, February 25, 1905.

(The signatures follow.)

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<sup>a</sup> Not printed.

*The Acting Secretary of State to Minister Townsend.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 14, 1905.

You may sign protocol agreeing to submit, with a view to examination, projects of maritime conference.

ADEE.

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*Minister Townsend to the Secretary of State.*

No. 253.]

AMERICAN LEGATION,  
Brussels, March 16, 1905.

SIR: I have the honor to acknowledge the receipt of Department's cable of yesterday's date. \* \* \*

In conformity with instructions, I have signed the protocol of the International Maritime Conference held at Brussels, February 25 last. \* \* \*

I have, etc.,

LAWRENCE TOWNSEND.

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*The Acting Secretary of State to Minister Wilson.*

No. 27.]

DEPARTMENT OF STATE,  
Washington, September 6, 1905.

SIR: At the International Maritime Conference held at Brussels in February last the Government of the United States was represented by your predecessor, Mr. Lawrence Townsend, and by Judge William W. Goodrich, of New York, a member of the Maritime Law Association of the United States.

The object of the conference was to consider the drafts of two proposed international conventions in regard to salvage and collisions at sea, approved by the International Maritime Committee at their Hamburg Conference in 1902.

These drafts met with some objections in the Brussels Conference, but were finally adopted in an amended form by the conference with a view to their submission to the respective governments when the conference adjourned to a time to be fixed by the Belgian Government.

The Department is now informed by the Belgian legation at Washington that the adjourned conference has been called to meet at Brussels on October 16 next. The Department will be pleased to have you attend this conference in Mr. Townsend's place. Judge Goodrich will be your colleague.

The drafts which the February conference agreed to submit to the governments have received consideration by the Department of Commerce and Labor and by the Maritime Law Association of the United States. It having been recommended by the conference that each government taking part therein might formulate for the consideration of the adjourned conference forms of such treaties as might be acceptable to it, the Maritime Law Association of the United States, in a letter dated June 13, 1905, submitted to the Department a form of treaty in reference to collisions at sea which, in the association's opin-



ion, "the Department of State might well present at the ensuing meeting of the conference" in place of the one proposed by the conference.

Having been requested to furnish its views on the form of treaty presented by the Maritime Law Association, the Department of Commerce and Labor, in a letter dated the 4th ultimo, states that it is reluctant to commit itself to the treaty as proposed by the February conference or to the amendments thereto proposed by the Maritime Law Association or to any definite propositions on the subject, for the following reasons:

1. It understands that the American delegates were sent to the conference ad referendum and on the understanding that the Government of the United States would not be in any way committed by their action.

2. While the Department of Commerce and Labor is disposed to approve generally the amendments proposed by the Maritime Law Association as probably meeting some of the objections to American participation in the conference, mentioned in Treasury Department letter of June 15, 1903,<sup>a</sup> such an approval, if accepted by you and included in instructions to our delegates, might be regarded as committing the government to the treaty. The interests of American exporters are involved, as well as of shipowners, and in this country are much more extensive. It has not been practicable to ascertain sentiment concerning the treaties in this country except that of the Maritime Law Association. The Department sees no objection to the issue of instructions to Minister Wilson that while this government is not definitely committed to the amendments, the amendments represent the views of the Maritime Law Association, an organization of the highest standing in the United States.

3. As about 60 per cent of American foreign commerce is carried on by vessels of Great Britain and Germany and as those powers have not yet been represented at the conference, the Department is the more convinced that the general instructions to the American delegates should not be changed by specific approval of propositions before the conference by the Government of the United States.

In the Department's No. 209, of February 1, 1905, it was stated that—

As the proposed conventions conflict in important particulars with existing laws of the United States, this government has consented to participate in the conference only on the accepted condition that it would not be in any way bound by the determination of the conference. For this reason it is not expedient to invest you with plenary power. Should you, in the light of the practical, technical, and legal knowledge you have on the subjects to be considered, think it advisable to sign the proposed conventions, you will do so ad referendum and subject to such legislation as may be necessary by the United States to make them effective.

This instruction was modified by that of February 9, 1905, No. 211, so that, instead of signing the conventions ad referendum and with the reservation stated, the delegates of the United States were to have provision made in the conventions for subsequent adhesion by nonsignatory governments, thus leaving the matters open for legislative action.

It is by this last-mentioned instruction and by the letter of August 4, 1905,<sup>a</sup> from the Department of Commerce and Labor that you are to be guided in your attendance at the October conference.

Should occasion require, the Department will be pleased to have you consult it by telegraph.

A copy of this instruction has been sent to Judge Goodrich for his information and guidance.

I am, etc.,

F. B. LOOMIS.

<sup>a</sup> Not printed.

*The Secretary of State to Minister Wilson*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, October 27, 1905.

You may sign protocol of Maritime Conference similar to that of February 25, last signed by Mr. Townsend.

ROOT.

*Minister Wilson to the Secretary of State.*

No. 33.]

AMERICAN LEGATION,  
Brussels, October 29, 1905.

SIR: I have the honor to report the convening of the International Maritime Conference at Brussels, October 16, 1905, under the presidency of His Excellency Mr. Beernaert, Belgian minister of state.

The following countries were represented: Germany, Austria-Hungary, Belgium, Chile, Kongo Free State, Cuba, Santo Domingo, Spain, United States of America, France, Great Britain, Italy, Japan, Mexico, Nicaragua, Paraguay, The Netherlands, Portugal, Roumania, Russia, and Sweden.

The representation of most of the concurring countries was large and distinguished, and the debates were most interesting and instructive.

\* \* \* \* \*

At the first meeting of the conference, Monday, the 16th October, I made a declaration in conformity with the instructions contained in Department's No. 211, of February 9, 1905, and the letter of the Department of Commerce and Labor of August 4, 1905,<sup>a</sup> and submitted the form of treaty furnished by the Maritime Law Association.

\* \* \* \* \*

I have, etc.,

HENRY LANE WILSON.

*Minister Wilson to the Secretary of State.*

No. 34.]

AMERICAN LEGATION,  
Brussels, October 30, 1905.

SIR: I have the honor to acknowledge the Department's cablegram of October 27, 1905.

In compliance with the instructions therein contained, I to-day visited the ministry for foreign affairs and attached my signature to the protocol of the convention. This protocol does not differ in any material respect from that signed by Mr. Townsend. All of the concurring representatives have signed the convention.

I have, etc.,

HENRY LANE WILSON.

<sup>a</sup> Not printed.

*Minister Wilson to the Secretary of State.*

No. 42.]

AMERICAN LEGATION,  
Brussels, November 30, 1905.

SIR: Referring to my No. 33, I have now the honor to inclose a full report of the proceedings of the International Maritime Conference, held in Brussels in the month of October last.<sup>a</sup>

\* \* \* \* \*

I also inclose a copy and translation of a note from the Belgian minister for foreign affairs, together with one authenticated and official copy of the protocol and conventions, and three copies of the same.

\* \* \* \* \*

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Wilson.*

MR. MINISTER: As your excellency is aware, the delegates of the States represented at the second session of the International Conference of Maritime Law signed, on October 20, 1905, a protocol which provides for the submission of the two drafts of conventions for the unification of certain rules in matter of maritime collision and assistance to their respective governments.

I inclose to your excellency five copies of the protocol, one of which is authenticated and official.

As is stated in the procès-verbal, it is understood that if improvements or changes in the conventions should be found necessary, the conference may meet a third time for that purpose, upon the invitation of the Belgian Government, after the period of one year.

The Government of the King, however, believes that a new conference will not be necessary and trusts that the two convention drafts, which have been the subject of long and serious deliberation, may receive in the near future the legislative sanction of the various governments represented at the conference.

The Belgian Government will be pleased to be informed, as soon as possible, of the action taken by the governments represented at the conference relative to the conventions adopted at Brussels.

Permit me, Mr. Minister, to have recourse to your kindness in having the contents of this communication brought to the knowledge of the American Government.

Etc., etc.,

DE FAVEREAU.

[Inclosure 2.]

*Convention for unifying certain rules to be applied as to collisions at sea.*

## ARTICLE 1.

The compensation for damages caused by collision between seagoing vessels or between seagoing vessels and vessels of interior navigation, in whatever waters the collision may have occurred, is submitted to the following provisions:

## ARTICLE 2.

If the collision has occurred without fault, or by a "vis major," or if the cause is inscrutable, the loss falls on the interests which have suffered them.

This provision applies in each case where one of the vessels or both were at anchor at the time of the accident.

## ARTICLE 3.

If the collision has been caused by the fault of one vessel, the vessel which committed the fault is bound to make good the damage.

<sup>a</sup> Not printed.

## ARTICLE 4.

If the collision was caused by mutual fault, the liability of each ship shall be proportionate to the gravity of her fault.

The damages caused to either of the vessels, to their cargo, or to the clothes or other goods of the crews or of the passengers or other persons on board, are to be divided between the vessels in the said proportion without joint liability.

## ARTICLE 5.

The liability established by the preceding articles subsists in case of collision occurring by the fault of a pilot, even where the employment of such pilot is compulsory.

## ARTICLE 6.

The action for indemnity for damages suffered by collision is not subject either to a protest or to any other special formality.

## ARTICLE 7.

The action is barred by prescription two years after the event.

The law of the country where the court sits in deciding the case, fixes the causes of suspension and interruption of the prescription.

The fact that the defendant vessel could not have been attached in the territory of the State where the plaintiff is domiciled, or where he has his principal establishment, will be admitted as a ground for suspension of the prescription.

## ARTICLE 8.

After a collision the captain of each colliding vessel is, so far as he can do so without causing serious danger to his vessel, crew or passengers, obliged to afford assistance to the other vessel, to her crew or passengers.

The captain is also obliged so far as possible, to give the name and port of his vessel and the name and place he comes from and is bound to.

The owner of the ship is not liable for breach of this regulation. The breach of this regulation does not entail a presumption of fault to the extent of pecuniary liability for the collision.

## ARTICLE 9.

The high contracting parties whose laws do not already punish the above-mentioned offense, bind themselves to take or to propose to their respective legislative bodies the necessary measures for the punishment of this offense.

The high contracting parties will communicate the laws and regulations in execution of the preceding provisions, already in force or which will be in force in their States, as soon as possible to each other.

## ARTICLE 10.

Pending further agreement as to the limitation of shipowners' liability, it is understood that the present provisions do not alter in any way the nature and the extent of that liability as established in each country, nor the liability resulting from a transportation or other contract.

## ARTICLE 11.

The present convention does not apply to men-of-war nor to governmental vessels devoted exclusively to public service.

## ARTICLE 12.

The provisions of the present convention shall apply to all interested parties when all the vessels belong to signatory states, and in all other cases fixed by national laws.

## ARTICLE 13.

The delegates of the signatory states will assemble at Brussels three years after the present convention has become effective with the view of making needed changes and of enlarging if possible its sphere of operation.

## ARTICLE 14.

The states which have not signed the present convention are accorded the right to adhere to the same on request.

Their desire to adhere shall be conveyed by diplomatic channels to the Belgian Government, and by the latter to each of the other governments. It shall come into force one month after the notification has been made by the Belgian Government.

## ARTICLE 15.

The present convention shall be ratified and the ratifications shall be deposited at Brussels as soon as possible. At the expiration of two years from the date of signing the convention the Belgian Government will communicate with the governments that have declared their intention to ratify, so as to arrive at a decision whether the convention shall be rendered effective or not.

The ratifications will be deposited immediately, and the convention will take full effect one month after such deposit.

The protocol will remain open one year in favor of those States represented at the Brussels conference. After this date they can only adhere to the convention in accordance with article 14.

## ARTICLE 16.

In case any of the signatory states shall secede from the present convention the secession shall take effect one year from the day on which the notification is made to the Belgian Government, and the convention shall remain in force between the other signatory states.

In witness whereof the plenipotentiaries of the respective states have signed and sealed the present convention.

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*International convention for the unification of rules in the matter of maritime assistance and salvage.*

## ARTICLE 1.

The assistance and the salvage of seagoing vessels, or their cargo, and also the services rendered between seagoing vessels and vessels of interior navigation, are subject to the following provisions without any distinction as to the kind of service and without regard to the waters where the service may have been rendered.

## ARTICLE 2.

All services of assistance or of salvage having had a useful result give the right to an equitable remuneration.

Nothing is due if the services rendered are without useful result.

## ARTICLE 3.

Persons who have taken part in the work of rendering assistance against the express and reasonable prohibition of the assisted vessel, or persons who have fraudulently hidden salvaged goods, are barred from all right to remuneration.

## ARTICLE 4.

A tug has the right to remuneration for assistance or salvage rendered to the ship towed by her, or to its cargo, only when exceptional services which can not be considered as part of the contract of towage have been rendered.

## ARTICLE 5.

Remuneration is due even when the assistance or salvage has been rendered between vessels belonging to the same owner.

## ARTICLE 6.

The amount of the remuneration is fixed by agreement between the parties, and in case there is no agreement, by the judge.

## ARTICLE 7.

Where an agreement for salvage or assistance has been made at the moment and under the influence of danger, it may, at the request of either party, be modified by the judge, if the latter considers the agreed conditions not equitable.

## ARTICLE 8.

The remuneration is fixed by the judge according to the circumstances of the case, and taking principally into consideration the following facts.

A. First, the success obtained, the efforts and merits of those who have rendered assistance, the danger incurred by the assisted vessel, by her cargo, by the salvors, and by the assisting vessel; also the expenses and damages incurred by the latter, taking into account finally her particular occupation.

B. Secondly, the value of the salvaged goods and of the assisting vessel.

## ARTICLE 9.

The action for payment of remuneration is barred two years from the time the assistance or salvage were furnished.

The law of the court under whose jurisdiction the case falls determines the causes of suspension and interruption of prescription.

The fact that the assisted or salvaged vessel could not have been attached in the territorial waters of the State in which the plaintiff is domiciled or has his principal establishment will be admitted as cause for the suspension of the prescription.

## ARTICLE 10.

So far as he can do so without serious danger to his ship, his crew, or his passengers, every captain is bound to give assistance to any person, even an enemy, whom he finds at sea in peril or who requests help.

The owner of a vessel is not responsible for infringement of the above provision.

## ARTICLE 11.

The high contracting parties whose laws provide no penalty for the infringement of the preceding article bind themselves to take or to propose to their respective legislative bodies the necessary measures providing a penalty for the infringement of the preceding article.

The high contracting parties will communicate as soon as possible to each other the laws and regulations already in force, or which will be in force, in their territories for carrying out the provisions of the preceding article.

## ARTICLE 12.

The present convention does not invalidate the prescription of municipal legislation or international treaties relative to the assistance and salvage services organized by the public authorities or under their control.

The provisions referring to remuneration do not apply in the case of the rescue of persons, but this is affirmed without prejudice to the existing municipal provisions.

## ARTICLE 13.

The present convention does not apply to men-of-war nor to government vessels exclusively devoted to a public service.

## ARTICLE 14.

The provisions of the present convention will apply to all parties interested where either the assisting or salvaging vessel or the assisted or salvaged vessel belong to one of the contracting states, and also in all other cases provided for by municipal law.

Except as provided for by national laws Article 10 will apply only to vessels belonging to the contracting states.

## ARTICLE 15.

The delegates of the contracting states will assemble at Brussels after the present convention is put in force, with the view of making salutary changes and of extending, if possible, its sphere of operation.

## ARTICLE 16.

The states which have not signed the present convention are admitted to adhere to the same on their request. This adhesion will be conveyed by diplomatic channels to the Belgian Government and by the latter to each of the other governments; it will be in force one month after the notification has been made by the Belgian Government.

## ARTICLE 17.

The present convention shall be ratified and the ratifications shall be deposited at Brussels as soon as possible. At the expiration of two years from the date of signing the convention the Belgian government will communicate with the governments which have declared their intention of ratifying the same, for the purpose of deciding whether it shall be put in force.

The ratifications will thereafter be deposited immediately and the convention will become effective one month after such deposit.

The protocol will remain open one year for the states represented at the Brussels conference. Thereafter they may adhere to the convention, in accordance with the terms of Article 14.

## ARTICLE 18.

In case any of the contracting parties secede from the present convention, such secession shall take effect one year from the day on which the notification is made to the Belgian Government and the convention shall remain in force between the other contracting governments.

In witness whereof the plenipotentiaries of the respective states have signed and sealed the present convention.

**ARBITRATION TREATIES CONCLUDED BY BELGIUM WITH RUSSIA, SWITZERLAND, SWEDEN AND NORWAY, SPAIN, DENMARK, AND GREECE.**

*The Belgian Chargé to Acting Secretary of State Loomis.*

BELGIAN LEGATION,

*Washington, June 7, 1905.*

MY DEAR MR. SECRETARY: The Belgian legation has just received the text of the exposition of the motives accompanying the proposed law submitted to the Belgian chambers for the approval of the obligatory treaties of arbitration concluded between Belgium and other governments.

I hasten to place one copy of the same at your disposal.

Please accept, etc.,

E. HAVENITH.

[Inclosure.—Translation.]

His Majesty the King of the Belgians and his Majesty the Emperor of all the Russias, desiring to settle as far as possible by pacific means the differences which may arise between their countries, have decided to conclude for this purpose a convention of obligatory arbitration, and have appointed as their plenipotentiaries, to wit:

His Majesty the King of the Belgians—

Count Degrelle Rogier, his envoy extraordinary and minister plenipotentiary at the Imperial court of Russia, and

His Majesty the Emperor of all the Russias—

Count Lamsdorf, his secretary of state, actual privy counselor and minister of foreign affairs;

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

## ARTICLE I.

The high contracting parties agree to submit to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, the differences which may arise between them in the cases enumerated in article 3, in so far as they affect neither the inde-

pendence, the honor, the vital interests, nor the exercise of sovereignty of the contracting countries, and provided it has been impossible to obtain an amicable solution by means of direct diplomatic negotiations or by any other method of conciliation.

## ARTICLE 2.

It shall be the privilege of each of the high contracting parties to decide whether the difference which has arisen involves its vital interests, its honor, its independence, or the exercise of its sovereignty, and is consequently of such a nature as to be comprised among those which are excepted from obligatory arbitration according to the foregoing article.

## ARTICLE 3.

Arbitration shall be obligatory between the high contracting parties in the following cases:

1. In case of disputes concerning the application or interpretation of any convention concluded or to be concluded between the high contracting parties and relating—

- (a) To matters of international private law;
- (b) To the management of companies;
- (c) To matters of procedure, either civil or criminal, and to extradition.

2. In case of disputes concerning pecuniary claims based on damages, when the principle of indemnity has been recognized by the parties.

Differences which may arise with regard to the interpretation or application of a convention concluded or to be concluded between the high contracting parties and in which third powers have participated or to which they have adhered shall be excluded from settlement by arbitration.

## ARTICLE 4.

The present convention shall be applicable even if the disputes which arise shall have originated in acts prior to its conclusion.

## ARTICLE 5.

When there shall be an occasion for arbitration between them, the high contracting parties shall, in the absence of compromising clauses to the contrary, conform in all that concerns the appointment of the arbitrators and the arbitral procedure to the rules established by the convention signed at The Hague July 29, 1899, for the pacific settlement of international controversies, except as regards the points indicated hereinbelow.

## ARTICLE 6.

Neither of the arbitrators shall be a subject of either of the nations signing the present convention, nor be domiciled in their territories, nor be interested in the questions forming the subject of arbitration.

## ARTICLE 7.

The agreement provided for by Article 31 of the convention of July 29, 1899, shall fix a period within which the exchange between the two parties of the memoranda and documents relating to the subject of the litigation shall take place. This exchange shall be completed at all events before the opening of the sessions of the court of arbitration.

## ARTICLE 8.

The agreement mentioned in the foregoing article shall likewise fix the sum which the high contracting parties are to place at the disposal of the Permanent Bureau of the Court of Arbitration in order to cover the expenses of arbitration in accordance with Article 57 of the convention of July 29, 1899.

## ARTICLE 9.

The arbitral sentence shall specify the periods within which it is to be executed.

## ARTICLE 10.

The present convention is concluded for the period of ten years. It shall take effect one month after the exchange of ratifications. In case neither of the high contracting parties has made known, six months before the end of said period, its intention to bring it to an end, the convention shall remain binding until the expiration of one year from the day on which one or the other of the high contracting parties shall have denounced it.



## ARTICLE 11.

The present convention shall be ratified within the shortest possible period, and the ratifications shall be exchanged at St. Petersburg.

In witness whereof the plenipotentiaries have signed the present convention and affixed thereto the seal of their arms.

Done at St. Petersburg, October 30/17, 1904.

COUNT DEGRELLE ROGIER.  
COUNT LAMSDORFF.

## DECLARATION.

At the moment of proceeding to sign the arbitration convention, which has been agreed upon between Belgium and Russia, the undersigned plenipotentiaries, being duly authorized for this purpose, have agreed on the following:

It is understood that the said convention, in accordance with the previous declarations of the plenipotentiary of His Majesty the King of the Belgians, made at the Peace Conference at The Hague, does not in any way modify, as far as the high contracting parties are concerned, the rights and obligations accruing to them from the treaty of April 19, 1839, which guarantees the independence and neutrality of Belgium, and the stipulations of which can not be affected by the said convention of arbitration.

The present declaration shall have the same value and the same duration as if it had been embodied in the aforementioned convention. It shall be ratified at the same time.

Done in duplicate at St. Petersburg, October 30/17, 1904.

COUNT DEGRELLE ROGIER.  
COUNT LAMSDORFF.

His Majesty the King of the Belgians and the Federal Council of the Swiss Confederation, desiring to settle as far as possible by means of arbitration the differences which may arise between their countries, have decided to conclude for this purpose a convention and have appointed as their plenipotentiaries, to wit:

His Majesty the King of the Belgians—

His excellency Count de Lichtervelde, officer of the Order of Leopold, etc., his envoy extraordinary and minister plenipotentiary to the Swiss Confederation, and

The Federal Council of the Swiss Confederation—

Mr. Robert Comtesse, president of the Swiss Confederation and chief of the political department;

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

## ARTICLE 1.

The high contracting parties agree to submit to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, the differences which may arise between them in the cases enumerated in Article 3 in so far as they effect neither the honor, the independence, nor the sovereignty of the contracting countries, and provided it has been impossible to secure an amicable settlement by direct diplomatic negotiations or by any other method of conciliation.

## ARTICLE 2.

It shall be the privilege of each of the high contracting parties to decide whether the difference which has arisen involves its honor, its independence, or its sovereignty, and is consequently of such a nature as to be comprised among those which are excepted from obligatory arbitration according to the foregoing article.

## ARTICLE 3.

With the reservations indicated in Article 1 arbitration shall be obligatory between the high contracting parties in the following cases:

1. In case of disputes concerning the application or interpretation of any convention concluded or to be concluded between them with the exception of those in which third powers have participated or to which they have adhered.

2. In case of disputes regarding pecuniary claims based on damages, when the principle of indemnity is recognized by the parties.

## ARTICLE 4.

The present convention shall be applicable even if the disputes which arise have had their origin in acts prior to its conclusion.

## ARTICLE 5.

When there shall be an occasion for arbitration between them, the high contracting parties shall, in the absence of compromising clauses to the contrary, conform in everything that concerns the appointment of the arbitrators and the arbitral procedure to the rules established by the convention signed at The Hague on July 29, 1899, for the pacific settlement of international controversies, except as far as the points indicated hereinbelow are concerned.

## ARTICLE 6.

None of the arbitrators shall be a subject of either of the nations signing this convention, nor domiciled in their territories, nor interested in the questions which form the subject of arbitration.

## ARTICLE 7.

The agreement provided for by Article 31 of the convention of July 29, 1899, shall fix a period during which the exchange between the two parties of the memoranda and documents relating to the subject of litigation shall take place. This exchange shall be completed at all events before the opening of the sessions of the court of arbitration.

## ARTICLE 8.

The agreement shall fix the sum which the high contracting parties are to place immediately at the disposal of the Permanent Bureau of the Court of Arbitration in order to cover the expenses of procedure, in conformity with Article 57 of the convention of July 29, 1899.

## ARTICLE 9.

The arbitral sentence shall specify the periods within which it is to be executed.

## ARTICLE 10.

The present convention is concluded for the period of ten years. It shall take effect one month after the exchange of ratifications. In case neither of the high contracting parties has given notice, six months before the end of said period, of its intention to terminate it, the convention shall remain binding until the expiration of a year from the day on which either of the high contracting parties shall have denounced it.

## ARTICLE 11.

The present convention shall be ratified within the shortest possible period, and the ratifications shall be exchanged at Bern.

In witness whereof the plenipotentiaries have signed the present convention and affixed thereto their seals.

Done at Bern, in duplicate, November 15, 1904.

LICHTERVELDE.  
R. COMTESSE.

His Majesty the King of the Belgians and His Majesty the King of Sweden and Norway, being signatories of the convention for the pacific settlement of international controversies concluded at The Hague on July 29, 1899, and desiring in order to apply the principles set forth in Articles 15 to 19 of the said convention to enter into negotiations for the conclusion of a convention of obligatory arbitration, have appointed as their plenipotentiaries, to wit:

His Majesty the King of the Belgians—

Baron de Favereau, Knight of the Order of Leopold, etc., a senator, his minister of foreign affairs; and

His Majesty the King of Sweden and Norway—

Count Wrangel, commander of the first class of the Order of the Polar Star, commander of the second class of the Order of Wasa, etc., his envoy extraordinary and minister plenipotentiary to His Majesty the King of the Belgians;

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

## ARTICLE 1.

The high contracting parties agree to submit to the Permanent Court of Arbitration, established at The Hague by the convention of July 29, 1899, the differences which may arise between them in the cases enumerated in article 3, in so far as they affect neither the independence, the sovereignty, nor the vital interests of the respective countries, and provided it has been impossible to secure an amicable settlement by means of direct diplomatic negotiations.

## ARTICLE 2.

It shall be the privilege of each of the high contracting parties to decide whether the difference which has arisen involves its vital interests, its independence, or its sovereignty, and whether it is consequently of such a nature as to be comprised among those which are excepted from obligatory arbitration according to the foregoing article.

## ARTICLE 3.

Arbitration shall be obligatory between the high contracting parties in the following cases:

1. With the reservations contained in Article 1 in case of disputes concerning the application or interpretation of all conventions concluded or to be concluded between them, with the exception of those in which third powers have participated or to which they have adhered.

2. In case of disputes regarding pecuniary claims based on damages, when the principle of indemnity is recognized by the signatory nations.

The high contracting parties waive the right of availing themselves in this latter case of the above-mentioned reservations.

## ARTICLE 4.

The present convention shall be applicable even if the disputes which arise have originated in acts prior to its conclusion.

## ARTICLE 5.

When there shall be an occasion for arbitration between them, the high contracting parties shall, in the absence of compromising clauses to the contrary, conform, in all that regards the appointment of the arbitrators and the arbitral procedure, to the rules established by the convention of July 29, 1899, except as regards the points indicated hereinbelow.

## ARTICLE 6.

None of the arbitrators shall be a subject of the signatory nations, nor be domiciled within their territories, nor be concerned in the questions forming the subject of arbitration.

## ARTICLE 7.

The agreement provided for by Article 31 of the convention of July 29, 1899, shall fix a term within which the exchange between the two parties of the memoranda and documents relating to the subject of litigation shall take place. This exchange shall at all events be completed before the opening of the sessions of the court of arbitration.

## ARTICLE 8.

The arbitral sentence shall specify the periods within which it is to be executed, if there is occasion for it.

## ARTICLE 9.

The present convention is concluded for a period of ten years. It shall take effect one month after the exchange of ratifications. In case neither of the high contracting parties has given notice, six months before the end of said period, of its intention to terminate it, the convention shall remain binding until the expiration of one year from the day on which one or the other of the high contracting parties shall have denounced it.

## ARTICLE 10.

The present convention shall be ratified within the shortest possible time, and the ratifications shall be exchanged at Brussels.

In witness thereof, the plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done at Brussels, in duplicate, November 30, 1904.

FAVEREAU.  
WRANGEL.

## SIGNATURE PROTOCOL.

At the moment of proceeding to sign the convention on arbitration. concluded to-day, the undersigned plenipotentiaries make the following declaration:

It is understood that the convention does not abrogate the provisions of Article 20 of the treaty regulating the relations of commerce and navigation between Belgium and Sweden, concluded at Brussels June 11, 1895, nor the provisions of Article 20 of the treaty regulating the relations of commerce and navigation between Belgium and Norway, concluded at Brussels the same day; it is likewise understood that the stipulations of Article 7 of the convention in no wise affect the stipulations of the convention concluded at The Hague July 29, 1899, concerning the second phase of the arbitral procedure provided for in Article 39, and especially the stipulations of Article 43 to 49.

In witness whereof the respective plenipotentiaries have drawn up the present signature protocol, which shall have the same force and value as if the provisions which it contains had been embodied in the convention itself.

Done at Brussels, in duplicate, November 30, 1904.

FAVEREAU.  
WRANGEL.

His Majesty the King of the Belgians and His Majesty the King of Spain, desiring to settle as far as possible by means of arbitration the differences which may arise between their countries, have decided to conclude a convention for this purpose and have appointed as their plenipotentiaries, to wit:

His Majesty the King of the Belgians—

His Excellency Baron Joostens, officer of the Order of Leopold, commander of the Royal Order of Isabel the Catholic, knight of the Royal and Distinguished Order of Charles III of Spain, his envoy extraordinary and minister plenipotentiary to his Catholic Majesty; and

His Majesty the King of Spain—

His Excellency Ventura Garcia Sancho é Harrodo, Marquis de Aguilar de Campoo et de Torre Blanca, his minister of state, senator for life, chamberlain of His Majesty the King of Spain as a grandee of Spain. Grand Cross of the Royal and Distinguished Order of Charles III and of Isabel the Catholic, of the Legion of Honor, of the Iron Crown of Austria, of Christ of Portugal, Knight of St. John of Jerusalem, etc.,

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

## ARTICLE 1.

The high contracting parties agree to submit to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, the differences which may arise between them, in the cases enumerated in Article 3, in so far as they affect neither the honor, the independence, nor the sovereignty of the contracting countries, and provided it has been impossible to reach an amicable settlement by means of direct diplomatic negotiations or by any other method of conciliation.

## ARTICLE 2.

It shall be the privilege of each of the high contracting parties to decide whether the difference which shall have arisen involves its honor, its independence, or its sovereignty, and whether it is consequently of such a nature as to be comprised among those which are excepted from obligatory arbitration according to the preceding article.

## ARTICLE 3.

Under the reservations indicated in Article 1, arbitration shall be obligatory between the high contracting parties:

(1) In case of disputes concerning the application or interpretation of any conventions concluded or to be concluded between them, with the exception of those in which third powers have participated or to which they have adhered.

(2) In case of disputes concerning pecuniary claims based on damages, when the principle of indemnity is recognized by the parties.

## ARTICLE 4.

When there shall be an occasion for arbitration between them, the high contracting parties shall, in the absence of compromising clauses to the contrary, conform, in all that concerns the appointment of arbitrators and the arbitral procedure, to the rules established by the convention signed at The Hague of July 29, 1899, for the pacific settlement of international controversies, except as regards the points indicated hereinbelow.

## ARTICLE 5.

Neither of the arbitrators shall be a citizen of either of the nations signing the present convention, nor be domiciled within their territories, nor be concerned in the questions forming the subject of arbitration.

## ARTICLE 6.

The agreement provided for by Article 31 of the convention of July 29, 1899, shall fix a period during which the exchange between the parties of the memoranda and documents relating to the subject of litigation shall take place. This exchange shall be terminated in all cases before the beginning of the sessions of the arbitral tribunal.

## ARTICLE 7.

The agreement shall fix the sum which the high contracting parties shall place at once at the disposal of the Permanent Bureau of the Court of Arbitration in order to cover the expenses of procedure, in accordance with Article 57 of the convention of July 29, 1899.

## ARTICLE 8.

The arbitral sentence shall specify the periods within which it is to be executed if there is occasion for it.

## ARTICLE 9.

The present convention is concluded for a period of ten years. It shall take effect one month after the exchange of ratifications. In case neither of the high contracting parties shall have made known six months before the end of the said period its intention of terminating it the convention shall remain obligatory until the expiration of one year from the day on which either of the high contracting parties shall have denounced it.

## ARTICLE 10.

The present convention shall be ratified within the shortest possible time and the ratifications shall be exchanged at Madrid.

In witness whereof the plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done at Madrid, in duplicate, January 23, 1905.

JOOSTANS.

THE MARQUIS DE AGUILAR DE CAMPOO.

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His Majesty the King of the Belgians and His Majesty the King of Denmark, desiring to settle as far as possible by means of arbitration the differences which may arise between their countries, have decided to conclude for this purpose a convention and have appointed as their plenipotentiaries, to wit:

His Majesty the King of the Belgians—

Baron de Favereau, knight of the Order of Leopold, etc., senator, his minister of foreign affairs, and

His Majesty the King of Denmark—

Mr. Johan-Wilhelm de Grevenkop-Castenkjold, his chamberlain and chargé d'affaires at Brussels, knight of the Order of Danebrog,

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

## ARTICLE 1.

The high contracting parties agree to submit to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, the differences which may arise between them in the cases enumerated in article 3 in so far as they affect neither the vital interests nor the independence of the contracting countries, and provided it has been impossible to reach an amicable settlement by means of direct diplomatic negotiations or by any other method of conciliation.

## ARTICLE 2.

It shall be the privilege of the high contracting parties to decide whether the difference which shall have arisen involving its vital interests or its independence and whether it is consequently of such a nature as to be comprised among those which are excepted from obligatory arbitration according to the preceding article.

## ARTICLE 3.

Arbitration shall be obligatory between the high contracting parties—

1. Under the reservations indicated in Article 1 in case of dispute concerning the application or interpretation of any conventions concluded or to be concluded between them, with the exception of those in which third powers have participated or to which they have adhered.

2. In case of disputes regarding pecuniary claims when the obligation to pay is recognized in principle by the high contracting parties and when the dispute is solely concerning the amount to be paid. In these cases the signatory powers renounce the right to avail themselves of the reservations mentioned above.

## ARTICLE 4.

The present convention shall be applicable even if the disputes which arise have had their origin in events prior to its conclusion.

## ARTICLE 5.

It is understood that the foregoing article shall not be applicable to differences which may arise between a citizen of one of the parties and the other contracting nation when the courts are competent to decide the controversy according to the laws of that nation.

## ARTICLE 6.

When there shall be an occasion for arbitration between them, the high contracting parties shall, in the absence of compromising clauses to the contrary, conform in all that regards the appointment of the arbitrators and the arbitral procedure to the rules established by the convention signed at The Hague on July 29, 1899, for the pacific settlement of international controversies, except as regards the points indicated hereinbelow.

## ARTICLE 7.

None of the arbitrators shall be a subject of either of the nations signing the present convention nor be domiciled within their territories nor be concerned in the questions which form the subject of arbitration.

## ARTICLE 8.

The agreement provided for by Article 31 of the convention of July 29, 1899, shall fix a period within which the exchange shall take place between the two parties of the memoranda and documents relating to the subject of the litigation. This exchange shall be completed at all events before the commencement of the sessions of the arbitral court.

## ARTICLE 9.

The agreement shall specify the sum which the high contracting parties are to place immediately at the disposal of the permanent bureau of the court of arbitration in order to cover the expenses of procedure in accordance with article 57 of the convention of July 29, 1899.

## ARTICLE 10.

The arbitral sentence shall specify the periods within which it is to be executed.

## ARTICLE 11.

The present convention is concluded for a period of ten years. It shall take effect one month after the exchange of ratifications. In case neither of the high contracting parties should have given notice six months before the end of said period of its intention to terminate it the convention shall remain obligatory until the expiration of a year from the date on which one of the high contracting parties shall have denounced it.

## ARTICLE 12.

The present convention shall be ratified within the shortest possible period and the ratifications shall be exchanged at Brussels.

In witness whereof the plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done at Brussels, in duplicate, April 26, 1905.

FAVEREAU.

J.-W. DE GREVENKOP-CASTENKIOLD.

His Majesty the King of the Belgians and His Majesty the King of the Hellenes, desiring to settle as far as possible by means of arbitration the differences which may arise between their countries, have decided to conclude for this purpose a convention and have appointed as their plenipotentiaries, to wit:

His Majesty the King of the Belgians—

Baron de Groote, knight of the Order of Leopold, etc., his envoy extraordinary and minister plenipotentiary to His Majesty the King of the Hellenes; and

His Majesty the King of the Hellenes—

Mr. A. G. Skousès, commander of the Royal Order of the Saviour, etc., his minister of foreign affairs,

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

## ARTICLE 1.

The high contracting parties agree to submit to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, the differences which may arise between them in the cases enumerated in Article 5 in so far as they affect neither the vital interests, the honor, nor the independence or sovereignty of the contracting countries, and provided it has been impossible to reach an amicable settlement by means of direct diplomatic negotiations or by any other method of conciliation.

## ARTICLE 2.

It shall be the privilege of the high contracting parties to decide whether the difference which has arisen involves its vital interests, its independence, or its sovereignty, and whether it is consequently of such a nature as to be comprised among those which are excepted from obligatory arbitration according to the preceding article.

## ARTICLE 3.

Under the reservations indicated in Article 1 arbitration shall be obligatory between the high contracting parties—

1. In case of disputes concerning the application or interpretation of any conventions concluded between them, with the exception of those in which third powers may have participated or to which they have adhered.

2. In case of disputes relating to pecuniary claims between the two contracting parties based on damages when the principle of indemnity is recognized by the parties.

## ARTICLE 4.

The obligatory arbitration which is accepted on the matters mentioned in Article 3 shall not be claimed for acts prior to the present convention.

## ARTICLE 5.

When there shall be an occasion for arbitration between them, the high contracting parties shall, in the absence of compromising clauses to the contrary, conform in all that concerns the appointment of the arbitrators and the arbitral procedure to the rules established by the convention signed at The Hague on July 29, 1899, for the pacific settlement of international controversies, except as regards the points indicated herein below.

## ARTICLE 6.

None of the arbitrators shall be a citizen of either of the nations signing the present convention nor be domiciled within their territories, nor be interested in the questions which form the subject of arbitration.

## ARTICLE 7.

The agreement provided for by Article 31 of the convention of July 29, 1899, shall fix a term during which the exchange shall take place between the two parties of the memoranda and documents relative to the subject of litigation. This exchange shall be completed at all events before the beginning of the sessions of the arbitral court.

## ARTICLE 8.

The arbitral sentence shall specify the period within which it is to be executed.

## ARTICLE 9.

The present convention is concluded for a period of five years. It will take effect one month after the exchange of ratifications. In case neither of the high contracting parties should have given notice six months before the end of said period of its intention to terminate it, the convention shall remain obligatory until the expiration of a year from the day on which one or the other of the high contracting parties shall have denounced it.

## ARTICLE 10.

The present convention shall be ratified in the shortest possible times and the ratification, shall be exchanged at Athens.

In witness whereof the plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done at Athens in duplicate, April 19 (May 2), 1905.

P. DE GROOTE.  
A. SKOUSÈS.

**INVESTIGATION OF AFFAIRS IN THE KONGO FREE STATE. <sup>a</sup>**

*Minister Wilson to the Secretary of State.*

No. 44.]

AMERICAN LEGATION,  
*Brussels, December 2, 1905.*

SIR: I have the honor to inclose a copy of *La Vérité sur le Congo*, containing a résumé in the English language of the report of the special commission to investigate the administration of King Leopold in the Kongo.

\* \* \* \* \*

The report seems to be made in a spirit of perfect fairness, and the findings of the commission will doubtless be accepted as unprejudiced and just conclusions.

\* \* \* \* \*

I have, etc.,

HENRY LANE WILSON.

[Inclosure.]

*Report of the Commission of Inquiry.<sup>b</sup>*

[From *La Vérité sur le Congo*, of November 15, 1905. Extracts.]

A careful look through the report can leave but one impression on any unbiased reader, viz, that the commissioners spared no efforts whatever in their endeavors to ascertain the truth and also that they concealed nothing of what they did find out. Objections were made

<sup>a</sup> Text of general act of Berlin of Feb. 26, 1885 (to which the United States is not a party), is printed, with other correspondence, in Senate Ex. Doc. 196, 49th Cong. 1st sess. See also House Ex. Doc. B, 48th Cong. 2d sess.; House Report 2655, 48th Cong. 2d sess.; House Ex. Doc. 247, 48th Cong. 2d sess.

<sup>b</sup> *Bulletin officiel de l'état indépendant du Congo*, Nos. 9 and 10 deposited in the library of the Department of State.



(wrongfully, we may say,) on the ground of the small area of territory over which the commission's investigations extended. The commissioners say, however:

"We only visited a small portion of the vast territory belonging to the State, but it can not on that account be said that our investigations were limited to the districts we traveled through. The information gathered by the commission concerning those districts it did not visit was nevertheless sufficient to enable it to form a very accurate idea as to the conditions of life of the natives throughout the whole extent of the state territory." \* \* \*

"Although our mission was to try and find out what ill treatments or abuses the natives were suffering under," say the commissioners, "in short, to find fault, we feel sure that we will also be allowed to point out the improvements we noticed as well. We will say at once that a traveler in the Kongo nowadays, should he think of the country as it was but a few years ago, according to descriptions given by explorers, and then compare it to its present state, can not but marvel at the truly wonderful progress achieved.

"Twenty-five years ago this territory was still in the clutches of absolute barbarism, and one or two Europeans only had succeeded in crossing it, at the cost of superhuman efforts and meeting none but hostile tribes at every step, the people of the region, decimated by the raids of the Arab slave dealers, nevertheless were continually and mercilessly indulging in intertribal feuds; at any moment a traveler was liable to come across a human meat market and to see buyers approach and mark the part of the victim they particularly desired to obtain; the funerals of chiefs invariably meant that hundreds of slaves were to be slain and all their wives buried alive. And yet now, a new state, fully constituted and organized, has rapidly sprung up in this dark and mysterious continent and has brought the blessings of civilization into the heart of Africa.

"At the present time safety reigns supreme throughout the vast territory. A white man unless animated with hostile intentions, can travel almost everywhere, alone and unarmed. The slave trade has been eradicated, cannibalism is severely put down and is gradually disappearing, and human sacrifices are becoming more and more rare. Towns, much resembling our own favorite watering places, have been built to animate the banks of the huge river, and the two chief towns on the Lower Kongo Railway, Matadi, the seaport, and Leopoldville, the big river port, with the bustle of its quays and docks, very much remind one of our European industrial centers, the Mayumbe steam train; the Cataracts Railway, running through the most hilly part of the country; the Grands-Lacs line, laid through the heart of the equatorial forest; 80 steamers running up and down the Kongo River and its tributaries; a complete postal organization; a telegraph service with about 800 miles of lines; hospitals in all the chief towns; in fact, all the latest advantages of civilization have been introduced in the Kongo and give travelers the impression that they are in a country which has long enjoyed all the blessings of European education and not in one which but a quarter of a century ago was totally unknown and savage. It makes one wonder what magic power or firm will, aided by heroic efforts, was able to so change a country in such a short time.

"This impression is further strengthened by watching the practically perfect organization of the young state. There are but a small number of agents, and yet the state has succeeded in effectively taking possession of and ruling the vast territory. A judicious distribution of posts has brought officials into contact with the natives throughout almost the whole country, and there are at the present time but very few villages unacquainted with the power of 'Boula Matari.' The government at Boma keeps up a regular course of communications with every one of these posts, be they near or far. All details or news from any part of the country must pass through the Bohma government office. Reports sent in at fixed dates enable the governor-general to keep in touch with the experience gained by every one of his 2,000 agents. The central government, however, has superintending work to do and often sends out instructions to the various territorial chiefs. Thus the programme and method of going to work adopted by the officials of every degree is always the same. The unit of command is plainly visible everywhere, and the central organization of the Kongolese system works accurately and rapidly without stops or friction.

"The judicial organization also deserves praise, the chief claim for which is the popularity of all the judges among the native population.

"Nor must we forget the splendid work accomplished, simultaneously with the state, by the missionaries of every religion. Their comfortable homes, chapels, schools, pretty plantations and workshops in many places very much helped on the work of civilization."

The commissioners refer to this subject once again in the conclusion of their report and say:

"Had the state wished to do so, it might have prevented almost every one of the abuses mentioned. These almost invariably were caused by the same difficulty viz, that of making natives work. The state need only have done what many other colonial governments have done, *i. e.*, allowed alcohol free entry into its territories. Alcohol—facts are there to prove it—would soon have become an absolute necessity for the natives and they would have overcome their innate laziness in order to procure it. Had the wages allowed the taxpayers consisted of trade alcohol instead of cloth or other such useful articles, the chiefs and leaders

of the different villages would soon have been found to energetically incite to work all those over whom they had any authority.

"We by no means advise the adoption of this step, as we are sure that it would end by stupefying the whole race in a few years. On the other hand, we consider that the prohibition of the spirit trade and the suppression of slavery are the Kongo State's two chief claims for glory. Humanity in general must always be grateful to the Kongo Government for having refused to make use of the powerful factor so many others used before it, as thereby a scourge even more terrible and disastrous than the slave trade was averted from the Kongo." \* \* \*

With reference to the land policy, it says:

"The commission has no intention of discussing the question as to whether the appropriation of vacant territories by the state is legal or on. The principle here applied is admitted by all legislations, however, and in the conventional basin of the Kongo, for instance, is acted upon by other governments besides that of the Free State." \* \* \*

The following remarks were made concerning taxes in labor: 'And so the only way in which the natives can be made to work regularly is to oblige them to supply a certain amount of labor wherewith to exploit the country, cultivate its natural riches; in a word, make the most of its wealth. That is the only way to join the Kongo to the general movement of civilization and to bring its population out of the state of wildness and barbarism in which they have struggled up to the present day. The natives are perhaps perfectly happy in that state, but it must be allowed that it would not be fitting for civilized races, nor is such a future desirable for humanity in general.

"Now the only legal means at the disposition of the state to make the natives work is to institute taxes in labor; and these taxes are justified in the Kongo by the necessity felt by the state of obtaining labor from the natives. In addition to this, the tax imposed on the populations in this country takes the place of duties laid on civilized nations by the everyday necessities of life.

"The principle that the state should impose taxes, not only in money and kind, but also in labor on its citizens, for the public weal, is admitted by all European legislations. Obligatory military service weighs heavily on the male population of almost the whole of continental Europe and very many governments recognize the right exercised by the state or even by townships, in many cases, of imposing personal labor upon citizens in cases of works interesting the general welfare. Therefore all the more reason why a young state should be allowed to do the same thing, seeing that everything is to be done in a new country and that there are no other resources than those the natives can provide.

"The tax in labor is also the only one that can be imposed in the Kongo, because the natives, as a general rule, possess nothing besides their huts, weapons, and sometimes a small plantation, absolutely necessary to their maintenance. Taxes in money would consequently be impossible. Therefore if it be allowed that the Kongo State has the right to tax its populations at all on behalf of its own existence and development, it must evidently be granted that it is perfectly justified in imposing the only tax these populations are able to pay, viz, the tax in labor.

"Of course, this tax, like all taxes, is only to take up a small portion of the natives' activity; it is only to serve government needs and to be used for works likely to benefit the taxpayers themselves. It is not to interfere in any way, as our proposals will show, with the liberty of individuals, and as long as it remains within these limits we do not consider it open to criticism.

"On the other hand, as long as the tax is not excessive and is justly and kindly imposed, so as not to oblige recourse to be had to force, as we indicate hereafter, it can but be one of the most efficacious steps toward the civilization and transformation of the native population."

In the matter of concessions, the commission says:

"Far be it from us to dispute the right possessed by the state of granting concessions of trade over certain parts of its territory. We will even go so far as to say that, at one time, that was the only form of exploitation possible, for the state had not then enough agents and officials to properly exploit the vast territory at its disposal; it was therefore obliged to resort to private enterprise, and it thankfully accepted the aid of bold financial men who did not hesitate to engage their wealth in undertakings which might appear to be risky." \* \* \*

The Report (p. 235 of the Bulletin Officiel) quotes the opinion of Messrs. Stapleton and Millman, two missionaries settled in the Falls district. These gentlemen declared that "they were perfectly satisfied with the moral and material condition of the country." "The most serious abuses occurred in those parts of the country occupied by concession-holding companies" (p. 226) and not on the state territory, and "the cause of most of the abuses discovered is the system of forced labor instituted by these companies" (p. 228). "All the witnesses state that many improvements have been made of late" (p. 196). The commission here again refers to the favorable evidence of two evangelical missionaries. Most of the excesses committed during military expeditions "of frequent occurrence in African colonies" (p. 217) are due to mistakes made by agents in the Upper Kongo, who treated

natives in times of peace as though they were enemies of war. The government is not held responsible in any way, as the commission, speaking of the excesses occasioned by the recourse to strength in the matter of forced labor, says that most of these facts "had remained unknown to the judicial authorities until an investigation recently made by an acting magistrate" (p. 197). Most of the abuses were the doings of black capitas or sentinels. On the other hand, many of the libels directed against the state are flatly contradicted by the report, such as mutilations (p. 226), the collection of copal (p. 190), depopulation, due to many causes, but chiefly to "the ravages created by small-pox and sleeping sickness during the last few years" (p. 238), and also the charges of inflicting the "chicotte" to women. "It was found that this regulation had been disobeyed, but such infractions do not often occur and lately have become more and more rare. The government, at all events, severely punishes offenses of this description" (p. 264). Military recruiting, far from being an oppression to the natives, is "the contribution to the public good to which the natives adapted themselves most easily" (p. 251), and "the commission is convinced that military education has up to the present been the most potent factor of civilization among the grown-up Kongolese" (p. 252). The commission also loudly praises all the Kongolese magistrates, who "display great zeal" and "perform their duties with an impartiality worthy of all praise" (p. 268).

#### JUSTICE.

"The judicial organization also deserves praise, the chief claim for which is the popularity of all the judges among the native population" (p. 145).

\* \* \* \* \*

"The short sketch we have just made shows that the Free State took great trouble over its judicial organization. We do not consider the latter to be perfect or to supply all the needs which actually exist, but we feel convinced that it would compare favorably with that of many colonies of more than twenty years' existence.

"In the entire course of its investigations the commission received no complaint and has no criticism to make on the way in which the professional magistrates at work in the law courts fulfill the arduous and delicate missions intrusted to them.

"The commission also was able to see that the magistrates, as a general rule, work extremely zealously and with praiseworthy impartiality" (p. 268).

\* \* \* \* \*

"The courts and, as a rule, the judges are perfectly independent as regards their decisions. The proof of this may be found in several of the verdicts recently given in the Boma courts" (p. 275).

#### THE PUBLIC FORCE.

"These criticisms are unfounded and can not be applied to the present situation.

"Recruiting for the regular army is effected by voluntary enlistment and by yearly levies (decree of July 30, 1891, Article 1). The governor-general decides every year on the districts to supply the recruits and on the number of the latter to be supplied (Article 2). The system of recruiting is settled by the district commissioner, who comes to an understanding with the native chiefs. It is done, as often as possible, by drawing lots.

"This decree is strictly obeyed, except that the drawing of lots does not take place, because no census of the population has been taken lately. As a rule, the district commissioners ask the chiefs to nominate the men who are to serve.

"This system can only be vetoed by denying the state the right of making its citizens serve. And yet, the Kongo State here only applies a principle recognized by almost all the European legislations.

"The commission ascertained, however, that some abuses have occurred in these questions of recruitment. Some chiefs of expeditions have considered themselves authorized to demand a certain number of recruits, as punishment for offenses or as a war indemnity. This practice, however, was strictly prohibited by the government and we fancy has completely disappeared."

"Military life presents many attractions to the natives; it appeals to their nature, tastes, and likings. We feel safe in asserting that obligatory service, so much objected to at first among the nations of western Europe, is the form of public contribution the natives found easiest to submit to.

"In addition to this, voluntary enlistments are frequent and many of the men reenlist after completing their first term of service.

"The men of the public force are, as a rule, well treated and well looked after by the state. They are paid 21 centimes (1½ d.) per day. Each man is allowed to live with his wife and to take her about with him. Further, even, a recent circular from the governor-general lays down that all new recruits should be advised to marry a woman of their country before joining.

"The commission visited the hut villages formed by the soldiers' families in several of the posts and in two camps of instruction. Its members were struck by their clean aspect and excellent condition. The splendid appearance and military aspect of the troops is also worthy of all praise. Very few complaints were received from men of the public force and these only referred to questions of secondary importance.

"The commission is convinced that military education has so far been the most potent factor of civilization among the adults of the Kongo. Military service, somewhat lengthened in view of the necessity of changing savages into civilized soldiers, goes far toward bettering those natives who are obliged to enlist, and this good influence retains its hold on time-expired men. These are easy to recognize by their carriage, their smart appearance, and saluting, the care with which they dress, and the comfortable homes they build for themselves. These men try to obtain business relations with Europeans, and hold the authorities in great respect."

## MUTILATIONS.

"The observations made by the commission, the evidence taken and information obtained combine to prove that the mutilation of dead bodies is an ancient custom among the natives and one which, to their eyes, does not appear as profane as it does to ours. The fact of cutting off certain parts of a dead body simply satisfies the natives' desire of possessing a trophy or some proof of prowess. It was common practice to mutilate fallen enemies in the wars between the tribes of certain regions. Even now, if natives wish to prove that one of their family is dead and either can not or will not produce the body, they simply show the official in authority his hands or feet. One point, however, is undisputable, no European ever inflicted or ordered such mutilations to be inflicted on living natives as punishment for shortage of labor tax or any other offense. Not a single witness testified to occurrences of this nature, and we failed to come across a single case during the whole course of our investigations.

"Epondo repeated the story he had previously told and stated that he lost his left hand as the result of a bite from a wild boar received out hunting one day with his master.

"The commission attaches no importance to Epondo's assertions, considering the fact that he has contradicted himself so frequently during the last two years. The commissioners rely on their own observations and on a thorough medical examination made at Coquilhatville by Doctor Védy and come to the conclusion that Epondo really did lose his hand as the result of a bite from a wild beast. In addition to this, the Reverend Weeks told us that during a recent visit to Malele, Epondo's native village, he saw that this was the general opinion throughout the village" (p. 224).

## TAXES IN COPAL.

"The collection of copal is by no means difficult, even children can take part in it, either by collecting the copal 'fossil' thrown up on the banks of lakes and rivers or by gathering the sap on the trees or that which has amassed itself at the foot of the trees a few feet under ground. In certain districts copal gum is very abundant.

"The commission received no complaints whatever with reference to this tax.

"The pay, 1 mitako per kilogram, is sufficient for the natives who care to work at all to earn their livelihood easily. The small rate of pay has been much criticized on account of high prices charged on European markets. These criticisms, however, are altogether unreasonable. As far as the collection of the natural produce of a country is concerned the price of labor alone should be taken into consideration and not the value of the produce on the market where it is sold. In Europe there is no doubt but that the rate of the workmen who extract precious metals underground is very much inferior to the real value of the metals."

## REPRESSION OF SLAVERY AND OF BARBAROUS CUSTOMS.

"Twenty-five years ago this territory was still in the clutches of absolute barbarism and one or two Europeans only had succeeded in crossing it at the cost of superhuman efforts and meeting none but hostile tribes at every step. The people of the region, decimated by the raids of the Arab slave dealers, nevertheless were continually and mercilessly indulging in intertribal feuds. At any moment a traveler was liable to come across a human meat market and to see buyers approach and mark the part of the victim they particularly desired to obtain. The funerals of chiefs invariably meant that hundreds of slaves were to be slain and all their wives buried alive. And yet now a new state, fully constituted and organized, has rapidly sprung up in this dark and mysterious continent and has brought the blessings of civilization into the heart of Africa.

"At the present time safety reigns supreme throughout the vast territory. A white man, unless animated with hostile intentions, can travel almost everywhere alone and unarmed. The slave trade has been eradicated, cannibalism is severely put down and is gradually disappearing, and human sacrifices are becoming more and more rare."

"The slave trade was very flourishing all along the Kongo River and its chief center was at the junction of the Kongo and Lulonga rivers. It is now prohibited. The state by so doing dealt a death blow to the prosperity of the slave-dealing tribes, most of whom have now left the banks of the river, together with the commerce whereon they lived."

\* \* \* \* \*  
 "On the other hand, we consider that the prohibition of the spirit trade and the suppression of slavery are the Kongo State's two chief claims for glory. Humanity in general must always be grateful to the Kongo Government for having refused to make use of the powerful factor so many others used before it, as thereby a scourge even more terrible and disastrous than the slave trade was averted from the Kongo."

#### COMMERCE.

"We do not consider it possible at present, unless perhaps in the Kasai district and in certain parts of the Eastern Province, to make the natives collect rubber willingly, or at any rate so as to insure a regular supply by the ordinary methods of demand and supply."

#### THE APTITUDE OF THE NATIVES FOR WORK.

*Defense of the tax in labor.*—"All production, commerce, and life in the Kongo are impossible at present and will be so for many years to come without native labor. Europeans may get accustomed to the climate, but will find it extremely difficult except in the most favorable regions to inure themselves to the hard work of tilling the soil. The natives, on the other hand, on account of the general conditions of the country, inherit a natural dislike of work. They only do just as much as is strictly necessary for their maintenance. The land is so rich, the territories so vast, cultivation so easy, and the climate so favorable that very little work supplies all their wants. A few branches and leaves make a native's house; he has hardly any clothes; fishing, hunting, and a few elementary plantations give him the little food he requires. His activity sometimes wakes up prompted by the desire of procuring weapons, a few ornaments, or a wife. Once this object is achieved, however, he lets himself live and is happy in his laziness. There are a few exceptions among the more civilized tribes, such as the Kasai. These have larger needs to satisfy. The tribes formerly under subjection to the Arabs are also different, as they were obliged to work for many generations, and have thus become accustomed to it. As a general rule, however, the natives prefer to be left to their old life, and no bribe is sufficient to entice them to any long or hard task.

"And so from the first the European settlers in the Kongo found themselves obliged to ask the natives for help, which the latter refused to give, at any rate regularly or for any length of time, according to the law of demand and supply. The only way Stanley was able to fray his first passage from Vivi to the Pool and launch the first boats on the Upper Kongo was by the efforts of his teams of Zanzibar natives, whom he continually changed. All his efforts to obtain native labor were fruitless. The Cataracts Railway was only constructed by the work of Senegal and Sierra Leone natives, who were paid very high wages. This system of having continual recourse to foreign labor evidently can not continually be used, the country itself must supply the labor necessary to its own life and development.

"And so the only way in which the natives can be made to work regularly is to oblige them to supply a certain amount of labor wherewith to exploit the country, cultivate its natural riches—in a word, make the most of its wealth. That is the only way to join the Kongo to the general movement of civilization and to bring its population out of the state of wildness and barbarism in which they have struggled up to the present day. The natives are perhaps perfectly happy in that state, but it must be allowed that it would not be fitting for civilized races nor is such a future desirable for humanity in general.

\* \* \* \* \*  
 "On the other hand, the obligation to work, if not excessive and if applied in a paternal and equitable way, violence being always omitted, will be an efficient manner to civilize and transform the native population.

"The natives if left to themselves must continue to live in that primitive condition they have continued to exist in for so many centuries and which they do not want to leave, in spite of all the efforts made to educate and enlighten them. A clear proof of this is the condition of the natives even in the spheres of action of the Protestant and Roman Catholic missions. What efforts and sacrifices have not been made in vain? Instruction and example are not sufficient. The native at the first must be forced to shake off his natural laziness and to try to better himself. Consequently a law which imposes a slight but regular tax in labor on the natives is the only way to accustom them to work. Such a law would be good from a financial point of view and at the same time would be helpful to humanity, and this in spite of the fact that it takes away some of the liberty of the natives. To civilize a race is to change its economical and social status, to change ideas, habits, and

customs we disapprove of and bring in our own or very nearly so—in a word, it amounts to educating a nation. Now education, be it that of a child or of an inferior race, must somewhat interfere with total freedom.”

## NATIVE EVIDENCE.

“We will not add that the Kongo native is a liar as that would perhaps be going somewhat too far. He has not the same conception of the truth as we have, however. The truth for him is not what is or has been, but what should be, what he wants or what he thinks his questioner would like. In addition to this they have but a very vague notion as to time and are altogether unable to localize past events. Their recollections concerning numbers are also very vague and they find it impossible ever to quote figures accurately. After a certain lapse of time they quite unconsciously mix up occurrences they have seen with others they have been told about. Great care and untiring patience must be used in order to obtain the real truth from such evidence” (pp. 164 and 147).

## THE INDUSTRIAL EDUCATION OF THE NATIVES.

“The state as well as private individuals takes natives into its service and employs them in various ways.

“These working classes, which are now very numerous, are extremely interesting to follow. Very much good is done to the natives by a sojourn in one of the posts. They there come into contact with European civilization for the first time, and this causes an evident change in their habits and tastes. The native workmen form a semicivilized class just a little below that of the soldiers” (pp. 254 and 255).

## BOLIVIA.

### COMMERCIAL RELATIONS BETWEEN BOLIVIA AND PERU.

*Minister Sorsby to the Secretary of State.*

No. 200.]

AMERICAN LEGATION,  
*La Paz, September 14, 1905.*

SIR: Referring to previous dispatches relative to the treaty of peace and friendship celebrated between Chile and Bolivia on October 20, 1904,<sup>a</sup> I have the honor to report that on the 10th instant an agreement was signed by the Chilean minister here and the Bolivian minister for foreign affairs with respect to the free or reciprocal introduction of the manufactures and products of each country, respectively, the basis of which is as follows:

In conformity with the treaty of October 20, 1904, and until the Government of Bolivia realizes its purpose to cancel the privilege of the freedom from custom dues which the manufactures and products of Peru now enjoy, the manufactures and products of Chile exported to Bolivia and the manufactures and products of Bolivia exported to Chile reciprocally shall enjoy exemption from the customs duties of each country, respectively.

In this connection I have to say that under the terms of the Peru-Bolivia treaty of October 26, 1878, the manufactures and products of each country, respectively, were exempted from custom duties. On December 15, 1903, a modification of this treaty provided that for a term of two years therefrom cotton domestics or cloths manufactured in Peru should pay a Bolivian import duty of 10 per cent. The treaty of October 26, 1878, was terminable at the option of either party.

The Chilean-Bolivian treaty of peace and friendship of October 20, 1904, displaced the Chile-Bolivia treaty of truce of April 4, 1884, which contained the same conditions with respect to reciprocal customs duties exemptions as that of the Peru-Bolivia treaty of October 26, 1878; the Chile-Bolivia treaty of October 20, 1904, provided that Bolivia should be free to regulate her customs tariffs, and that Chile should enjoy (only) the same customs privileges as might be granted any other nation; and it was in view of this abrogation of the special customs privileges embodied in the treaty of truce that Bolivia sought in June last to clear the way for the rearrangement of her customs tariff system by declaring to Peru, through the Bolivian minister at Lima, that it was her purpose to abrogate the treaty of October 26, 1878; and the agreement of the 10th instant between Chile and Bolivia was in view of the protest by Peru against the purpose of Bolivia to abrogate the treaty of October 26, 1878, without having given a reasonable time in which she might be able to adjust her commercial affairs with Bolivia so as to meet the new conditions. It is understood that Peru is endeavoring to agree with Bolivia upon another commercial treaty to be substituted for that of October 26, 1878.

I have, etc.,

WILLIAM B. SORSBY.

<sup>a</sup> Printed under Chile, p. 104.

*Minister Sorsby to the Secretary of State.*

No. 206.]

AMERICAN LEGATION,  
*La Paz, Bolivia, November 16, 1905.*

SIR: Referring to my No. 200, of September 14 last, relative to the commercial relations between Chile-Bolivia and Peru-Bolivia, respectively, I have the honor to report that on October 26 last the Bolivian minister at Lima, Peru, acting upon precise instructions from his government to that effect, notified the Peruvian Government that Bolivia had canceled or declared void the "treaty of commerce and customs" of June 7, 1881, together with several protocols based thereon (referred to in my No. 200, of September 14 last, as the treaty of October 26, 1878), and has definitely fixed the 31st day of December, 1905, as the final day of its operation or existence. The Bolivian minister also proposed that a treaty better adapted to the mutual interests of both countries should be substituted.

Replying to the Bolivian minister, the Peruvian minister for foreign affairs, his excellency Dr. J. Prado Ugarteche, protested strongly against the action of Bolivia, declaring said action to be abrupt and unjust; and further, that the Peruvian Government would not recognize the power of Bolivia alone and exclusively to determine the final period for the termination of the treaty and the protocols relative thereto. And his excellency expressed the hope that the sense of justice of a neighboring and friendly country, such as Bolivia, would not permit it to persist in maintaining a position which would oblige the Government of Peru, much to its regret, to discontinue the privilege of free transit.

Since June of the present year both countries have in vain sought to reach a mutual understanding with respect to the arrangement of the bases for a new treaty to replace that of June 7, 1881, and its respective protocols; and now, in the discussions with respect to Bolivia's cancellation of the said treaty and protocols and her having fixed the 31st day of December of the present year for the termination of the same, it is understood that Bolivia has offered to make a concession by changing the date for the final termination of the treaty from December 31, 1905, to July 1, 1906, but that Peru refuses to accept the proposed concession and insists upon at least a period of one year, counting from January 1, 1906.

At this writing it seems probable that no agreement as to the bases for a new treaty will be reached within the period of time to which Bolivia may agree to prolong the life of said treaty of 1881, and that as a consequence Peru will impose a transit duty upon all cargo to and from Bolivia, commencing with the actual annulment by Bolivia of the treaty of 1881 and the relating protocols.

I have, etc.,

WILLIAM B. SORSBY.

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*Minister Sorsby to the Secretary of State.*

No. 209.]

AMERICAN LEGATION,  
*La Paz, Bolivia, November 30, 1905.*

SIR: Referring to my No. 206, of the 16th instant, relative to the Peruvian-Bolivian commercial relations and the proposed annulment of the commercial treaty of 1881 by Bolivia, I have the honor to report



that an agreement has been reached by the two countries whereby the said treaty will remain in force and effect until June 30, 1906; and that a new treaty of commerce to supersede that of 1881 has been signed at Lima by the Peruvian minister for foreign affairs and the Bolivian minister at Lima, and it is expected that it will be at once submitted to the Congresses of the respective countries for ratification.<sup>a</sup>

I have, etc.,

WILLIAM B. SORSBY.

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*The Secretary of State to Minister Sorsby.*

No. 65.]

DEPARTMENT OF STATE,  
Washington, December 18, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 206, of the 16th ultimo, by which you advise the Department that Bolivia has notified Peru of the termination of the commercial treaty of 1881, and Peru has denied Bolivia's right to determine the period of the treaty.

Article IX of the Peru-Bolivia treaty of commerce and customs, signed June 7, 1881, provides that the treaty shall remain in force until Bolivia and Peru shall have come to a final decision concerning the federal pact entered into between the governments of both countries. This provision is not modified by the later agreement of July 3, 1900. (British and Foreign State Papers, vol. 92, p. 793.)

The stipulated condition does not appear to have been fulfilled and the treaty does not contain any provision for earlier denunciation by either party. It is to be hoped that the two governments may be able to come to some understanding in regard to its termination by mutual consent.

I am, etc.,

ELIHU ROOT.

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<sup>a</sup> Printed under Peru, p. 738.

## BRAZIL.

### MISUSE OF THE FLAG OF THE UNITED STATES.

*Ambassador Thompson to the Secretary of State.*

No. 20.]

AMERICAN EMBASSY,  
*Petropolis, April 4, 1905.*

SIR: For the information of the Department of State I inclose herewith copy of a letter received from the consul at Bahia, under date of February 10, with reference to the Brazilian schooner *Oliveira*, of Alcobaca, State of Bahia, which has recently entered the port of Bahia flying at the foremast a flag resembling our national ensign.

The matter was brought to the attention of the Brazilian Government in my note to the foreign office dated February 21, with the request that it take such action as seemed proper. Under date of March 2 a note was received in reply, saying that it had been referred to the minister of marine with the request that he give it due consideration. I also inclose copy of this note to the foreign office and translation of the reply.

When the matter is further heard from the Department will be informed.

I have, etc.,

D. E. THOMPSON.

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[Inclosure 1.]

*Consul Furniss to Ambassador Thompson.*

AMERICAN CONSULATE,  
*Bahia, February 10, 1905.*

DEAR SIR: I beg leave to call your attention to the fact that the Brazilian schooner *Oliveira*, of Alcobaca, Bahia, (captain, Joaquim Loures, and owner, Pedro Muniz d'Oliveira) has twice recently entered this port flying at the foremast a flag which so much resembles the flag of the United States of America that it can not be differentiated when at a distance, even by the use of a glass.

I have sent the clerk on board and had a copy of the flag drawn, and inclose the same for your information. You can see from the drawing how easy it would be to mistake this flag for ours, and I have therefore to suggest that action be taken to prevent its further use.

I am, etc.,

H. W. FURNISS.

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[Inclosure 2.]

*Ambassador Thompson to the Minister of Foreign Affairs.*

AMERICAN EMBASSY,  
*Petropolis, February 21, 1905.*

MR. MINISTER: I have to inform you that the Brazilian schooner *Oliveira*, of Alcobaca, Bahia, of which Messrs. Joaquim Loures and Pedro Muniz d'Oliveira are captain and owner, respectively, has twice recently entered the port of Bahia flying a flag so much resembling that of the United States that at a distance it could be not differentiated, even by the use of a glass.

For your further information is inclosed a drawing of the flag used by the *Oliveira*, and you will see that confusion might easily arise from the similarity between the two, and that Brazilian port officials, as well as our consular officers, might well mistake a Brazilian ship for an American or an American for a Brazilian.

In view of the fact that your excellency used your good offices in a previous case of a somewhat like character,<sup>a</sup> with the effect that another flag was substituted for that so similar to the national ensign of the United States, I venture to call your attention for such action by the proper officials as may seem to you and them proper.

D. E. THOMPSON.

[Inclosure 3.—Translation.]

*The Minister of Foreign Affairs to Ambassador Thompson.*

MINISTRY OF FOREIGN AFFAIRS,  
*Rio de Janeiro, March 2, 1905.*

MR. AMBASSADOR: I had the honor of receiving, and have brought to the knowledge of the minister of marine with the request, that he take it into due consideration, the note which your excellency directed me on the 21st of February last in respect to the Brazilian schooner *Oliveira*, of Alcobaca, which carried a flag very similar to the American, as is shown by the respective design appended to the note above cited.

I improve the occasion, etc.,

RIO BRANCO.

*The Acting Secretary of State to Ambassador Thompson.*

No. 15.]

DEPARTMENT OF STATE,  
*Washington, May 23, 1905.*

SIR: I have to acknowledge the receipt of your dispatch, No. 20, of 4th ultimo, transmitting copies of your correspondence with the Brazilian Government in regard to the use by a Brazilian schooner of a flag resembling that of the United States.

Your course is approved by the Department.

I am, etc.,

F. B. LOOMIS.

*Ambassador Thompson to the Secretary of State.*

No. 47.]

AMERICAN EMBASSY,  
*Petropolis, June 18, 1905.*

SIR: Referring to my dispatch, No. 20, of April 4, 1905, reporting a protest made to the Brazilian foreign office against the use by a Brazilian schooner, the *Oliveira*, of a flag similar to our national ensign, I inclose herewith copy of a note received under date of the 14th instant, saying that such instructions have been given as will cause the retirement of the objectionable banner and will prevent the recurrence of like incidents. I also inclose a copy of my note of acknowledgment of the same of this date.

I have, etc.,

D. E. THOMPSON.

<sup>a</sup>See Foreign Relations, 1904, p. 101.

[Inclosure 1.—Translation.]

*The Minister of Foreign Affairs to Ambassador Thompso.*MINISTRY OF FOREIGN AFFAIRS,  
*Rio de Janeiro, June 14, 1905.*

MR. AMBASSADOR: With reference to my note of the 2d of March ultimo, I have the honor to inform your excellency that the minister of marine has already instructed the captain of the port of Bahia to provide for the retiring of the flag flown by the schooner *Oliveira*, and on the same occasion he issued a circular to the captains of the ports of the Republic, prohibiting Brazilian shipping from using ensigns which resemble the flag of any country.

I improve, etc.,

RIO BRANCO.

[Inclosure 2.]

*Ambassador Thompson to the Minister of Foreign Affairs.*AMERICAN EMBASSY,  
*Petropolis, June 18, 1905.*

MR. MINISTER: I have the honor to acknowledge receiving your excellency's note of the 14th instant, informing me that the minister of marine has provided for the retiring of the flag resembling that of the United States flown by the schooner *Oliveira*, and that such instructions have been issued as will prevent its recurrence.

I thank your excellency for your promptness and courtesy in this matter, and I assure you it will be much appreciated by my government.

I improve, with pleasure, the opportunity, etc.,

D. E. THOMPSON.

*Ambassador Thompson to the Secretary of State.*

No. 48.]

AMERICAN EMBASSY,  
*Petropolis, June 20, 1905.*

SIR: In addition to the information transmitted to the Department in my dispatch, No. 47, of the 18th instant, I inclose herewith a translation of a note just received from the foreign office, saying that the flag similar to that of the United States which has been carried by the Brazilian schooner *Oliveira* has been retired.

I have, etc.,

D. E. THOMPSON.

[Inclosure—Translation.]

*The Minister of Foreign Affairs to Ambassador Thompson.*MINISTRY OF FOREIGN AFFAIRS,  
*Rio de Janeiro, June 20, 1905.*

MR. AMBASSADOR: I have the honor to communicate to your excellency, in addition to my note of the 14th instant, that, according to the report of the port captain of the State of Bahia to the minister of marine, the ensign similar to that of the United States of America which the Brazilian schooner *Oliveira* has been carrying has already been retired.

I improve, etc.,

RIO BRANCO.

**MESSAGE OF THE BRAZILIAN PRESIDENT TO THE CONGRESS OF BRAZIL.***Ambassador Thompson to the Secretary of State.*

No. 32.]

AMERICAN EMBASSY,  
*Petropolis May 10, 1905.*

SIR: For the information of the Department of State, I inclose herewith supplements to the Brazilian Review of May 9 containing a complete translation of the message delivered to the National Congress on the occasion of its opening on the 6th instant by Dr. Francisco de Paula Rodrigues Alves, President of Brazil.

I have, etc.,

D. E. THOMPSON.

[Inclosure.]

*Message presented to the National Congress by the President of the Republic, Dr. Francisco de Paula Rodrigues Alves.*RIO DE JANEIRO, *May 5, 1905.*

GENTLEMEN OF THE NATIONAL CONGRESS: In accordance with constitutional precepts, I have again the honor of informing you of the movement of public affairs.

At an opportune moment you were made aware of the sad events of the month of November last; clearly understanding the gravity of the situation, you decreed a state of siege in the federal district and the township of Nictheroy, so as to facilitate bringing the guilty persons to justice.

The reasons which lead to this action under decree No. 1297 of November 14 last, still obtaining, the government found itself compelled by decrees Nos. 5432 and 5461 to prologue the state of siege until the 18th of March last.

My object in proceeding thus was to secure the public order against evil elements well known to all, and to impede the occasioning of ill effects to the great social and political interests profoundly affected by the delay in preparation of indictments against the individuals responsible.

The government has not made use of the state of siege for any ulterior end; all persons have freely exercised all their rights, and it was declared at an end the moment it ceased to be necessary to the safety of the Republic.

\* \* \* \* \*

## FOREIGN RELATIONS.

Happily we continue to enjoy the advantages of peace and I may assure you that never were our relations of friendship closer or more cordial with the other powers.

When I addressed to you my message of May 3, 1904, our relations with Peru were passing through a most delicate crisis, which obliged me to take certain measures for the maintenance of peace and the safeguarding of our rights. The prudence of the two governments finally avoided the danger of a rupture, and on July 12 of the same year two treaties were signed in this city which merit your prompt approbation and that of the competent authorities of Peru.<sup>a</sup> One of these treaties refers to arbitration the claims of Brazilian citizens on account of violence suffered or stated to have been suffered from Peruvians on the Alto Purus and Alto Javary since 1902. The other stipulates that the diplomatic discussion relative to an accord on the question of the frontier from the source of the Javary to the eleventh parallel of longitude, as stipulated between Bolivia and Brazil, shall commence on the 1st day of August and terminate on the 31st of December, the two governments at the same time manifesting their sincere intention of adopting amicable means of settlement, viz, through the good offices of a friendly power or by submission of the question to an arbitrator, if within the period indicated or such other period as may be mutually agreed to no direct and satisfactory accord be arrived at. It was further stipulated that during this period, and for this period only, the territories of the Alto Jurua above the confluence with the Breu and of the Alto Purus above Catay shall be neutralized. These territories during the period of neutrality are to be governed by mixed police commissions, and in each a mixed fiscal post is to be established. Two scientific commissions will explore the two rivers throughout their course in the neutral territory.

<sup>a</sup> Printed in Foreign Relations 1904, pp. 109, 111.

The governments found great difficulty in constituting and putting in motion the commissions. On this account the period of neutrality was in December last extended to the thirty-first of the present month. The instructions to the fiscal commissions could not be signed until the 21st January last, nor those to the police and scientific commissions till February 4. Between the 24th of March and the 1st of April these commissions set out from Manaus. The police commissions should arrive at their destinations, Breu and Catay, almost at the end of the neutrality period. On the other hand the Peruvian minister here left for this country on March 22 on leave of absence. These circumstances render a further extension of time absolutely necessary. The two governments have already arrived at an understanding and the matter will in a few days be put on a regular footing by an exchange of notes.

The Brazilo-Peruvian arbitration court should assemble in this city on the 10th of July under the presidency of Mg. Julio Tonti, Archbishop of Ancyra, the arbitrator chosen by the two governments, and who has obtained from the holy father Pius X the necessary permission to accept the honorable charge.

At the mouth of the Amonea, a tributary on the left bank of the Jurua, there arose unhappily, in the early part of November last, a conflict between a small contingent of the fifteenth infantry and some volunteers on the one hand and the Peruvian garrison who, in compliance with the agreement of June 12, should have evacuated that position. The order of the Peruvian Government was forwarded per telegraph from Lima to the prefect of the department of Loreto enjoining the withdrawal of the military and customs post established at this point at the end of 1902, but there was great delay in its execution, and this conflict arose through the Peruvian commandant not having received any orders whatever on this matter nor any information as to the agreement itself.

In fulfillment of article 3 of the treaty of November 17, 1903 (the treaty of Petropolis), <sup>a</sup> we paid in London to the representative of Bolivia, on the 10th of June, 1904, and the 31st of March last, the indemnity of £2,000,000 which we agreed to pay for the reoccupation of territories ceded by us in the basins of the Jurua and Purus, south of the frontier agreed on on March 27, 1867. The arbitration court created by Article 2 of the treaty should commence work during this month, once the Bolivian member arrives. This court also will be presided over by the apostolic nuncio duly authorized by his holiness.

The demarcation of the frontier should commence shortly by commissions, Bolivian and Brazilian, as provided for by Article 4 of the treaty. I shall not delay in carrying out Article 7, by which we are bound to construct a railway from Madeira to Mamore, an undertaking which will be of no less value to our States of Matto Grosso, Amazonas, and Parathan to Bolivia.

The frontier treaty concluded on May 6 of last year with Ecuador was approved without alteration both by yourselves and the sister Republic. <sup>b</sup> I trust within a few days to exchange the respective ratifications.

The negotiations regarding the frontier with Dutch Guiana have not, unhappily, gone forward as rapidly as I had hoped would be the case. The Hague Government is still awaiting the arrival of information requested from the superior authorities of the colony, but I cherish the hope that this affair, so important to the two powers interested, will be concluded before the termination of the labors of the present session.

It is necessary to occupy ourselves diligently with the question of our frontiers with Venezuela and Colombia. The ministers whom I have accredited to those countries have but just arrived at their posts. I count upon receiving shortly the representatives sent to Brazil by these two countries, with whom we have for so long been on terms of close friendship.

On the 14th of July last His Majesty the King of Italy, the arbitrator chosen by Brazil and Great Britain, handed at the Quirinal to the representatives of the two powers the verdict drawn and signed on the 6th of the same month in the terms of the treaty of London of November 6, 1901. In virtue of this sentence the rivers Cotingo and Tacutu constitute our frontier with British Guiana to the west. As you are aware, these lines are completed to the east by the divertium aquarum of the Acaray and Tumucumaque mountains from the source of the Tacutu to that of the Corentyne, a line already established by the two contracting parties in a note attached to the treaty of 1901.

Recent explorations show that the source of the river Catingo is in Mount Roraima, and not in Mount Jokatipu, as was presumed in the English cartographic documents and accepted in the arbitral award. It is at the former point that our Venezuelan frontier commences.

I at once fulfilled my obligations in thanking the royal arbitrator for the solicitude with which he studied the question submitted to his judgment, and also thanked our advocate, Señor Joaquim Nabuco, for the competence and brilliancy with which he defended the cause of Brazil.

<sup>a</sup> Printed in Foreign Relations 1904, p. 104.

<sup>b</sup> Printed on p. 102.

It now remains for the two governments interested to occupy themselves with the demarcation of the frontier from the source of the Corentyne to Mount Roraima, and it is also necessary to decide the line of division Oyapoc-Tucumumaque, which separates Brazil from French Guiana. We were ready for this in 1900, but a delay appeared necessary to the French Government in order to give an opportunity to the French commission to obtain a change of climate after their long sojourn in Cunany.

The department of foreign affairs has already received the reports of the commission for the demarcation of the frontier with Uruguay, Pepry Guassu, Santo Antonio, and Iguassu, from the confluence of Quarahim to the Alto Parana. The maps, which are under examination, lack thus far the approval of the two governments.

Our sometime legation in Washington has been raised to the rank of an embassy, and I have nominated our late minister, Señor Joaquim Nabuco, to be the first ambassador, dating the commission from the 10th of January. On the same day, as had been arranged, President Roosevelt submitted to the Senate the nomination of Mr. David E. Thompson as ambassador of the United States in Brazil. The nomination having been approved on the 13th of January, the credentials of the two new ambassadors were signed in Rio de Janeiro and in Washington on the 21st of January. The rapidity with which the two new embassies were created clearly shows the mutual esteem existing between the two governments and the good will with which the Government and people of the United States respond to our ancient and loyal friendship for them.

On the 16th of March last I had the pleasure of receiving the credentials of the first ambassador of the United States of America to Brazil. Our ambassador, who is at present in London completing the labors of his special mission in Italy, should leave during the course of the present month for Washington.

An international sanitary convention was signed in Rio de Janeiro on the 12th of June last between Argentina, Uruguay, Paraguay, and Brazil.<sup>a</sup> Through the action of circumstances outside of our control it has not thus far been possible to carry out in Montevideo the indispensable formality of an exchange of ratifications.

The projected convention for the repression of the traffic in white women and of an accord for its execution were signed in Paris on the 12th of June, 1902.<sup>b</sup> The National Congress approved it on the 27th of December, 1904, and as, owing to lack of time, Brazil alone was lacking at the exchange of ratifications I have resolved to express my adhesion to the said convention in accord with the faculty conceded thereby, and our minister in France has been authorized accordingly.

By notes of August 9, 1904, the Governments of Brazil and Italy have extended till the 31st of December, 1906, the commercial agreement of July, 1900. Up to the present Italian products enjoy the benefit of the Brazilian minimum tariff, and the duty on Brazilian coffee entering Italy can not exceed 130 lire per 100 kilograms.

The treaty of friendship and commerce concluded on June 16, 1903, with Persia, and approved by you on December 27 last, has thus far not been promulgated owing to the impossibility of exchanging ratifications.

\* \* \* \* \*

FRANCISCO DE PAULA RODRIGUES ALVES.

## BOUNDARY TREATY BETWEEN BRAZIL AND ECUADOR.

*Ambassador Thompson to the Secretary of State.*

No. 36.]

AMERICAN EMBASSY,  
*Petropolis, May 19, 1905.*

SIR: For the information of the Department of State I inclose herewith the text of the boundary treaty between Brazil and Ecuador, the exchange of ratifications of which took place in Petropolis on the 16th instant, together with translation of the same.

\* \* \* \* \*

I have, etc.,

D. E. THOMPSON.

<sup>a</sup> Printed under Argentine Republic, p. 38.

<sup>b</sup> Printed under Germany, p. 462.

[Inclosure.—Translation.]

(From the Journal de Commercio of May 18, 1905.)

The treaty of limits between Brazil and Ecuador, whose exchange of ratifications was realized day before yesterday in Petropolis, is of the following tenor:

ARTICLE 1. The Republic of the United States of Brazil and the Republic of Ecuador agree that if the litigation which exists over limits between Ecuador and Peru terminates favorably for Ecuador, as that Republic hopes, the frontier between Brazil and Ecuador wherever they border shall be the same as that stipulated in Article VII of the convention celebrated in Lima by Brazil and Peru on the 23d of October, 1851, with the unchanged modification of the accord, also signed in Lima, of the 11th of February, 1874, for the exchange of territories on the line of the Içá or Putumayo—that is, that the frontier shall be wholly or in part conforming to the result of the aforesaid litigation—the geodetic line which departs from the mouth of the Igarape Santo Antonio, on the left margin of the Amazon, between Tabatinga and Leticia, and terminates at the confluence of the Apaporis with the Japura or Caqueta, except in the section of the Rio Içá or Putumayo divided by the same line, where the channel of the river between the points of intersection shall form the division.

ART. 2. The two high contracting parties declare that in celebrating the present treaty they have no intention of prejudicing any right which the other neighbor nations may prove in time—that is, that they have no intention of modifying the questions of limits pending between Brazil and Colombia and between Ecuador, Colombia, and Peru—a purpose which Brazil also did not have when it negotiated the convention of October 23, 1857, with Peru.

ART. 3. This treaty, after being approved by the executive power of each one of the two Republics, shall be ratified by the respective governments and the ratifications shall be exchanged in Rio de Janeiro, in Quito, or in Santiago de Chile.

#### ARBITRATION TREATY BETWEEN THE ARGENTINE REPUBLIC AND BRAZIL.

*Ambassador Thompson to the Secretary of State.*

No. 82.]

AMERICAN EMBASSY,  
*Petropolis, September 10, 1905.*

SIR: September 7 was the anniversary of Brazilian independence from Portugal.

The day was the occasion of the usual independence day celebration in Rio de Janeiro, and by arrangement between Argentina and Brazil was fixed as the day for the signing of an arbitration treaty between the two countries. An Argentine war fleet consisting of four vessels was sent to Rio, arriving there a couple of days before the 7th and will remain in the harbor until to-morrow morning, the 11th.

The occasion of the signing of the arbitration treaty and the presence of the Argentine war vessels in Rio harbor have, coupled with the usual independence day demonstration, been the cause of four days of banqueting and other kinds of party giving by the Brazilian foreign minister, the Argentine minister, and the admiral of the Argentine fleet. Everything has passed off most agreeably, and the occasion of the signing of the treaty seems to be most pleasing to the Brazilians, as well as to the Argentines here present. The treaty consists of an agreement to arbitrate all matters between Argentina and Brazil, excepting such as involve their respective constitutions or their liberty, and runs for a period of ten years with the condition that if not denounced at least six months before the expiration of the ten years it shall be considered renewed for a like period of time.

\* \* \* \* \*  
I have, etc.,

\* \* \* \* \*  
D. E. THOMPSON.



## CHILE.

### TREATY OF PEACE AND FRIENDSHIP BETWEEN CHILE AND BOLIVIA, AND CONVENTION FOR THE CONSTRUCTION AND OPERATION OF A RAILROAD FROM ARICA TO LA PAZ.

*Chargé Ames to the Secretary of State.*

No. 427.]

AMERICAN LEGATION,  
*Santiago, March 28, 1905.*

SIR: I have the honor to inclose herewith a copy and translation of the Chile-Bolivia treaty. \* \* \*

I have, etc.,

EDWARD WINSLOW AMES.

[Inclosure—Translation.]

(MINISTRY OF FOREIGN AFFAIRS, WORSHIP AND COLONIZATION.)

Herman Riesco, President of the Republic of Chile, inasmuch as a treaty of peace and friendship, with a supplementary protocol thereto, was negotiated, concluded, and signed on October 20, 1904, between the Republic of Chile and the Republic of Bolivia, through their duly authorized plenipotentiaries, the treaty reading as follows:

In pursuance of the purpose expressed in article 8 of the truce agreement of April 4, 1884, the Republic of Chile and the Republic of Bolivia have agreed to celebrate a treaty of peace and friendship, and to that end have named and constituted as their plenipotentiaries, respectively: His Excellency the President of the Republic of Chile, Don Emilio Bello Codecido, minister of foreign affairs, and His Excellency the President of the Republic of Bolivia, Don Alberto Gutierrez, envoy extraordinary and minister plenipotentiary of Bolivia in Chile, who, having exchanged their full powers and having found them in good and due form, have agreed on the following:

ARTICLE 1. The relations of peace and friendship between the Republic of Chile and the Republic of Bolivia are reestablished, the status established by the truce agreement being thereby terminated.

ART. 2. By the present treaty the territory occupied by Chile by virtue of article 2 of the truce agreement of April 4, 1884, is recognized as belonging absolutely and in perpetuo to Chile.

The north and south boundary between Chile and Bolivia shall be that here indicated:

From the highest point of Zapaleri Hill (1) in a straight line to the highest point of the ridge jutting out toward the south from Guayaques Hill, in latitude (approximate) 22° 54'; hence a straight line to the pass of the Cajon (3); next, the watershed of the ridge which runs north, including the summits of Juriques Hill (4), Licancabur Volcano (5), Sairecabur Hill (6), Curiquinca Hill (7), and Putana or Jorjencal Volcano (8). From this point it will follow one of the ridges to Pajonal Hill (9) and in a straight line to the south peak of the Tocopuri Hills (10), whence it will follow the watershed of the Panizo Ridge (11) and the Tatio Range (12). It will keep on toward the north by the watershed of the Linzor Ridge (13) and the Silaguala Hill (14); from their northern peak (Volcan Apagado) (15) it shall go by a ridge to the little hill called Silala (16) and thence in a straight line to Inacaliri or Cajon Hill (17).

From this point it shall go in a straight line to the peak which appears in the middle of the group of the Inca or Barrancane Hills (18), and, again taking the watershed, shall keep on northward by the ridge of Ascotan or Jardin Hill (19); from the summit of this hill it shall go in a straight line to the summit of Araral Hill (20) and by straight line again to the summit of Ollagüe Volcano (21).

Hence in a straight line to the highest peak of Chipapa Hill (22), descending toward the west by a line of small hills until it reaches the summit of Cosca Hill (23).

From this point it shall be the watershed of the ridge which joins it to Alconcha Hill (24), and thence it shall go to Olca Volcano (25) by the divide. From this volcano it shall continue by the range of the Mallunu Hill (26), the Laguna Hill (27), Irruputuncu Volcano (28), Bofedal Hill (29), Chela Hill (30), and, after a high knot of hills, shall reach the Milliri (31), and then the Hualicani (32).

Hence it shall go to Caiti Hill (33) and shall follow the divide to Napa Hill (34).

From the summit of this hill it shall go in a straight line to a point (35) situated ten kilometers to the south of the eastern peak of Huailla Hill (36), whence it shall go in a straight line to the hill named; doubling immediately toward the east, it shall keep on by the range of Laguna (37), Correjidor (38), and Huallaputuncu (39) hills to the easternmost peak of Sillilica (40), and thence by the ridge that runs northwest to the summit of Piga Hill (41).

From this hill it shall go in a straight line to the highest point of the Three Little Hills (42), and thence in a straight line to Challacollo Hill (43) and the narrow part of Sacaya Valley (44), fronting Villacollo.

From Sacaya the boundary shall run in straight lines to the summit of Cueva Colorada (45) and Santaile (46), and thence it will keep on to the northwest by Irruputuncu Hill (47) and Patalini Hill (48).

From this summit the boundary shall go in a straight line to Chiarcollo Hill (49), cutting the Cancosa River (50), and thence also in a straight line to the summit of Pintapintani Hill (51), and from this hill by the range of the Quiuri (52), Pumiri (53), and Panatalla (54) hills.

From the summit of Panatalla it shall go in a straight line to Tolapacheta (55), midway between Chapi and Rinconada, and from this point in a straight line to the pass of Huialla (56); thence it shall pass on by the summits of Lacataya (57) and Salitral (58) hills.

It shall turn toward the north, going in a straight line to Tapacollo Hill (59), in the Salar (salt plain?) of Coipasa, and in another straight line to the landmark of Quellaga (60), whence it shall continue by straight line to Prieto Hill (61) to the north of Pisiga plain, Toldo Hill (62), the Sicaya landmarks (small hills?) (63), and those of Chapillica (64), Cabarray (65), Tres Cruces (Three Crosses) (66), Jamachuma (67), Quimsachata (68), and Chinchillani (69), and, cutting the river Todos Santos (70), shall go to the Payacollo (71) and Carahuano (72) hills (mojones—landmark or mound), to Canasa Hill (73) and Captain Hill (74).

It shall then continue toward the north by the divide of the range of Lliscaya (75) and Quilhui (76) hills, and from the summit of the latter in a straight line to Puquintica Hill (77).

To the north of this last point Chile and Bolivia agree to establish between them the following frontier:

From Puquintica Hill (77) it shall go northward by the range that runs to Macaya; shall cut the river Lauca (78) at this point and then run in a straight line to Chiliri Hill (79). It shall keep on to the north by the divide of the Japu Pass (80), the Quimsachata Hills (81), the Tambo Quemado Pass (82), the Quisquisini Hills (83), the Huacollo Pass (84), the summits of the Payachata Hills (85, 86), and Laranchahua Hill (87) to the Casiri Pass (88).

From this point it shall go to the Condoriri Hills (89), which divide the waters of the Sajama and Achuta rivers from those of the Cauena River, and shall continue by the ridge which, branching off from those hills, goes to Carbiri Hill (91), passing by the Achuta Pass (90); from Carbiri Hill it shall run down its slope to the narrows of the river Cauquena or Cosapilla (92), above the inn of that name (Cosapilla).

Then it shall follow the bed of the river Cauquena or Cosapilla to the point (93) where it is joined by the apparent outlet of the meadows of the Cosapilla *estancia* (farm), and from this point it shall go in a straight line to Visviri Hill (mojon) (94).

From this hill it shall go in a straight line to the sanctuary (95) on the north side of the Maure, northwest of the junction of this river with another which comes into it from the north, two kilometers northwest of the Maure Inn. It shall keep on toward the northwest by the range which runs to the landmark of Chipeco or Tolacollo Hill (96), the last point of the boundary.

Within the six months following the ratification of this treaty the high contracting parties shall name a commission of engineers to proceed to mark out the boundary line, the points of which, enumerated in this article, are indicated in the appended plan, which shall form an integral part of the present treaty, in conformity with the procedure and in the periods which shall be agreed upon by a special arrangement between the two foreign offices.

If there should arise among the engineers engaged in marking the boundary any disagreement which could not be arranged by the direct action of the two governments, it shall be submitted to the decision of His Majesty the Emperor of Germany, in conformity with the provisions of article 12 of this treaty.

The high contracting parties shall recognize the private rights of natives and foreigners, if legally acquired, in the territory which by virtue of this treaty may remain under the sovereignty of either of the countries.

ART. 3. With the object of strengthening the political and commercial relations between the two Republics the high contracting parties agree to unite the port of Arica with the plateau of La Paz by a railroad for the construction of which the Government of Chile shall contract at its own expense within the term of one year from the ratification of this treaty.

The ownership of the Bolivian section of this railroad shall revert to Bolivia at the expiration of the term of fifteen years from the day on which it is entirely completed.

With the same object Chile undertakes to pay the obligations which Bolivia may incur by guarantees up to 5 per cent on the capital which may be invested in the following railroads, the construction of which shall begin within the term of thirty years: Uyuni to Potosi; Oruro to La Paz; Oruro, via Cochabamba, to Santa Cruz; from La Paz to the Beni region, and from Potosi, via Sucre and Lagunillas, to Santa Cruz.

This obligation shall not occasion for Chile an expense greater than £100,000 sterling annually nor in excess of £1,700,000 sterling, which is fixed as a maximum of what Chile will devote to the construction of the Bolivian section of the railway from Arica to the La Paz plateau and for the guarantees referred to, and it shall be null and void at the conclusion of the thirty years above indicated.

The construction of the Bolivian section from Arica to the Bolivian plateau, as well as that of the other railroads which may be constructed with the Chilean Government's guaranty, shall be a matter of special arrangements between the two governments, and provision shall be made in them for affording facilities for commercial interchange between the two countries.

The value of the section mentioned shall be determined by the amount of the bid which shall be accepted for the contract for its construction.

ART. 4. The Government of Chile binds itself to deliver to the Government of Bolivia the sum of £300,000 sterling in cash, in two payments of £150,000, the first payment to be made six months after the exchange of ratifications of this treaty and the second one year after the first.

ART. 5. The Republic of Chile devotes to the final cancellation of the credits recognized by Bolivia, for indemnities in favor of the mining companies of Huanchaca, Oruro, and Corocoro, and for the balance of the loan raised in Chile in the year 1867 the sum of 4,500,000 pesos gold of 18 pence, payable, at the option of its government, in cash or in bonds of its foreign debt valued at their price in London on the day on which the payment is made, and the sum of 2,000,000 pesos in gold of 18 pence, in the same form as the preceding, for the cancellation of the credits arising from the following obligations of Bolivia: The bonds issued, i. e., the loan raised for the construction of the railroad between Mejillones and Cañacoles according to the contract of July 10, 1872; the debt recognized to Don Pedro Lopez Gama, represented by Messrs. Alsop & Co., surrogates of the former's rights; the credits recognized to Don John G. Meiggs, represented by Mr. Edward Squire, arising from the contract entered into March 20, 1876, for renting nitrate fields in Toco, and, lastly, the sum recognized to Don Juan Garday.

ART. 6. The Republic of Chile grants to that of Bolivia in perpetuity the amplest and freest right of commercial transit in its territory and its Pacific ports.

Both governments will agree in special acts upon the method suitable for securing, without prejudice to their respective fiscal interests, the object above indicated.

ART. 7. The Republic of Bolivia shall have the right to establish customs agencies in the ports which it may designate for its commerce.

For the present it indicates as such ports for its commerce those of Antofagasta and Arica.

The agencies shall take care that the goods in transit shall go directly from the pier to the railroad station and shall be loaded and transported to the Bolivian custom-houses in wagons closed and sealed and with freight schedules which shall indicate the number of packages, their weight and marks, numbers and contents, which shall be exchanged for receipts.

ART. 8. Until the high contracting parties shall agree to celebrate a special commercial treaty the commercial interchange between the two Republics shall be regulated by rules of the strictest equality with those applied to other nations, and in no case shall any product of either of the two parties be placed under conditions inferior to those of a third party.

All the natural and manufactured products of Chile, therefore, as well as those of Bolivia, shall be subject, on their entry into and their consumption in the other country, to the payment of the imposts in force for those of other nations, and the favors, exemptions, and privileges which either of the two parties shall grant to a third may be demanded on equal conditions by the other.

The high contracting parties agree to accord reciprocally on all railroad lines which cross their respective territory the same rates to the native products of the other country that they accord to the most favored nation.

ART. 9. The natural and manufactured products of Chile and the nationalized goods, in order to be taken into Bolivia, shall be dispatched with the proper consular invoice and with the freight schedules spoken of in article 7. Cattle of all kinds and natural products of little value may be introduced without any formality and dispatched with the simple manifest written in the custom-houses.

ART. 10. The natural and manufactured products of Bolivia in transit to foreign countries shall be exported with schedules issued by the Bolivian custom-houses or by the officers charged with this duty; these schedules shall be delivered to the customs agents in the respective ports and the products embarked without other formality for foreign markets.

In the port of Arica importation shall be made with the same formalities as in that of Antofagasta, and the transit schedules in this port shall be passed with the same requirements as those indicated in the previous article.

ART. 11. Bolivia being unable to put this system into practice immediately, the present system established in Antofagasta shall continue to be followed for the term of one year. This system shall be extended to the port of Arica, a proper term being fixed for putting into effect the schedule of Bolivian appraisements until it shall be possible to regulate the trade in the manner before indicated.

ART. 12. All questions which may arise with reference to the interpretation or execution of the present treaty shall be submitted to the arbitration of His Majesty the Emperor of Germany.

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

In witness whereof the minister of foreign relations of Chile and the envoy extraordinary and minister plenipotentiary of Bolivia have signed and sealed with their respective seals in duplicate the present treaty of peace and amity, in the city of Santiago, on the 20th of October of the year one thousand nine hundred and four.

EMILIO BELLO C.  
A. GUTIERREZ.

In Santiago, on the 20th of October, 1904, met in the office of the ministry of foreign relations of Chile the minister of the department, Don Emilio Bello Codecido, and the envoy extraordinary and minister plenipotentiary of Bolivia, Don Alberto Gutierrez, duly authorized to that end by their respective governments; and having in view the fact that the Governments of Chile and Bolivia, in agreeing upon the stipulations contained in the treaty of peace and amity concluded and signed on this same date, agreed to substitute the customs exemptions solicited by Chile on behalf of Chilean natural products and products manufactured therefrom by other privileges which should not stand in the way of Bolivia's desire to preserve its absolute commercial liberty, and having in view the fact that an accord exists between the two governments for stipulating in a separate act the meaning and scope of paragraph 5 of article 3 of the said treaty, in which reference is made to the facilities which shall be granted in the agreements concerning railroads to the commercial intercourse between the two countries, have agreed:

The natural and manufactured products of Chile taken into Bolivia shall enjoy on the railroads which may be constructed in Bolivian territory under the Chilean Government's guarantee a rebate of not less than 10 per cent on the freight tariffs in operation on those railroads.

Bolivia shall take the steps necessary for according the same or a similar favor to Chilean products on the Bolivian section of the railroad from Antofagasta to Oruro.

Therefore, both in the conventions which the Governments of Chile and Bolivia may draw up for the construction of railroads in conformity with the provisions of article 3 of the treaty of peace and amity and in the contract for the construction and exploitation of the various lines there provided for there shall be stipulated the obligation of granting to Chilean products the rebate referred to.

In witness whereof the minister of foreign relations of Chile and the minister plenipotentiary of Bolivia signed this protocol in duplicate and sealed it with their respective seals.

EMILIO BELLO C.  
A. GUTIERREZ.

And whereas the treaty and the protocol hereinabove written have been ratified by me, with the approval of the National Congress and the respective ratifications have been exchanged in the city of La Paz the 10th day of the month of March;

Therefore, in the exercise of the power vested in me by section 19 of article 73 of the political constitution I will and decree that they be fulfilled and put into effect in all particulars as law of the Republic.

Given in my office in the city of Santiago, March 31, 1905.

JERMAN RIESCO.  
LUIS A. VERGARA.

Signed protocolized agreements of the 15th of November and December 24, 1904, respectively, between the minister of foreign relations and the envoy extraordinary and minister plenipotentiary of Bolivia.

In Santiago on November 15, 1904, met in the ministry of foreign relations of Chile the minister of the department, Don Luis A. Vergara, and the envoy extraordinary and minister plenipotentiary of Bolivia, Don Alberto Gutierrez, the minister of foreign relations stated:

That inasmuch as article 11 of the treaty of peace and amity signed October 20 last, refers to the territories occupied by Chile by virtue of article 2 of the truce agreement of April 4, 1884—that is, to those included between the river Loa on the north and parallel 23 on the south—and inasmuch as the attitude which Chile has always taken with reference to the territory between parallels 23 and 24 south latitude has been objected to by the Government of Bolivia on various occasions, he considers it expedient to have it clearly understood that the Government of Bolivia recognizes the absolute and perpetual sovereignty of Chile in these last-named territories from the sea to the present boundary with the Argentine Republic. He added that, notwithstanding the fact that it is to be understood from the spirit of said treaty, in view of the circumstances which gave rise to it, that the Government of Chile reserves full liberty to examine into, pass judgment upon, and liquidate the credits enumerated in Article V, as likewise that outside of these obligations the Government of Chile takes no responsibility for any other credit of the Government of Bolivia, whatever its nature and origin, he deemed it advisable to have it on record that this was the scope and meaning which the article referred to had.

The envoy extraordinary and minister plenipotentiary of Bolivia replied that, duly authorized by his government, he had no objection to making the declaration asked for by the minister of foreign relations, viz., that the Government of Bolivia recognizes the absolute and perpetual sovereignty of Chile in the territory situated between parallels 23 and 24 south latitude from the sea to the present boundary of the Argentine Republic. He also accepts the interpretation which the minister of foreign relations gives to Article V, and declares, therefore, that the Government of Chile shall have complete liberty to examine into, pass judgment upon, and liquidate said credits; that beyond these obligations it takes the responsibility of no other credit of the Government of Bolivia, whatever its nature and origin, and that this last-named government will furnish to the Government of Chile all the data at its disposal with reference to said credits. Finally Señor Gutierrez stated that for his part he would like to have it put on record in this conference that the minimum rebate of 10 per cent granted the national and manufactured products of Chile referred to in the protocol signed in this city October 20 last, should be maintained as an obligation only for the time during which the counter guarantee to be given by Chile in conformity with Article III of the treaty of peace and amity remains in force.

The minister of foreign relations stated that this limitation exists in the preliminaries of the treaty of peace and that he had no objections to accepting it in the terms indicated by the minister of Bolivia.

For the purposes of record they agreed to protocolize this conference, signing and sealing this minute in duplicate.

LUIS A. VERGARA.  
A. GUTIERREZ.  
CESAR DE LA LASTRA.

In Santiago the 24th of December, 1904, met in the ministry of foreign relations the minister of the department, Señor Luis A. Vergara, and the envoy extraordinary and minister plenipotentiary of Bolivia, Señor Alberto Gutierrez, the minister of foreign relations, stated: That during the discussion of the treaty of peace and amity on the 20th of October, last, which took place in the senate chamber one of the senators pointed out the desirability of determining exactly the scope which might be given to the final paragraph of Article II of said treaty in order to have it perfectly well established that the recognition of private rights to which said paragraph refers can in no case oblige the high contracting parties to give any indemnities whatever.

The minister of foreign relations added that for his part he deemed this declaration consistent with the spirit and meaning of said clause, and that he hoped that the Bolivian representative would be pleased to state that his government gave it the same interpretation.

The envoy extraordinary and minister plenipotentiary of Bolivia stated that, duly authorized by his government, he accepted the declaration asked for by the minister of foreign relations and declared, therefore, that the recognition of private rights in the territories which, by the treaty of peace and amity concluded by the two governments on the 20th of October last, change their sovereignty, as occurs at Chilcaya, Ascotan, and to the south of the Loa River, and which are to be defined by the ordinary tribunals of justice, shall entail on the high contracting parties no indemnities whatever.

For the purposes of record they agreed to protocolize this conference, signing and sealing this minute in duplicate.

LUIS A. VERGARA.  
A. GUTIERREZ.  
CESAR DE LA LASTRA.

*Chargé Ames to the Secretary of State.*

No. 441.]

AMERICAN LEGATION,  
*Santiago, July 28, 1905.*

SIR: I have the honor to inclose herewith copy and translation of a convention recently signed by representatives of Chile and Bolivia in pursuance of the terms of article 3 of the treaty of peace and amity concluded October 20 of 1904, and governing the construction and operation of the railroad from Arica to La Paz, provided for by that treaty.

\* \* \* \* \*

I have, etc.,

EDWARD WINSLOW AMES.

[Inclosure.—Translation.]

MINISTRY OF FOREIGN RELATIONS, WORSHIP, AND COLONIZATION,  
*Santiago, July 22, 1905.*

Whereas:

1. In conformity with the stipulations of article 3 of the treaty of peace and amity between Chile and Bolivia of October 20, 1904, promulgated March 21, 1905, there was signed in La Paz on June 27 last, between the envoy extraordinary and minister plenipotentiary of Chile and the minister of foreign relations of Bolivia, a convention concerning the construction and exploitation of the railroad from Arica to the plateau of La Paz; and whereas

2. According to announcement made by the envoy extraordinary and minister plenipotentiary of Chile in Bolivia, the government of that country has given its approval to that convention under date of July 20,

I therefore decree that the convention referred to be published in the *Diario Oficial* and inserted in the *Bulletin of Laws and Decrees of Congress*.

RIESCO.  
LUIS A. VERGARA.

The Governments of the Republic of Chile and the Republic of Bolivia, equally interested in promoting the development of the commercial relations between the two countries, and by virtue of the authority given them by article 3 of the treaty of peace and amity entered into by both governments October 20, 1904, have agreed to regulate the concession, construction, and operation of the railroad from Arica to the plateau of La Paz in conformity with the principles hereinafter indicated, without prejudice to others, which may hereafter be agreed upon, and for this purpose have named their respective plenipotentiaries, viz:

His Excellency the President of the Republic of Chile, Mr. Beltran Mathieu, envoy extraordinary and minister plenipotentiary in Bolivia;

His Excellency the President of the Republic of Bolivia, Mr. Claudio Pinilla, minister of foreign relations;

Who, duly authorized ad hoc, have agreed upon the stipulations contained in the following clauses:

ARTICLE 1. For the purpose of determining the pecuniary responsibility of the Government of Chile established in article 3 of said treaty, it is declared that the value of the construction of the Bolivian section of the railroad shall be that indicated in the bid accepted by the Government of Chile for its construction.

ART. 2. The railroad may be built by sections and the work shall begin simultaneously in Arica and in Viacha if there are no serious obstacles, and the sections thus constructed shall be delivered for traffic as soon as each is terminated; and the period of fifteen years, at the end of which the Bolivian section of this railroad is to go over to the ownership and proprietorship of Bolivia, shall be counted from the day on which the whole line is completed and delivered for service.

ART. 3. Both governments, through their functionaries, shall give all necessary facilities for the quickest and most perfect construction of the railroad.

ART. 4. The Governments of Chile and of Bolivia shall cede gratuitously such fiscal lands as may be necessary for the construction of the road and its dependencies and the use of such waters as do not belong to individuals or to which individuals have no right and which are necessary for the construction and operation of the railroad.

ART. 5. They bind themselves also to assist, in conformity with the laws of the respective countries, in the condemnation of municipal and private lands which may be necessary for the object above indicated.

They shall also equally grant facilities, and in the same manner, for the temporary occupation of land and for the formation of administrative services which may be necessary for the construction and operation of the railroad, such as fences along the abutting property throughout the extension of the railroad, the use of materials necessary for the railroad, the prohibition of the performance of certain operations at less than a certain distance from the road, etc.

ART. 6. No work on the railroad or its accessories shall be impeded, delayed, or interfered with because of or during the proceedings necessary for determining the amount of the condemnation or of the laboring force.

ART. 7. The materials necessary for the construction and operation of the railroad shall be exempt from all fiscal or municipal taxes, as shall the food stuffs which shall be introduced during the time of constructing the railroad for the maintenance of the laborers.

ART. 8. The railroad line, as well as all the movable and immovable property pertaining to it, shall be exempt from all ordinary or extraordinary taxes during all the time that it is in the power of the Government of Chile.

ART. 9. National and international correspondence shall be transported gratuitously by the railroad.

ART. 10. The railroad shall also be obliged to transport at cost all fixed material and all rolling stock which the Government of Bolivia may need for the construction of the railroads it may build in the interior of the country on its own account.

ART. 11. The laborers and employees of the railroad and its dependencies shall be exempt from military service in their respective countries, except in case of a national war.

ART. 12. In order to assure the perpetuity of free traffic on the railroad, the respective governments bind themselves to guarantee the neutrality of the railroad and its dependencies.

ART. 13. It is understood that the railroad in its various sections shall be subject to the authority and laws of each of the signatory countries in its respective territory; but, with the object of facilitating the operation and securing the safety of the line, the Governments of Chile and Bolivia shall by common accord adopt the operating rules which are generally in use on this kind of international railroads. In them shall be indicated the objects which, because of their great value or the danger which their carriage would entail, may not be transported except under certain conditions.

These operating agreements shall have the same value as the dispositions of this convention, of which they shall be considered an integral part.

In witness whereof the above-named plenipotentiaries have signed and sealed with their respective seals and in duplicate the present convention, in the city of La Paz, on the 27th day of June, 1905.

B. MATHIEU.  
CLAUDIO PINILLA.  
CESAR DE LA LASTRA.

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**MESSAGE OF THE PRESIDENT OF CHILE TO THE CHILEAN CONGRESS.**

*Chargé Ames to the Secretary of State.*

No. 436.]

AMERICAN LEGATION,  
*Santiago, July 8, 1905.*

SIR: I have the honor to inclose herewith a copy and translation of the message read by His Excellency the President of Chile at the opening of Congress on June 1.

I have, etc.,

EDWARD WINSLOW AMES.

[Inclosure.—Translation.]

*Message read by His Excellency the President of the Republic of Chile at the opening of the regular sessions of the National Congress, June 1, 1905.*

Fellow-citizens of the Senate and Chamber of Deputies: In giving you an account of the public administration during the past year it is gratifying to me to announce to you that our relations with other countries are friendly and cordial.

The demarcation of the limits of our territory with that of the Argentine Republic is almost completed. There remain to be put in position only a few pyramids at the sources of the Ñuble and Laja rivers, a task which will be completed in the coming summer. The slight difficulties still pending will be settled in a satisfactory manner. The cordiality of our relations with the neighboring Atlantic Republic encourages the hope that we may reach agreements which shall continually strengthen the bonds which happily unite these two countries.

The 21st of March the treaty of peace and amity with Bolivia was promulgated, following the exchange of ratifications. This compact, based on the bounds of the material interests of both countries, assures them, in a not distant future, all the benefits which commercial intercourse effects, not the least of which is the firm establishment, under inalterable conditions, of the friendly international relations of both countries. In the near future bids will be asked for the construction of the railroad from Arica to the plateau of La Paz, which, according to the terms of the treaty, Chile must construct, and the necessary steps have already been taken for fulfilling the promises which we thereby made.

The Government of Peru has thought fit to protest against some of the stipulations contained in this treaty. Chile's reply, in addition to establishing the right which supports us in maintaining them in their integrity, suggests the expediency of putting an end to the sterile discussions in which we have been involved and of exchanging them for agreements of a nature similar to that of those which have terminated definitely and satisfactorily our differences with Bolivia.

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#### LAW REGULATING THE REGISTRATION OF TRADE-MARKS.

*Chargé Ames to the Secretary of State.*

No. 453.]

AMERICAN LEGATION,  
*Santiago, September 28, 1905.*

SIR: Referring to previous correspondence, concerning proposed legislation for regularizing the registration of trade-marks in Chile, I have the honor to inclose herewith copy and translation of a law promulgated on August 12 last, but only just published in the *Diario Oficial*, which insures the validity of trade-marks already or hereafter registered in this Republic.

I have, etc.,

EDWARD WINSLOW AMES.

[Inclosure.—Translation.]

*Law No. 1749*

Whereas the National Congress has given its approval to the following bill:

"ONLY ARTICLE. The registrations of trade and commercial marks made in accordance with the provisions of the law of November 12, 1874, are declared valid, even during the period since the law of December 22, 1891, went into force till the promulgation of the present law.

"Registrations of marks will in future be governed by the law referred to of November 12, 1874.

"Clause 7 of article 26 of the law of December 22, 1891, relative to trade and commercial marks, is repealed."

And whereas, after having heard the council of state, I have considered it convenient to approve and sanction it, therefore let it be promulgated and carried out as law of the Republic.

Santiago, August 12, 1905.

JERMAN RIESCO.  
E. VILLEAGAS.



## CHINA.

### MURDER OF HO CHOY YEEN, A CHINESE COMPRADOR, BY AMERICAN SAILORS.

*Minister Conger to the Secretary of State.*

No. 1741.]

AMERICAN LEGATION,  
*Peking, November 8, 1904.*

SIR: Consul-General Cheshire has sent you a full account of the murder of the third comprador (Chinese) of the [British] S. S. *Kansu* by being thrown into the canal by persons wearing the uniform of the United States sailors, and the decision of the formal court of inquiry into the facts thereof.

It does not seem to me necessary to send from this legation another copy of the voluminous proceedings, but I inclose herewith copies of my correspondence with the Waiwu Pu concerning the case.

It is true that the evidence is not absolutely conclusive as to the guilt of the American sailors, but in my judgment it is circumstantially sufficient to have convinced the average jury, and I therefore share the opinion of the court of inquiry that, if possible, a reasonable indemnity should be paid to the Chinese Government for the benefit of the family of the deceased.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Prince Ch'ing to Minister Conger.*

I have the honor to inform your excellency that I recently received a telegram from the viceroy of the Two Kuang, saying: "On the 17th of the eighth moon (September 26) toward evening several sailors from an American war vessel within the British settlement of Shameen at Canton seized the comprador of the S. S. *Kansu*, named Ho Choy Yeen, and without just provocation threw him into the water, where he drowned. The police of the British settlement at once recovered the corpse, and orders were issued to the district magistrate of Nan-hai to proceed to make an investigation. The foreign sailors who made the row were pursued at the time, but were not caught. I have already appointed deputies to consult with the American consul-general, who has consented to detain the war vessel for a time, and has fixed a date for a joint investigation."

Yesterday I received another telegram, saying:

"I have received a report from the deputies and the prefectural and district magistrates, who met with the American consul-general and summoned Chinese and foreign witnesses, and made a careful and thorough investigation. The testimony of all was reliable and agreed together in pointing to American sailors as the guilty parties, but as yet no one has been able to say with certainty what the surnames and personal names of the murderers are, nor give a description of them, so that there is nothing to be laid hold of in searching for them. They have now agreed with the American consul-general upon six articles, the main purport of which is that the said consul-general shall report to the American minister at Peking, requesting him to inform the American Government and ask for a satisfactory appropriation as indemnity for the family of Ho Choy Yeen, and that, furthermore, steps will be taken to discover the real murderers, and that hereafter, no matter when, once the real murderers shall have been discovered and evidence obtained that they are really the guilty

parties they shall be tried and punished according to American law. It becomes my duty, therefore, to request that you will inform the American minister at Peking and ask him to request the American Government to make a generous appropriation as indemnity and promptly search for the murderers and bring them to trial in accordance with the agreement made."

I find as to this case that Ho Choy Yeen, the comprador of the steamship, was thrown into the water by sailors from an American war vessel and was drowned. The deputies of the viceroy concerned have already made a joint investigation with the American consul-general and come to an agreement that compensation ought to be made to the family of Ho Ts'ai-yen, and the real murderers sought for, arrested, tried, and punished to satisfy popular feeling. It becomes my duty, therefore, to send this dispatch to your excellency for your examination and to request that you will communicate its contents to your honorable government and ask that a generous compensation be paid, and that the real murderers be promptly sought for and punished according to law, which is a matter of importance.

A necessary dispatch.

XXX Kuanghsü year, ninth moon, 22d day (October 30, 1904).

[SEAL.]

[Inclosure 2.]

*Minister Conger to Prince Chi'ing.*

AMERICAN LEGATION,  
Peking, November 3, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of the 30th ultimo of a dispatch from your imperial highness, informing me that on the evening of September 26 several sailors from an American man-of-war at Canton had without provocation attacked the comprador of the S. S. *Kansu* and thrown him into the water, where he was drowned; that a joint investigation of the affair had been held by deputies, appointed by the viceroy, in conjunction with the American consul-general, and that they had agreed together that the consul-general should report to the American minister at Peking and request him to ask for indemnity for the family of the murdered man to be paid by the American Government, and to have further efforts made to discover and punish the guilty parties.

Your imperial highness, also, upon your own part asks that I will request my government to make a generous appropriation by way of compensation to the family of Ho Choy Yeen, the murdered man.

In reply I have the honor to state that I have received a report of the occurrence from the American consul-general at Canton and that he has been instructed to continue to make diligent effort to discover the guilty parties and bring them to justice. I shall at once communicate the contents of your imperial highness's dispatch to my government and recommend that compensation be made to the family of the murdered man, but I must call your highness's attention to the fact that my government may not consider that the evidence sufficiently proves that the murderers were American sailors to justify an appropriation for the purpose mentioned.

I improve, etc.,

E. H. CONGER.

*The Chinese minister to the Secretary of State.*

No. 50.]

CHINESE LEGATION,  
Washington, January 4, 1905.

SIR: Referring to the interview which I had with you in November last regarding the case of Ho Choy Yeen, a Chinese subject who was drowned at Canton, China, by certain American sailors from a United States war ship, I have the honor to inclose herewith a translation of a telegram from the Waiwu Pu on the subject and two extracts from English newspapers published in Shanghai giving an account of the incident for your consideration in conjunction with the report from the United States minister at Peking referred to in the said telegram, which report must have by this time reached your Department.

Seeing that you are now in possession of all the facts for judging the merits of the case, I take the liberty of calling your attention again to this matter. I hope you will soon be able to take such favorable action on the case as will satisfy the demands of justice.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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[Inclosure—Translation.]

*The Waiwu Pu to the Chinese Minister.*

[Telegram.]

PEKING YAMEN, November 8, 1904.

On the 17th day of the eighth moon (September 26), sailors from an American war ship, in the British concession at Shameen, Canton, seized a Chinese subject named Ho Choy Yeen and threw him into the water, with the result that he was drowned. The viceroy and the governor both sent officers to make an investigation with the American consul, and all the Chinese and foreign witnesses examined testified that the murderers were American sailors. An understanding with the American consul was reached on six points, which were in substance that the payment of an indemnity to the family of Ho Choy Yeen should be recommended by the consul in his report of the case to the American minister for communication to the United States Government, and that steps should be taken to find the murderers and punish them according to law. This board has already made representations to the American minister on the subject. The minister states in his reply that he will at once report the case to his government, adding at the same time that his government will have to examine first the evidence and, in case it is not sufficient to establish the fact that the murderers are American sailors, will refuse to pay any indemnity.

Now, the testimony of witnesses in this case is clear and conclusive. The American consul has recognized the claim. If objections are urged, it will be difficult to allay popular excitement. You will represent to the Secretary of State the importance of settling the difficulty in line with the original understanding, in order to show some regard for the value of human life.

WAIWU PU.

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*The Acting Secretary of State to the Chinese Minister.*

No. 54.]

DEPARTMENT OF STATE,  
Washington, January 9, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 50, of the 4th instant, calling attention to the drowning of Ho Choy Yeen, a Chinese subject, at Canton, China, by certain sailors from an American war vessel on September 26 last, and expressing the hope that such action in the matter will be taken by this government as will satisfy the demands of justice.

In reply I have the honor to inform you that the matter will be given immediate attention.

Accept, etc.,

F. B. LOOMIS.

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*The Secretary of State to the Chinese Minister.*

No. 56.]

DEPARTMENT OF STATE,  
Washington, January 20, 1905.

SIR: I had the honor to refer to the Secretary of the Navy a copy of your note of the 4th instant in regard to the case of the late Ho Choy Yeen, a Chinese subject, whose death by drowning at Canton in September last is said to have been caused by American sailors.

Under date of the 7th instant the Secretary of the Navy forwards to this Department a copy of a report on the subject by the commander of the Philippine Squadron, from which report I quote the following:

On the evening of the day in question, September 24, 1904, the Chinaman was thrown, or fell, from the bridge crossing the Pearl River, a narrow and shallow stream dividing the city of Canton from the island of Shameon, on which are the residences of the entire foreign population. Although the bridge is crowded with passengers at all times, there seem to have been no witnesses near enough to the occurrence to have been able to identify any of the persons connected therewith. The only evidence connecting the sailors of the *Helena* with the affair was that witnesses testified it was committed by foreign sailors wearing a certain white uniform and that sailors from the *Helena* were ashore at the time. The occurrence took place after dusk. The men from the *Helena* were special first class and very few in number, each of whom satisfactorily accounted for himself at the time of this occurrence. Every opportunity was given the witnesses by the captain of the *Helena* to identify the members of his crew who might have committed the crime, but no identification was made, the only man being identified having satisfactorily proven that he was elsewhere at the time of the occurrence. It appears that men from an English gunboat were ashore at the time and in practically the same uniform. I am of the opinion, therefore, that there is no case against any member of the crew of the *Helena*.

I am informed that a subscription has been taken up which will furnish the widow of the unfortunate victim a sufficient sum to support her during her lifetime.

From the foregoing it would appear that no proof has been advanced to show that American sailors were responsible for the drowning of the unfortunate man.

Accept, etc.,

JOHN HAY.

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*Minister Rockhill to the Secretary of State.*

No. 14.]

AMERICAN LEGATION,  
Peking, June 9, 1905.

SIR: I have the honor to inclose a copy of a dispatch recently received from the consul-general at Canton transmitting a letter of the viceroy with regard to the wanton drowning of a Chinese by American men-of-war's men in September last. The case was reported to the Department at the time both by the consulate-general and the legation, and in reply to the representations of the latter an acknowledgment was received.

The facts, which appear to be established, are that an unoffending Chinese of good class was met on a bridge by some men in the uniform of American sailors, of whom there were a number on shore leave at that time. These sailors were seen to throw him over the parapet into the mud, where he died of suffocation, but they made good their escape; and as it afterwards proved impossible to identify them, no one was punished.

The only thing that could be done to make some measure of amends was to allow a money compensation to the family of the murdered man in the same manner that we would have demanded one had the victim been an American and the aggressors Chinese. This course was recommended by the court of inquiry with the concurrence of the American consul-general and was urged by the legation.

Up to this time nothing has been done by our government, and it now appears that unfortunate results may quite probably ensue. I am strongly of the opinion that for the sake of our national honor and reputation for fair dealing, as well as in the interests of abstract justice, some reparation should be made for this crime. If a favorable

decision of the Department regarding this question were to be telegraphed to me or to the consulate-general at Canton, it would have a very beneficial effect on the feelings of the Chinese.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure 1.]

*The American Consul-General to Chargé Coolidge.*

AMERICAN CONSULATE-GENERAL,  
Canton, May 10, 1905.

SIR: I have the honor to inclose herewith copy of the communication from the viceroy of the Two Kwangs with translation with regard to the drowning of a Chinaman here last year.

This unfortunate case has been fully reported to the legation by Mr. Cheshire. It is one that should be settled at once and an indemnity paid the family of the deceased Chinaman, otherwise the action of our government in declining to meet what the Chinese consider a just demand may result in unpleasant relations between the Americans and Chinese here. If the case is not settled I shall have the greatest difficulty in securing redress from the authorities here in the case of attack on the persons and property of Americans in this district.

Unfortunately all foreigners have openly discussed this case, both here and in Hongkong, and the opinion generally is in favor of the Chinese claim. Many unfair attacks have been made in the press, which have been copied in the Chinese newspapers.

The family of the drowned man come to the consulate constantly, but I am obliged to tell them that I have heard nothing from my government, and I can not say what might happen if the family, who are encouraged by the English papers and by foreigners to press their claim, are not indemnified.

I have, etc.,

JULIUS G. LAY.

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[Subinclosure.]

*The Viceroy of the Two Kwangs to Consul-General Lay.*

SIR: In the matter of the death by drowning of Ho Choy Yeen, assistant comprador of the S. S. *Kansu*, which act was caused by some American sailors throwing him into the creek (off Shameen), sometime ago I deputed officers, who, with the former consul-general (Mr. Cheshire), held a joint inquiry into the case and in the decision arrived at it was recommended that the Government of the United States be asked to indemnify the family of the deceased; also that continued efforts should be made to ascertain if possible the real culprits, who, in the event of their being found and their guilt established, should be dealt with as provided by the laws of their country (the United States).

The above decision was signed by the members of the court of inquiry as evidence.

At various times I have telegraphed the Waiwu Pu (Chinese department of foreign affairs) in regard to this matter, and received replies to the effect that the question had been submitted to the American minister, who promised to bring it to the notice of his government. This is all a matter of record.

Now, I beg to state that a long time has elapsed and the real culprits have not been found out, neither has anything been done in the matter of providing for an indemnity (for the deceased family).

The family of the deceased and the gentry and merchants of Canton have repeatedly petitioned me about the arrest of the guilty and the payment of indemnity as decided by the court of inquiry, but nothing has been settled or arranged, and their request was very strong and urgent.

I beg to observe that if some plan of meeting the case is not devised without further delay it is to be feared that the feelings of the people may become more and more aroused, and most probably another trouble will arise which may impair the friendly relations existing between the two governments.

I know and have respect for the honest and straightforward way your honor deals with questions that arise, and I therefore have the honor to request that, acting on the decision rendered by the court of inquiry, you will be good enough to lay this matter before his excellency the United States minister at Peking, requesting him to bring it to the notice of your government, asking that an indemnity be paid to the family of the deceased and at the same

time every effort be made to ascertain who the real culprits are and have them punished, thus complying with the stipulations of treaty and maintaining friendly relations between our respective countries.

Canton, April 2, 1905.

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*The Acting Secretary of State to the Chinese Minister.*

No. 65.]

DEPARTMENT OF STATE,  
Washington, June 14, 1905.

SIR: Referring to your note, No. 50, of January 4 last, regarding the case of Ho Choy Yeen, a comprador of the British steamship *Kansu*, alleged to have been drowned through the fault of some sailors of the U. S. S. *Helena* at Canton, I have the honor to inform you that while, as stated in the Department's note of January 20, no case has been made out against any member of the *Helena's* crew, still, as an act of friendly good will to China and in view of your statement of the case, the Department has paid to the widow of the unfortunate man, through the American consul-general at Canton, the sum of \$1,500.

Accept, etc.,

FRANCIS B. LOOMIS.

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*The Chinese Minister to the Acting Secretary of State.*

No. 64.]

CHINESE LEGATION,  
Washington, July 11, 1905.

SIR: I have the honor to acknowledge the receipt of your Department's note of the 14th ultimo, informing me regarding the case of Ho Choy Yeen, a Chinese comprador, who was drowned in Canton, that, as an act of friendly good will to China and in view of my statement of the case, your Department has paid to the widow of the unfortunate man, through the American consul-general at Shanghai, the sum of \$1,500.

I have the honor to say in reply that I have reported to my government the action of your Department in the premises.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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**CONSERVANCY OF THE WHANGPU RIVER.**

(NOTE.—For previous correspondence see Foreign Relations, 1904, page 186, et seq.)

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*Minister Conger to the Secretary of State.*

No. 1760.]

AMERICAN LEGATION,  
Peking, December 8, 1904.

SIR: The Chinese Government has presented a new plan for the improvement and conservancy of the Whangpu River.

It has been sent to each of the foreign ministers, with request that it be considered by their governments, and authority obtained to sign an agreement to take the place of the second section of article

11 and annex 17 of the protocol of September 7, 1901. I inclose herewith a translation thereof.

This is not by any means as definite, nor does it furnish as complete a guaranty as the plan which I have heretofore verbally presented to the Chinese; but with some changes, I think, in view of the improbability of ever accomplishing anything under the provisions of annex 17 of the protocol, that it will be advisable to try to secure an agreement of the powers along the line now proposed by China and sign and put in force as soon as possible. A meeting of the diplomatic corps will be called within a very few days to discuss this matter, after which I will report by telegraph.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Prince Ch'ing to Minister Conger.*

In regard to the dredging of the Whangpu River bed and the voluntary assumption of all the expenses by China, my board some time since drew up and proposed a set of five regulations and sent the same in a dispatch to your excellency on June 9, as the records show. Now, since the various ministers have found one or two unsatisfactory clauses in the above-mentioned regulations, we, the prince and ministers, have again deliberated upon the matter, and have another plan to propose. We have drawn up twelve rules, a copy of which is sent herein to your excellency with the request that you will transmit it to your government, asking that this new plan be given due consideration and a reply sent, that the ministers of the various countries may meet with this board and decide upon a day for signing an agreement and suffixing these rules to the protocol for general observance.

A necessary dispatch.

Kuanghsü XXX year, tenth moon, 20th day (November 26, 1904).

[SEAL.]

[Inclosure 2.]

*Revised regulations for the conservancy of the Whangpu.*

The protocol calls for the establishment of a Whangpu conservancy board, assigns the duties to said board, and stipulates the funds it shall receive, etc. The Chinese Government now proposes a plan in which she herself assumes this work and the entire expense, and the following regulations have been agreed upon by the various powers:

1. The work of improving the channel of the Whangpu River and of removing the inner and outer sand bars at Wusung and the maintenance of such work shall be under the direction of the Shanghai customs taot'ai and the commissioner of customs. As to the river police and quarantine matters, they shall be dealt with according to the old regulations.

2. Within three months after the signing of this article China shall select an engineer, thoroughly experienced in river work, and if this selection shall be satisfactory to a majority of the foreign ministers he shall be appointed to take charge of the work; but even after the work is begun this engineer may be removed for cause, and the selection and appointment of his successor shall also be as provided above.

3. All contracts for the undertaking of river work or for the purchase of materials, machinery, etc., shall be offered to the various commercial companies to bid upon, and the most reasonable bid shall be accepted.

4. Every three months a clear statement of the accounts of the river work shall be made out and sent to the various consuls residing at Shanghai for their inspection.

5. As to the building of all floating or other wharves and the matter of river anchorage for hulks, permission in all such matters must be obtained from the Shanghai customs taot'ai and the commissioner of customs before anything is done.

6. The customs taot'ai and the commissioner of customs shall have power to grant or refuse places for anchorage, and they shall have power also to establish public anchorages.

7. In all matters of expense for river excavation the consent of the customs taot'ai and the commissioner of customs must be obtained before any money can be appropriated.

8. The customs taot'ai and the commissioner of customs shall have power to buy the land necessary to use in the improvement of the channel of the Whangpu River and the removal

of the inner and outer sand bars at Wusung and in the maintenance of such work. If in the work of improving the channel the amount of land on the banks is increased by foreshore accretions, the customs taot'ai and the commissioner of customs shall have power to sell this land. However, as to the detailed plans regarding the buying and selling of land and the method of determining a just price, it would be better to wait until the work is begun, when the customs taot'ai and the commissioner of customs can consult with the various consuls and adopt further rules.

9. All expenses connected with the river work are to be borne by China, and it is not to be paid for, as formerly planned, by collecting a tax upon all landed property along the river and duties upon goods and shipping going to and fro.

10. China assigns the revenues collected from the opium duties in the province of Szechuen and the prefecture of Hsü Chou Fu in Kiangsu as security for the entire expense of the river work, which expenses are still to amount to 460,000 haikwan taels per year for a period of twenty years, as required by the protocol. At first the expenses will be greater, on account of the necessity of buying materials, machinery, etc., so China can borrow a certain amount and issue bonds, giving the above-mentioned opium duties as security. In repaying this borrowed amount (principal and interest) and in carrying on the work and in maintaining that already completed 460,000 haikwan taels a year must be expended.

11. If in the course of the work there appear any carelessness or instability in construction, the various consuls may point it out and require the engineer to take steps to rectify the matter. If even then it is not properly done, a conference may be called and the engineer dismissed and a new one selected and appointed again, as provided in regulation 2.

12. After consideration, adoption, and signing of this agreement, Article XI, section 2, and annex 17 of the protocol shall be annulled. But if China does not appropriate each year sufficient funds according to this new agreement, so that the needs of the work are obstructed thereby, the powers may then require the terms of the original protocol to be complied with.

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*Chargé Coolidge to the Secretary of State.*

No. 1792.]

AMERICAN LEGATION,  
*Peking, January 14, 1905.*

SIR: Continuing the subject-matter of legation dispatch No. 1760 of December 8, with which was transmitted a new plan, presented by the Chinese Government, for the improvement and conservancy of the Whangpu River, I have the honor to report that at a meeting of the diplomatic corps, held on December 14, the representatives of the powers, signatories of the final protocol, requested the American, German, British, and French ministers to collaborate in the task of examining these proposals of the Chinese Government and reporting on them to their colleagues, in the hope that some general agreement might be reached. As the result of these deliberations, a counter-project was presented which all the representatives concerned have agreed to refer to their respective governments, and which I have the honor to inclose herewith.<sup>a</sup>

It follows so closely the lines of the Chinese proposal that it is likely to prove wholly acceptable to that government. The alterations and additions are in the direction of greater scope or more exactness of definition. The principal changes are as follows:

In Article II, "foreign ministers" is changed to "representatives of the powers who signed the protocol." In Article VIII a definite mode of procedure is established for acquiring land outside the foreign settlements through expropriation and for the disposal of land formed by reclamation from the river. In Article X there is a clause at the end in the interest of greater security, and this is also the case in Article XI.

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<sup>a</sup> Not printed. See inclosure to No. 122, p. 122.



It was agreed among the representatives of the powers concerned that when forwarding this counter-project for the approval of their governments they would request that telegraphic instructions be sent to them in reply.

It seems to me that there is now a favorable opportunity for finally settling this much vexed question and that the representatives of the powers concerned and the Chinese Government are practically in accord. The great danger is that some of the governments, though agreeing in principle, will make suggestions of minor changes to be proposed, though not necessarily to be insisted upon. If one power begins, the others will follow, the present opportunity will be lost, and another long delay will probably ensue; for no work is likely to be done under the existing article, for reasons already reported.

I therefore respectfully urge that, if the government is willing to accept this project, I may be instructed in this sense, without proposing modifications which might indirectly lead to the failure of the present negotiations.

I have, etc.,

JOHN GARDNER COOLIDGE.

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*Chargé Coolidge to the Secretary of State.*

No. 1813.]

AMERICAN LEGATION,  
*Peking, February 10, 1905.*

SIR: I have the honor to report that the French minister has just notified me that, realizing the interest felt by the American Government in the speedy settlement of the Whangpu conservancy question, as evinced by the instruction of November 19 to the United States diplomatic representatives,<sup>a</sup> he had to inform me that his government had telegraphed its willingness to accept the so-called counter project of the ministers, a copy of which was forwarded to the Department for its approval in my No. 1792 of January 14.

I have, etc.,

JOHN GARDNER COOLIDGE.

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*The Acting Secretary of State to Chargé Coolidge.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, February 27, 1905.*

Your 1792 received. Counter-draft project submitted acceptable to this government.

ADEE.

*The Secretary of State to Chargé Coolidge.*

No. 884.]

DEPARTMENT OF STATE,  
*Washington, February 28, 1905.*

SIR: The Department has received your dispatch No. 1792, of January 14, in which you inclose copy of the counter project regarding the Whangpu conservancy, prepared by the representatives of the powers at Peking signatories of the final protocol. You state your belief that the project will prove acceptable to the Chinese Government and recommend, if the Department sees no objection, that it be accepted without modification.

Inasmuch as the project seems to be on the general line of the agreement of the powers, urged in the Department's circular instruction of November 19 last (of which copy was sent to you for your information), there would seem to be no reason why the project as now drawn up should not be acceptable to this government. A telegraphic instruction to this effect was sent to you yesterday.

I am, etc.,

JOHN HAY.

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*Minister Conger to the Secretary of State.*

No. 1844.]

AMERICAN LEGATION,  
*Peking, March 30, 1905.*

SIR: Referring to legation dispatches Nos. 1792 and 1813, concerning the Whangpu conservancy, I have the honor to report that there now seems a very good prospect of the adoption of a plan which will insure the early commencement of this work. Most of the great powers have now substantially agreed to the plan, a copy of the terms of which I forwarded in the above-mentioned dispatch No. 1792.

This plan differs so little from the last proposals of the Chinese government that there is little doubt of their accepting it.

As I am largely responsible for this plan, I had hoped to see it agreed upon and adopted before I left Peking, but the delay of some of the powers in sending instructions to their representatives makes this impossible. I believe, however, it will, as it ought to, soon be accomplished.

I have, etc.,

E. H. CONGER.

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*Chargé Coolidge to the Secretary of State.*

No. 1873.]

AMERICAN LEGATION,  
*Peking, May 3, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 884, of February 28, informing me that the project regarding the Whangpu conservancy, prepared by the representatives of the powers at Peking signatories of the final protocol, is acceptable to the American Government.

This notification has been communicated to the representatives of the other powers concerned through the customary channels. The governments which have not yet signified their assent to the proposal are those of Austria-Hungary, Japan, Russia, and Spain.

A slight change has been suggested by the French minister, who desired the substitution of the term "accord" for "convention" in Articles II and XII. This matter has not yet been discussed.

I have, etc.,

JOHN GARDNER COOLIDGE.

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*Minister Rockhill to the Secretary of State.*

No. 122.]

AMERICAN LEGATION,  
*Peking, October 12, 1905.*

SIR: I have the honor to transmit herewith an English translation of the new agreement entered into by the powers signatories of the final protocol of September 7, 1901, with the Chinese Government for the conservancy of the Whangpu River.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure—Translation.]

*New agreement for the Whangpu conservancy, signed at Peking September 27, 1905.*

With reference to the provisions of the final protocol of 1901 relating to the establishment of a Whangpu conservancy board, its functions and revenues, China being now desirous of substituting a different arrangement, assuming charge herself of the work and making herself responsible for the whole cost, and the powers who were parties to the protocol having given their consent thereto, the following arrangement has been agreed to:

ARTICLE I.

The works in connection with the straightening of the channel of the Whangpu River and of the improvement of the bars above and below Wusung, together with the maintenance of such improvements, shall all be placed under the management of the Shanghai customs taot'ai and the commissioner of customs. The control of the Whangpu River police, lights, beacons, sanitary matters, pilot service, etc., shall be under the same control as formerly.

ARTICLE II.

Within three months from the date of signing this agreement China will herself select an engineer well versed in river conservancy work, and if a majority of the representatives of the powers parties to the final protocol consider him well qualified China will at once appoint him to undertake the work. If after the commencement of the work a new appointment for reasons deemed valid by a majority of said representatives becomes necessary, the selection and appointment shall be made in the manner above mentioned.

ARTICLE III.

For all contracts for undertaking the river works in whole or in part and for purchasing materials and machinery and the like, public tenders shall be invited and the most advantageous shall be accepted.

ARTICLE IV.

Every quarter a detailed report of the work done and an account of moneys expended on the river works shall be made and forwarded for the inspection of the consular body at Shanghai.

ARTICLE V.

The authorization of the Shanghai customs taot'ai and of the commissioner of customs shall be necessary before new bunds or jetties can be constructed, pontoons placed in position, or hulks stationed in the river.

## ARTICLE VI.

The Shanghai customs taot'ai and the commissioner of customs shall have authority to expropriate existing moorings and to establish a system of public moorings in the river.

## ARTICLE VII.

No dredging or other operations shall be carried out without the authorization of the Shanghai customs taot'ai and the commissioner of customs.

## ARTICLE VIII.

The Shanghai customs taot'ai and the commissioner of customs shall have power to acquire any land outside the foreign settlements necessary for the work of improvement and maintenance of the Whangpu River and to dispose of such land. If for this purpose it is considered necessary to proceed by way of expropriation, the price in the case of a foreigner's property shall be fixed by a commission composed of (1) a person selected by the consular authority of the owner, (2) another chosen by the Shanghai customs taot'ai and the commissioner of customs, and (3) of another chosen by the senior consul. In case the senior consul is also the consular authority of the owner, the consul next in seniority shall choose the third member of the commission. The consular authority of the owner shall provide for the execution of the arbitrator's decision. When the land is the property of a Chinese the customs shall fix the price and enforce the decision in an analogous manner.

Foreign and Chinese riparian owners shall have the right of preemption over all land formed in front of their property by reclamation from the river in the course of the execution of the works of the improvement of the channel at a price to be fixed by a commission formed in the same manner as prescribed in the preceding paragraph, or, as the case may be, by the customs authorities.

## ARTICLE IX.

The Chinese Government bears the whole cost of the river works and without levying for this purpose dues on riparian property, shipping, or goods.

## ARTICLE X.

China now sets aside and assigns the entire opium duty of Szechuen and of Hsü-chou Fu in Kiang-su as security for the whole cost of the river works; and in accordance with the estimated cost, as stated in the protocol of 1901, will annually supply 460,000 haikwan taels for this purpose for a term of twenty years. If during any given year after the commencement of the work it is necessary to incur an extraordinary expenditure for the purchase of materials, machinery, etc., China may raise, to meet it, a loan for the required amount and issue bonds on the security of the above-mentioned opium revenues. The total sum annually provided for sinking fund and for interest on such loan, as well as for expenses of all kinds on account of works and maintaining works already completed, shall not be less than 460,000 haikwan taels, to be paid in equal monthly installments by the provincial authorities concerned to the Shanghai customs taot'ai and the commissioner of customs. Should the revenues assigned fall short, the Chinese Government will provide the amount specified from other sources.

## ARTICLE XI.

If the works are not carried out with diligence, care, and economy by a majority vote the consular body may unite to point out the fact to the Shanghai customs taot'ai and the commissioner of customs, and call upon them to direct the engineer to take steps to remedy the matters complained of, and if the work is still not properly done they may recommend the engineer's dismissal and the selection and appointment of another engineer, in the manner described in Article II. In case no notice is taken by the Shanghai customs taot'ai and commissioner of customs of their representatives, the consular body may report to the representatives of the powers interested.

## ARTICLE XII.

After the present stipulations have been discussed, agreed upon, and signed, section (b) of Article XI and annex 17 of the protocol of 1901 will be suspended. But if China does not, in accordance with this new agreement, annually furnish the necessary funds, so that the requirements of the works are impeded, or if she omits to fulfill any other of the essential

stipulations of this agreement, the original stipulations of the protocol of 1901 and of annex 17 thereto shall immediately come into force.

Done at Peking the 27th September, 1905.

[Seal of Waiwu-Pu.]

A. V. MUMM.  
A. VON ROSTHORN.  
E. DE GAIFFIER.  
MANUEL DE CARCER.  
W. W. ROCKHILL.  
G. DUBAIL.

(Prince of Ch'ing's signature.)

ERNEST SATOW.  
C. BAROLI.  
Y. UCHIDA.  
A. J. CITTERS.  
G. KOZAKOW.

**CANCELLATION OF THE AMERICAN CHINA DEVELOPMENT COMPANY'S CANTON-HANKAU RAILWAY CONCESSION.**

*The Chinese Minister to the Secretary of State.*

No. 46.]

CHINESE LEGATION,  
*Washington, December 22, 1904.*

SIR: I have been instructed to inform you that it is the decision of the Imperial Chinese Government to cancel and annul the agreements made with the American Chain Development Company, bearing date April 14, 1898, and July 13, 1900.

This step has been forced upon the Imperial Government by a course of conduct pursued by the company which leaves the Imperial Government no alternative. Article 17 of the supplemental agreement of July 13, 1900, stipulates that "the Americans can not transfer the rights of these agreements to other nations or people of other nationality." In spite of this plain provision and of the earnest opposition of the representatives of the Imperial Government a majority of the shares of the company's stock has been transferred to Belgians and other foreigners, and the control of the company has passed into other than American hands. The representatives or officials of the company have promised to have these shares held by foreigners in violation of the agreements retransferred to bona fide American stockholders, but they still remain in foreign hands.

Article 14 of the agreement of April 14, 1898, binds either party not to impair in any manner or to any extent the value of the obligations created by and under the contract. The said company has sought, against the protest of the Imperial Government and in violation of the terms of the agreements, to compel the trust company in whose hands the bonds have been deposited to deliver a large portion of them to the development company. The said company has sent to China a person as its representative who does not represent the American stockholders, and he has taken without authority from the proper representatives of the Imperial Government the whole charge of the railroad and its affairs contrary to the terms of the agreements. The amount of money spent on the Kwangchow section of the road has far exceeded the estimates. The engineers employed on the road have taken advantage of their position to go into business for their own profit. The company's foreign employees have repeatedly committed murder by the reckless use of firearms, and some of them have absconded with all the money in their charge. No attention has been paid to the demands for the surrender of the murderers or the return of the misappropriated money. These are some of the flagrant violations of the right of China to exercise supervision over the road and its employees. Repeated warnings

from the official representatives of the Imperial Government against the outrageous course pursued by the company in its dealings with the Government and the people of China appear to have fallen on deaf ears.

As the railroad which the American China Development Company undertakes to build passes through three of the most populous provinces of the Empire—namely, Kwangtung, Hunan, and Hupeh—the people of these provinces naturally take a deep interest in the progress of the work. The follies committed by the company have filled them with indignation and astonishment. Public meetings have been frequently called during the last few months to denounce the company and its employees. Public sentiment runs so strong against the company that it can find no defenders. It is the unanimous voice of the people that the contract with the American China Development Company should be canceled. They have presented a petition to the Waiwu Pu on the subject, which has been laid before the Throne. The court, which is always sensitive to public opinion, has accordingly given orders to the Viceroy Chang Chih-tung and other members of the Imperial Chinese railway administration to cancel the agreements with the American China Development Company. The viceroy, who represents the people of the three provinces, considers it impossible to oppose the wishes of tens of millions of people in order to relieve a bad situation attended with such serious consequences as to affect the safety of the country and the welfare of the people.

At this juncture when the commercial relations between China and the United States are steadily increasing and improving my government feels sure that the United States Government, which has repeatedly helped to protect the integrity of China, will not countenance any interference on the part of the people of any country that may injuriously affect American interest in China.

Copies of telegrams from the Imperial Chinese railway administration are herewith inclosed for your information, and I will thank you to favor me with an expression of your views thereon.

Accept, etc.,

CHENTUNG LIANG-CHENG.

[Inclosure 1.—Translation.—Imperial Chinese Legation, Washington, December 21, 1904.]

*Telegram from the Imperial Chinese railway administration.*

SHANGHAI, December 19, 1904.

Viceroy Chang is commanded by a special Imperial decree to make a careful investigation of the facts which justify the cancellation of the contract with the American China Development Company with a view to safeguard the rights and interests of China.

Director-General Sheng is of opinion that the American China Development Company has violated the contract, which renders cancellation unavoidable. Article 17 of the supplemental agreement stipulates that "the Americans can not transfer the rights of these agreements to other nations or people of other nationality." Now, a majority of the shares of the company's stock is held by Belgians and Frenchmen, and the control of the company has passed into other than American hands. Article 14 of the main agreement binds either party not to impair the value of the obligations under the contract. Now, a certain Cito, who does not represent the American stockholders, has been sent to China and taken the whole charge of the road without proper authority. The work on the road has not been completed within the time limit. The amount spent on the Kwangchow section of the road has exceeded the estimates. There are instances of engineers taking advantage of their position on the road to go into trading for their own benefit. Foreign employees have repeatedly committed murder by the reckless use of firearms; some have absconded with all the money in their charge. No attention has been paid to the demands for the return of the misappropriated

money or for the surrender of the murderers. These are some of the flagrant violations of the right of China to exercise supervision. You will please make known to the Secretary of State that the main and supplemental agreements with the American China Development Company will be annulled. In view of the improving commercial relations between China and the United States, it is reasonable to suppose that the United States Government, which has repeatedly helped to protect the integrity of China, will not countenance any interference on the part of the people of any country that may injuriously affect American interests in China.

CHANG (CHANG CHIH-TUNG).  
SHENG (CHENG HSUAN-HWAI).

[Inclosure 2.—Translation.]

*Telegram from the Imperial Chinese railway administration.*

SHANGHAI, December 21, 1904.

With reference to the case of the American China Development Company, the gentry and people of the three Provinces directly concerned with one voice strongly urge the cancellation of the contract. They united in presenting to the waiwu pu a petition on the subject, which has been brought to the attention of the Emperor. The court, which is always sensitive to public opinion, has accordingly given orders to Viceroy Chang and his associates in the railway administration to annul the contract. As the representative of the three Provinces, Viceroy Chang considers it impossible, in opposition to the wishes of tens of millions of people to relieve a bad situation attended with such serious consequences as to affect the safety of the country and the welfare of the people.

You will please add what has been said in regard to the popular feeling and public opinion of the country in your representations to the Secretary of State.

CHANG.  
SHENG.

*Chang Chih-tung and Sheng Hsuan-hwai to the Chinese Minister.*

[Telegram.—Translation.—Left at the Department of State by the Chinese Minister.]

SHANGHAI, January 2, 1905.

Director-General Sheng has telegraphed the American China Development Company that the Chinese Government has informed the United States Government of the annulment of the railroad contract and that the Chinese Railway Company, which represents the Chinese Government, will not be liable for the \$4,000,000 of bonds delivered by the trust company without the sanction of the director-general. Speaking for the gentry and people of the three provinces concerned, Viceroy Chang states that it is the firm determination of the tens of millions of people of the three provinces to have the contract canceled, and that they will under no circumstances recognize the \$4,000,000 of bonds as valid obligations.

You will inform the Secretary of State that China has all along taken the firm stand that the contract ought to be canceled and urge the importance of an immediate reply.

You are also requested to publish in the newspapers without delay a statement to the effect that the American China Development Company having violated the contract the Imperial Chinese Government, in deference to the public sentiment of the gentry and people of the three provinces concerned, has canceled the contract in accordance with their petition; that only 32 miles of the road have been completed; that the work has now been entirely stopped; that the public is, therefore, warned from buying any of the \$4,000,000 of bonds. You will communicate the above to the Secretary of State and the American China Development Company.

CHANG CHIH-TUNG.  
SHENG HSUAN-HWAI.

*The Secretary of State to the Chinese Minister.*

No. 52.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1905.*

SIR: I have the honor to acknowledge the receipt of your note No. 46, of the 22d ultimo, in which you inform the Department that it is the decision of the Imperial Chinese Government to cancel and annul the agreements made with the American China Development Company, bearing date April 14, 1898, and July 13, 1900; and you state the reasons which have forced the Imperial Government to take that step.

In reply I have the honor to say that in view of the steadily increasing and improving commercial relations between the United States and China I feel convinced that you will strongly urge on your government not to take the action contemplated until all the interested parties have been heard from.

Accept, sir, etc.,

JOHN HAY.

*The Secretary of State to Minister Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 5, 1905.*

(Mr. Hay advises Mr. Conger that the Department has been informed by the Chinese minister at Washington that his government intends to cancel its agreement with the American China Development Company. The Government of the United States can not admit that the Chinese Government can take such action against an American company, and insists on the sole right to deal with the Chinese Government in diplomatic questions affecting the interests of this company. Instructs him to strongly urge the Chinese Government to postpone action until all the interested parties have been heard from. The Department is reliably informed that a sufficient number of shares of the company's stock to secure absolute control of the property has been purchased from foreigners by the American shareholders.)

*The Acting Secretary of State to Minister Conger.*

No. 868.]

DEPARTMENT OF STATE,  
*Washington, January 6, 1905.*

SIR: I inclose herewith for your information a copy of a note from the Chinese minister here,<sup>a</sup> informing the Department that it is the decision of the Imperial Chinese Government to cancel and annul the agreements made with the American China Development Company, bearing date April 14, 1898, and July 13, 1900; and stating the reasons which have forced the Chinese Government to take that step.

I also inclose a copy of the Department's note to the minister, in reply.<sup>a</sup>

I am, etc.,

F. B. LOOMIS.



*The Acting Secretary of State to the Chinese Minister.*

No. 53.]

DEPARTMENT OF STATE,  
*Washington, January 6, 1905.*

SIR: With reference to the information which you furnished to the Department on the 22d ultimo, regarding the decision of the Chinese Government to cancel and annul the agreements made with the American China Development Company, bearing date April 14, 1898, and July 13, 1900, I have the honor to inform you that on yesterday Secretary Hay sent a telegram to Minister Conger, saying that this government can not admit that the action contemplated by the Chinese Government can be taken in regard to a company which this government considers to be in good faith American, and concerning which this government insists that it has the sole right to deal with the Chinese Government regarding diplomatic questions affecting the company's interests until all the parties interested in the concessions have been heard from. The minister was, accordingly, again instructed to urge strongly on the Government of China that it postpone the action contemplated until all the parties interested had been heard from, and that this is all the more imperative at the present time, inasmuch as the Department is credibly informed that the American shareholders have bought enough stock from the foreign stockholders to secure absolute control of the property.

Minister Conger was instructed to cable to the Department the result of his representations to the Chinese foreign office.

Accept, sir, etc.,

FRANCIS B. LOOMIS.

*The Secretary of State to the Chinese Minister.*DEPARTMENT OF STATE,  
*Washington, January 6, 1905.*

DEAR MR. MINISTER: I have the honor to inform your excellency that I have received absolutely certain information that the American proprietors of the Canton and Hankau Railway have regained control of the complete ownership of a clear bona fide majority of the entire stock of that company, the control of which, as a matter of fact, had never entirely passed out of their hands.

I trust the Chinese Government will see that this heavy sacrifice which has been made by the American proprietors to meet the criticisms and objections which have been made in China to the concession entitles them to the favorable consideration of your government and to the protection of that of the United States.

I am, etc.,

JOHN HAY.

*The Chinese Minister to the Secretary of State.*

No. 51.]

CHINESE LEGATION,  
*Washington, January 6, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of to-day's date, in which you kindly inform me that you have received absolutely certain information that the American proprietors of the Canton and Hankau Railway, to meet the criticisms and objections

which have been made in China to the concession, have regained control of the complete ownership of a clear bona fide majority of the entire stock of that company.

In reply I have the honor to state that I have cabled your entire note to my government for its consideration.

Accept, etc.,

CHENTUNG LIANG-CHENG.

*Chargé Coolidge to the Secretary of State.*

No. 1797.]

AMERICAN LEGATION,  
*Peking, January 25, 1905.*

SIR: \* \* \* I have the honor to confirm the Department's telegram of January 5.

On receipt of the foregoing I wrote to the foreign office as directed, urging the necessity of refraining from such action until the parties interested could be heard from.

After waiting a week for a reply I directed the Chinese secretary of the legation to make an informal inquiry as to the purpose of the Chinese Government and the reasons for their delay in answering my note: He elicited the information that the matter was under discussion by the board of commerce, in whose domain the question lies in the internal administration of the country, and that, in connection with the investigation, Chang Chih-tung had been ordered to report on the situation, because of the strong opposition of the gentry of Kwangtung, Hunan, and Hupeh. I then wrote asking that this statement be embodied in a reply for prompt transmission to my government, which was done. \* \* \*

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 1.]

*Chargé Coolidge to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, January 9, 1905.*

YOUR IMPERIAL HIGHNESS: Referring to Mr. Conger's notes of November 15 and 19, 1904, I have the honor to inform you that I have received a further telegram from the Secretary of State to the effect that the Chinese minister at Washington has announced the intention of the Imperial Government to cancel its agreement with the American China Development Company.

The Government of the United States looks upon this company as in good faith American, and, as is well known, insists upon the sole right to deal with the Chinese Government regarding diplomatic questions affecting its interests.

It therefore can not admit that a step so far-reaching in its consequences can be taken until the justice and necessity of such a measure have been clearly shown.

I am consequently directed strongly to impress upon your imperial highness that my government holds it to be imperatively necessary that this action be postponed until the parties whose interests are vitally affected shall have been further heard from.

I avail, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 2.]

*Chargé Coolidge to Prince Ch'ing.*AMERICAN LEGATION,  
*Peking, January 17, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to call the attention of your imperial highness to the fact that on the 15th and 19th of November, 1904, and again on the 9th of January, 1905, notes were sent to your imperial highness protesting against the declared intention of China to annul the contract of the China American Development Company, and expressing the urgent desire of my government that the company be given time and opportunity to answer all charges.

So far no answer has been returned to these communications, except the information conveyed by His Excellency Ch'ü Hung-Chi to Mr. Williams, the Chinese secretary of this legation, that the notes had been referred to the board of commerce, which, it was stated, has charge of railway affairs, and that His Excellency Chang Chih-tung, viceroy of the Hu-kuang Provinces, owing to his intimate knowledge of the situation, had been appointed a special commissioner to investigate and report upon the matter.

I have the honor to request of your imperial highness that some authoritative statement of the situation be sent to me in order that I may immediately convey it to my government.

I avail, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 3.]

*Prince Ch'ing to Chargé Coolidge.*

I have the honor to acknowledge the receipt of several letters and dispatches from His Excellency Mr. Conger and from your excellency regarding China's proposed method of dealing with the case, and saying that action should be suspended until those most deeply interested in the American China Development Company might have time to make a clear statement of the facts in the case.

As to this matter, it is one which concerns commercial affairs, and moreover the gentry of the three Provinces Kuangtung, Hunan, and Hupeh have made complaint and protest, which is being dealt with by the board of commerce and His Excellency Chang Chih-tung, the viceroy of the Hu-kuang. The note and dispatches sent by His Excellency Mr. Conger and yourself have already been transmitted to them, and a telegraphic notice sent as well, as the records show.

It will be necessary therefore to wait until the board of commerce and Viceroy Chang shall reply. Upon the receipt of such reply I will write your excellency again to inform you.

As in duty bound, I send this reply for your excellency's information.

A necessary dispatch.

Kuangsü XXX year, twelfth moon, thirteenth day. (January 18, 1905.)

[SEAL.]

*The Secretary of State to Minister Conger.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 26, 1905.*

(Mr. Hay instructs Mr. Conger to enter energetic protest against the forfeiture of the Canton-Hankau Railroad concession. Great sacrifices have been made by the American proprietors to regain entire control of it, and the Government of the United States can not acquiesce in such an act of spoliation as the forfeiture of the concession would be.)

*Chargé Coolidge to the Secretary of State.*

No. 1809.]

AMERICAN LEGATION,  
*Peking, February 9, 1905.*

SIR: Referring to my dispatch No. 1797, of January 25, I have the honor to confirm below your telegraphic instruction of January 26 with regard to the proposed annulment of the concession granted to the American China Development Company. I also transmit a copy of my last note of protest to the foreign office.

Deeming it advisable to emphasize this note by a personal interview, I made an appointment and was received by His Excellency Natung and Mr. Wu Ting-fang. In a long conference I endeavored to impress upon them the fact that the question had entered upon a new phase, that the old cause for complaint had disappeared, and that consequently there was now no ground upon which an annulment could be admitted. \* \* \*

They replied that for the present the question was out of their hands; that it was the province of the board of commerce to consider the matter; and, above all, that as Chang Chih-tung had been commanded by imperial decree to investigate the situation, no action could be taken until his report was received; but that all of my government's representations had been communicated at once. I pointed out that this was a question of internal administration, which did not concern us.

\* \* \* \* \*

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure.]

*Chargé Coolidge to Prince Ch'ing.*AMERICAN LEGATION,  
*Peking, January 27, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to inform your imperial highness that I have this day received telegraphic instructions from my government ordering me to protest with energy against the forfeiture of the concession granted to the American China Development Company.

Shares of this company which had been sold to people of other nationalities have now been regained at a great sacrifice by the American proprietors, consequently the control of this enterprise is absolutely American, and the American Government can not tolerate such an action of spoliation as the forfeiture of the concession would be.

I avail, etc.,

JOHN GARDNER COOLIDGE.

*Chargé Coolidge to the Secretary of State.*

No. 1829.]

AMERICAN LEGATION,  
*Peking, March 8, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 868, of January 6, transmitting copies of correspondence between the Chinese minister in Washington and the Department of State, with regard to the expressed intention of the Imperial Chinese Government to annul the concession of the American China Development Company.

With regard to this I have received no further communication from the foreign office; but in an informal conversation with one of the board I gathered that they were in a very uncomfortable position, realizing the attitude of our government in the matter, but at the same time much in fear of the almost unanimous sentiment of hostility to this company in the provinces through which the line passes.

I still think it desirable that an effort should be made on the spot to impress upon Chang Chih-tung and the officials and gentry of Hupeh, Hunan, and Kwangtung the real change which has taken place in the company.

I have, etc.,

JOHN GARDNER COOLIDGE.

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*The Acting Secretary of State to Minister Rockhill.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, June 8, 1905.*

(Mr. Loomis transmits the information obtained from the Chinese minister at Washington that the American stockholders of the Canton-Hankow Railway have entered into an agreement to sell the concession and the railroad to the Chinese Government for \$6,750,000.)

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*Minister Rockhill to the Secretary of State.*

No. 55.]

AMERICAN LEGATION,  
*Peking, August 14, 1905.*

SIR: With reference to previous correspondence concerning the cancellation of the concession of the American China Development Company, I beg to state that on receiving instructions I at once sent Mr. Williams, the Chinese secretary of this legation, to the foreign office and instructed him to put the following questions to the minister:

This legation is in receipt of reliable information that the Chinese minister at Washington has entered into a provisional memorandum of settlement with the American China Development Company, in which he recites the fact that the Chinese Government has canceled and annulled the concession and contract of the said company and has refused to permit it to continue the construction of its railway, and that he offers as reasonable indemnity to the company the sum of six millions and three-quarters.

\* \* \* \* \*

On the 12th instant, not having received any reply from the foreign office in accordance with the promise made to Mr. Williams in his interview of the 9th instant, I sought a personal interview with the minister. I failed to secure it, and then asked to see him on Sunday and was received by him on that day.

\* \* \* \* \*

Yesterday I received a note from the foreign office, a copy of which is herewith inclosed, giving a reply to the question which I had submitted to it in writing. Although this note states that the Chinese minister may have been acting within his authority in concluding the arrangement mentioned, it does not either state that such an arrangement has been made nor does it declare that such an arrangement, if

made, has the approval of the Imperial Government. I can not therefore consider that this answer is satisfactory, but I shall await further instructions before I mention the matter further to the foreign office.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Memorandum Left at the Chinese Foreign Office August 12, 1905.*

The Chinese minister in Washington, representing the Imperial Government, has signed with the American China Development Company a provisional memorandum of settlement. In this the Chinese minister states that, his government having canceled and annulled the concession and contract of the said company and refused to permit it to continue the construction of the railway, he has suggested as a reasonable indemnity and offered to pay to the company the sum of six and three-quarter millions of gold dollars (United States currency).

The President wishes to have an immediate answer from the Imperial Government stating whether or not the recital of facts in the above-mentioned provisional agreement was authorized by the Chinese Government, and, in case it has not so authorized, asks that it will immediately notify the Chinese minister at Washington to that effect.

[Inclosure 2.]

*Prince Ch'ing to Minister Rockhill.*

With reference to the matter of the Hankow-Canton Railway, concerning which your excellency called at my board yesterday and left a memorandum to the effect that His Excellency Liang had reached an agreement with the American China Development Company, by which the company's contract was nullified and an indemnity therefor was suggested by him, etc., and in which you desired to know whether or not the Chinese Government had sanctioned such a settlement and given His Excellency Liang authority for his action in the matter, I have the honor to state that my board has made inquiry into the matter and finds as follows:

The grand council, last year and this year, copied and sent to His Excellency Chang Chih-t'ung altogether three confidential letters of instruction from the Emperor directing him, by order of the Throne, to devise some means to gain back control of the railway.

The Chinese Government therefore, having given Chang Chih-t'ung authority to act in this matter, and, moreover, Chang Chih-t'ung's memorial requesting that he and Liang be empowered to act conjointly therein having been approved, is it plain that His Excellency Liang certainly acted within his authority.

I therefore write this letter for your excellency's information, and trust you will transmit the contents thereof to your government.

I also take this occasion, etc.

Cards of foreign office inclosed.

August 14, 1905.

*The Chinese Minister to the Acting Secretary of State.*

No. 66.]

IMPERIAL CHINESE LEGATION,  
*Washington, August 15, 1905.*

SIR: I have the honor to inform you that I have received a telegram from the Waiwu Pu, the foreign office at Peking, of which the following is a translation:

PEKING, *August 14, 1905.*

Chinese Minister LIANG, *Washington:*

The grand council of state, which has just transmitted to this office copies of three imperial decrees issued this year and last with reference to the Hankau-Canton Railway authorizing Chang Chih-t'ung to take all necessary measures for the regaining of the control of the rail-

way, states that, China having given Viceroy Chang authority to do what is necessary in this matter, and imperial sanction having been given to the request of Viceroy Chang presented in a special memorial that Chentung Liang-Cheng act jointly with him, Minister Liang therefore has authority to do what is necessary in this matter.

You will please act in accordance with this telegraphic instruction.

WAIWU PU.

I shall be greatly obliged if you will be good enough to lay the above-mentioned telegram before the President for his information.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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*The Waiwu Pu to the Chinese Minister.*

[Telegram—Left at the Department of State by the Chinese Minister.]

PEKING, August 15, 1905.

Your telegram is received. The memorandum of settlement with the American China Development Company has been laid before the Throne by Viceroy Chang in a memorial sent by telegraph. This is the imperial decree issued in answer thereto:

We hereby approve the method of settlement proposed by Chang Chih-t'ung in his memorial, and command the Waiwu Pu to take cognizance hereof.

A copy of the above-cited decree has been officially communicated to Minister Rockhill for his information and for such action as he may deem proper to take accordingly.

WAIWU PU.

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*The Chinese Minister to the Acting Secretary of State.*

No. 68.]

IMPERIAL CHINESE LEGATION,  
Washington, August 21, 1905.

SIR: I have received cable instructions from the Waiwu Pu, the foreign office at Peking, to inform you that early in the present month Minister Rockhill stated that he was directed to inquire whether the Canton-Hankau Railway concession had been canceled and whether I had been authorized by my government to make the agreement signed by Mr. John W. Foster on behalf of China, and Mr. Elihu Root and Mr. George L. Ingraham on behalf of the American China Development Company and Mr. J. P. Morgan. To these inquiries of Minister Rockhill an answer was duly given by the Waiwu Pu that I had been fully empowered by the Throne jointly with the Viceroy Chang Chih-tung to take all necessary measures for regaining control of the railway, as I informed you on the 15th instant.

The Waiwu Pu now instructs me to say to you that the Viceroy Chang has communicated the said agreement of Messrs. Foster, Root, and Ingraham to the Imperial Government; that the same has been approved by the Emperor, and that the Viceroy Chang has been empowered and instructed, jointly with me, to do all that is necessary and required to carry the said agreement into effect, and the Waiwu Pu desires that this information be given to you to remove all misapprehension which may have arisen.

In communicating the foregoing to you I beg that you will forward to the President a copy of this note for his information.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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*The Acting Secretary of State to the Chinese Minister.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, August 29, 1905.*

(Mr. Loomis informs Sir Chentung Liang-Cheng that the American China Development Company has definitely accepted the offer of the Chinese Government, and that the Government of the United States will not interpose any obstacles.)

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**NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.**

(NOTE.—Continuation of correspondence in Foreign Relations 1904, page 118, et seq.)

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*Acting Secretary of State Loomis to Chargé Coolidge.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 14, 1905.*

Mr. Coolidge is informed that the Russian Government declares that China persistently violates obligations of neutrality. The Russian Government cites alleged enlistment of hoonhoozes (Hunghtuses) by Japanese, Japanese instructors preparing Chinese army, use of Miao-Dao Islands by Japan, exportations of contraband from Chefoo into Dalny, the furnishing of cast iron to Japan by Hanyang (Hanyang) government shops; and alleges that China is making serious preparations to take part in military operations. The Department instructs Mr. Coolidge to advise Chinese foreign office that this government earnestly hopes China will scrupulously observe neutral obligations, any departure from which would seriously embarrass not only China, but also the powers interested in limiting the area of hostilities.

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*The Secretary of State to Chargé Coolidge.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 17, 1905.*

(Mr. Hay informs Mr. Coolidge that Department's telegram of the 14th instant is not intended to mean that the Government of the United States has adopted the point of view of the Russian Government. In answering the assertion of that government confidence was expressed that neither combatant would violate Chinese neutrality.)



*The Secretary of State to the Chinese Minister.*

DEPARTMENT OF STATE,  
Washington, January 17, 1905.

DEAR MR. MINISTER: I inclose, according to promise, a translation of the document presented at this Department on the 13th of January by his excellency the Russian ambassador.<sup>a</sup>

Very sincerely, yours,

JOHN HAY.

*Translation of telegram from the Waiwu Pu, Peking.*

[Received January 21, 1905, at noon.—Copy handed to the Secretary of State January 23, 1905.]

PEKING, January 21, 1905.

Chinese Minister LIANG, *Washington*:

The American minister officially states that the Russian Government has brought to the attention of the United States Government certain alleged violations of neutrality by China. There are five charges.

The first is that Japan has been permitted to enlist in Manchuria Hunghutse (hoonhoozes) bandits as regular soldiers.

Bands of Hunghutse bandits were first called into service by Mataldof (?) and other Russian officers, and organized into frontier guards. They were employed against the Japanese army. If, as it is alleged, they are in the pay of Japan and under the command of Japanese officers, this only makes one of the belligerents responsible for their employment. Moreover, China has not troops enough in the seat of war to keep her subjects there under perfect control. Whenever it was known that any Hunghutse bandits had crossed over into neutral territory the local authorities repeatedly effected their capture and punishment. The law of nations does not hold a neutral government responsible for the acts of its subjects or citizens or retired officers, who may choose to take sides as individuals in any conflict.

The second charge is that the Imperial Government employs Japanese officers as instructors for its foreign-drilled troops.

There are no Japanese officers employed in any capacity with the foreign-drilled troops in the north. It may be mentioned in this connection that the provincial college at Pauting has a number of Japanese employed as translators. But these secured their positions before the war, and after the war broke out they all gave their word of honor that they would have nothing to do with the conflict. They stand on the same footing with those subjects of Russia who have positions in the various educational institutions and in the maritime customs service. The law of nations does not prohibit the employment by a neutral government of the subjects or citizens of a belligerent power. This is a matter which a belligerent is not justified in making a subject of complaint.

The third charge is that the Imperial Government permits the use by Japan of the Miao-Dao Islands.

<sup>a</sup> Printed under this subject under Russia, p. 757.

All through the year the cruiser *Haiki* has been under orders to cruise in the neighborhood of the Miao-Dao Islands, and the prefect of Tengchow has in addition commissioned the gunboat *Haipau* to patrol the adjacent waters. No attempt whatever on the part of any Japanese or any Japanese war vessel to land is reported. It is needless to say that no permission to use those islands has ever been given.

The fourth charge is that contraband goods have been carried from Chefoo to Talienswan (Dalny).

Strict orders have from the beginning been given prohibiting the shipment of contraband goods to the seat of war. No ship from Chefoo has taken a cargo to Talienswan with the knowledge of the customs authorities, which have absolutely refused to issue clearance papers for such a voyage.

The fifth charge is that the government iron works at Hanyang (Hanian) have sold pig iron to Japan.

The iron ore from Tayeh is mined and shipped by a private company, which is entirely distinct from the management of the Hanyang iron works. In 1900 and 1903 certain contracts were made between this company and some Japanese firms. Those transactions took place before the war. Viceroy Chang had nothing to do with them and Sheng Kungpao only acted for and in behalf of the company, which had no official character. The said transactions did not need the approval of the government. Moreover, pig iron is not a contraband article, according to the law of nations. The subject-matter of those contracts is iron ore before the crude metal is extracted by the smelting process. Under such circumstances, it is doubly inadmissible to treat the article as contraband. It is an article of commerce, and should be properly treated as such.

It is also asserted that China is making extensive preparations with the view of taking an active part in the war. Now, the object of maintaining a military establishment is to secure the peace and tranquility of the country. It is a part of the internal administration. What country on the surface of the globe is not using its best efforts to increase the efficiency of its military service? Why should suspicion be thrown on a step taken by China in this direction as an indication of a desire on her part to join the conflict?

The Russian circular note you cabled mentions the case of the Russian torpedo boat captured at Chefoo as evidence of a strong prepossession in favor of Japan. The fact is that the act mentioned was entirely unexpected. For this reason Admiral Shah did not succeed in preventing it. There was no connivance whatever at the capture. The Imperial Government has already instituted an inquiry into the conduct of Admiral Shah and demanded from the Japanese minister the restitution of the torpedo boat. Although the incident is not yet closed, everything that can be done has been done.

Moreover, Russia has not refrained from committing acts in violation of neutral rights. The following instances may be mentioned:

1. The Russians have on territory west of the Liao River built bridges and quartered troops.
2. The Russians have at Siaokulun and Sinmintun used force to compel the sale to them of cattle and provisions, and secretly carried off supplies for the army.
3. At Peitaiho, Kalgan, and Fengtai Russians have been arrested for smuggling rifles, guns, and ammunitions concealed in merchandise.

4. The captain of the Russian vessel sent under escort from Chefoo to Shanghai secretly made his escape at Wusung.

These violations of neutral rights have repeatedly put China in a difficult position. China is determined not to swerve a tittle from the faithful maintenance of a strict neutrality. The earnest endeavors of the local authorities to preserve order and the peaceful attitude of the people have long been appreciated by the great powers. When a belligerent seeks a pretext to find fault without any reason, it is incumbent upon China to give an answer and let the truth be known. The Government of the United States, which is thoroughly familiar with the whole situation, can not fail to uphold justice with results not only fortunate for China, but also beneficial to the world. A note to the above effect is being addressed to the American chargé d'affaires, Mr. Coolidge. You will communicate the same to the Secretary of State and report any expression of views he may make thereon.

WAIWU PU.

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*The Secretary of State to Chargé Coolidge.*

No. 892.]

DEPARTMENT OF STATE,  
March 9, 1905.

SIR: Supplementing the Department's instruction of the 26th of January and the 1st ultimo, inclosing copies of correspondence in reference to the protest of the Russian Government against the alleged violation of neutrality by China, I inclose herewith, for communication by you to the Chinese Government, the translation of a promemoria<sup>a</sup> which was sent to the Department by the Russian ambassador on the 2d instant, in which the Russian Government calls attention to an alleged recent renewal of activity on the part of bands of Chinese in Mongolia, directed against the Russians; and repeats its intention to restrict, in future, the theater of military operations, provided the powers interested take measures to oblige Japan and China to renounce the idea of enlarging the sphere of military operations and, especially, to avoid carefully the carrying of the war into the provinces east of Mongolia.

I am, etc.,

JOHN HAY.

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*Chargé Coolidge to the Secretary of State.*

AMERICAN LEGATION,  
Peking, March 9, 1905.

SIR: I have the honor to acknowledge the receipt of Department instruction of January 24<sup>b</sup> inclosing copies of a print of a recent correspondence between the Russian ambassador at Washington and the Secretary of State, as well as the instructions sent to the American minister at Peking regarding the observance of neutrality by China and the reply of the Chinese Government.

In compliance, this correspondence has been communicated to the Government of China, as shown by the inclosures herewith.

I have, etc.,

JOHN GARDNER COOLIDGE.

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<sup>a</sup> Printed under this subject under Russia, p. 761.

<sup>b</sup> See circular instruction of March 24, 1905, p. 5.

[Inclosure 1.]

*Chargé Coolidge to Prince Ch'ing.*AMERICAN LEGATION,  
*Peking, March 6, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to state that I have this day received from the Department of State a print of a recent correspondence between the Russian ambassador at Washington and the Secretary of State, concerning the observance of neutrality by China in the present war, together with the instructions sent to the American minister at Peking on the subject and the reply of the Chinese Government.

Having been instructed to transmit a copy of the same to your imperial highness's government, I have the honor to inclose one herein, and at the same time I take the opportunity to renew, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 2.]

*Prince Ch'ing to Chargé Coolidge.*

I have the honor to acknowledge the receipt on the 7th instant of your excellency's dispatch stating that you had received a letter from the Secretary of State directing you to send me a copy of the recent correspondence between the Russian ambassador at Washington and the Secretary of State, concerning the observance of neutrality by China in the present war, together with the instructions sent to the American minister at Peking on the subject and the reply of the Chinese Government.

In this matter of looking out for the general interest your honorable government is controlled by a motive of justice and China is enabled to maintain strictly her neutrality, besides receiving the opportunity to make a clear statement of all the facts in the case. We, prince and ministers, are indeed grateful and will remember the favor.

I have the honor to state that the copy of the correspondence which you inclosed has been put upon record, and this reply is sent to your excellency with the request that you will transmit the information to the Secretary of State and extend to him our thanks.

A necessary dispatch.

XXXI year, 2d moon, 6th day (March 11, 1905).

[SEAL.]

*Chargé Coolidge to the Secretary of State.*

No. 1861.]

AMERICAN LEGATION,  
*Peking, April 22, 1905.*

SIR: I have the honor to acknowledge the receipt of Department's instruction No. 892, of March 9, transmitting a pro memoria sent by the Russian ambassador to the Department with regard to the neutrality of China and the restriction of the theater of military operations.

I communicated this to the Chinese Government, as directed, and have just received a reply, in which China strenuously denies that she has failed to observe her duties as a neutral. A copy of the correspondence is inclosed.

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 1.]

*Chargé Coolidge to Prince Ch'ing.*AMERICAN LEGATION,  
*Peking, April 19, 1905.*

YOUR IMPERIAL HIGHNESS. I have the honor to inclose, for the information of your imperial highness, a copy of a translation of a pro memoria sent to the Department of State at Washington by the Russian ambassador on the 2d of March last, calling attention to an

alleged renewal of activity on the part of bands of Chinese in Mongolia directed against the Russians, and repeating the statement of the intention of the Russian Government to restrict in future the theater of military operations provided the powers interested take measures to oblige China and Japan to renounce the idea of enlarging the sphere of military operations and especially to avoid carefully the carrying of the war into the provinces east of Mongolia.

I avail myself, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 2.]

*Prince Ch'ing to Chargé Coolidge.*

I have the honor to acknowledge the receipt on the 15th of the third moon of this year (April 19, 1905) of your excellency's dispatch, stating that you had received from the Department of State a copy of a pro memoria handed to the Department by the Russian ambassador at Washington, and which called attention to the renewal of activity on the part of bands of Chinese in Mongolia directed against the Russians, and repeated the intention of the Russian Government to restrict in future the theater of military operations, provided the powers interested would take steps to oblige China and Japan to renounce the idea of enlarging the sphere of military operations, and especially to avoid carefully carrying the war into the provinces east of Mongolia. Your excellency said, further, that you felt it to be your duty to send a copy for my information.

As to this matter: At the beginning of hostilities between Japan and Russia my board, on the 27th of the twelfth moon of the twenty-ninth year of Kuanghsü (February 12, 1904), sent dispatches to the various powers, clearly stating that the region west of the Liao River, from which Russia had already withdrawn her troops in accordance with treaty provisions, and Inner and Outer Mongolia would all be treated as within the area of neutrality, and that the belligerents must not encroach upon them, etc., all of which the records will show.

As to Mongolia: Instructions have been sent repeatedly to the colonial office strictly enjoining upon it that no bandits should be allowed to pass out or come in. As to the theater of war in the Manchurian provinces, both Russia and Japan have enlisted bandits, and if a destruction of railway bridges is the result, it is in a region to which China's military forces may not penetrate, and it is difficult for us to show any partiality in our prohibitions. As a matter of course, China can not be held responsible.

The regiments of the forces of the superintendent of trade for the North (Yuan Shih-k'ai) are all stationed in Chihli and are strictly observing the (neutrality) regulations. Moreover, they are far from the theater of military operations, and how can it be said that they are giving any assistance? This is merely conjecture on the part of Russia. As to restricting the area of hostilities and thus lessening the injuries to be suffered by the inhabitants of the country, it is what China most desires. As to the matter of the belligerents not entering the region east of Mongolia, west of the Liao River, my board, as occasion has offered, has uniformly forbidden it and from first to last has observed its obligations in this respect.

Now that I have received the copy of the pro memoria which your excellency has sent, I take advantage of the occasion to make another clear statement and to thank your Department of State on behalf of myself and the ministers of my board for its kind concern.

I send this dispatch to your excellency for your information, and trust that you will forward it, for which I shall be grateful.

A necessary dispatch.

Kuanghsü, XXXI year, 3d moon, 17th day (April 21, 1905).

[SEAL.]

*The Acting Secretary of State to Chargé Coolidge.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, April 28, 1905.*

(Mr. Loomis informs Mr. Coolidge that representations have been made by the Japanese Government that the Russian war vessels interned at Shanghai are being prepared for active service, and that the Chinese Government can prevent violation of its neutrality if so disposed; that the Japanese Government believes itself fully justified in order to protect itself, to take all necessary measures. Instructs

him to bring the gravity of the situation to the attention of the Chinese Government, and to urge it to take every proper effort for the maintenance of its neutrality.)

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*Chargé Coolidge to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, April 28, 1905.*

(Mr. Coolidge reports that the Japanese minister has informed him that, according to reports received by him, the Russian war vessels interned at Shanghai have been secretly preparing for active service. Upon inquiry, the vice consul-general at Shanghai reports that reliable information proves the reports without foundation.)

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*The Chinese Minister to the Secretary of State.*

IMPERIAL CHINESE LEGATION,  
*Washington, May 1, 1905.*

MY DEAR MR. SECRETARY: I have just received a telegram from the Waiwu Pu, of which the following is a translation:

PEKING, May 1, 1905.

Chinese Minister LIANG, *Washington.*

Your telegram of April 29 is received. It was rumored that the Russian war vessels at Shanghai were making secret preparations for their escape. Repeated orders were sent by telegraph to the viceroy at Nanking to dispatch additional war vessels to assist the taot'ai of Shanghai in preventing any such attempt. At the same time a strong protest was sent to the Russian minister.

You will communicate the above to the Secretary of State and convey to him the thanks of the Imperial Government for his friendly interest in the matter.

WAIWU PU.

I take pleasure in sending you the above telegram for your information.

I am, etc.,

CHENTUNG LIANG-CHANG.

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*Chargé Coolidge to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, May 2, 1905.*

(Mr. Coolidge transmits the reply of China to Department's telegram of April 28, 1905, which states that the Chinese foreign office some time ago, upon hearing reports that the Russian vessels interned at Shanghai were planning to put to sea, sent telegrams repeatedly directing the viceroy at Nanking to investigate the matter. The viceroy reported that the condition of the Russian war vessels was unchanged since the removal of their machinery; that he (the viceroy) had detailed additional war vessels to watch, and that strict and secret protective measures were being taken, no remissness

being shown. The foreign office had also asked the Russian minister to instruct, by telegraph, the Russian war vessels at Shanghai that on no account should they attempt such a thing. The foreign office adds that it is China's desire and for the interest of all nations that its neutrality should not be violated, and that the government of that country is observing strict neutrality and will certainly use every exertion to discharge its responsibility. The Chinese Government is grateful to the Government of the United States for its kind concern in the matter.)

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*Chargé Coolidge to the Secretary of State.*

No. 1876.]

AMERICAN LEGATION,  
Peking, May 4, 1905.

SIR: I have the honor to report that on April 27 the Japanese minister handed me a pro memoria with regard to certain alleged preparations of the Russian war vessels interned at Shanghai for active service. He also stated that his government had made representations on the subject to the American and British Governments. I immediately telegraphed to Mr. Davidson, in Shanghai, for information, and on receipt of his reply wired to the Department, as confirmed below.

\* \* \* \* \*

I have, etc.,

JOHN GARDNER COOLIDGE.

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[Inclosure 1.]

*Pro memoria from the Japanese Minister at Peking.*

According to a report received on the 18th of April the landing of the officers and crew of the Russian war vessels now under detention at Shanghai had been stopped from the preceding day. The deficiency in the officers and crew, it is stated, is to be supplemented from those who are present there after release on parole at Port Arthur, and every preparation is made for putting them to sea at any moment.

It was also reported on the same day that in case the Russian vessels effect their escape from Shanghai they are to be guided down to Wusung by a Russian training ship now at that port, thence to be piloted by Russian officers through a north passage, which they had hitherto been carefully investigating for that purpose.

On the 19th instant it was reported on a reliable authority that the *Askold* was obtaining on the 17th instant vent pieces, breechblocks, and other things from William Holliday, a British machinery agent.

On the same day it was also reported from a reliable informant that the furnace of the *Manjour* had been working in full order after midnight of the 16th instant and that there was also no less activity of the same sort on board the *Askold*, sounds of hammers being heard throughout the same night.

On the 20th instant the *Askold* was taking on board 300 tons of Cardiff coal besides 1,000 tons of coal which are already kept in her bunkers.

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[Inclosure 2.]

*Chargé Coolidge to Prince of Ch'ing.*

AMERICAN LEGATION,  
Peking, April 30, 1905.

YOUR IMPERIAL HIGHNESS: I am directed by my government to inform your imperial highness that the Japanese Government represented that the Russians are preparing for active service the war vessels interned at Shanghai, a violation of neutrality which the Chinese

Government is able to prevent if so disposed; that the Japanese Government having tried in vain to make China realize her sense of responsibility, believes it will be fully justified in taking all necessary measures in order to protect itself against the constant danger arising from practically warlike preparations of the interned vessels.

I am further instructed to point out to your imperial highness the gravity of the situation and to urge that no proper effort be spared by the Chinese Government to maintain its neutrality.

I seize the opportunity, etc.,

JOHN GARDNER COLLIDGE.

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[Inclosure 3.]

*Prince of Ch'ing to Chargé Coolidge.*

On the 26th of the 3d moon of this year [April 30, 1905] I had the honor to receive a dispatch from your excellency, stating that the Japanese Government had represented to your government that the Russians were preparing for active service their vessels interned at Shanghai, a direct violation of neutrality which the Chinese Government could prevent if so disposed, and that Japan would feel fully justified in taking all necessary measures to protect itself against the constant danger arising from the practically warlike preparations of the interned Russian vessels; that the situation is very grave, and you urge my government to spare no effort to maintain its neutrality.

As to this matter sometime ago my board, hearing it reported that the Russian war vessels interned at Shanghai were scheming to put to sea, sent telegrams repeatedly to the superintendent of trade for the south, instructing him to direct his subordinates concerned to investigate and learn the facts, and received a reply [stating that] the Russian war vessels were in no different condition from that after the removal of parts of their machinery; that additional war vessels had already been detailed [to watch] and in concert with the custom taot'ai were taking strict and secret protective measures; that not the slightest remissness was being shown.

Moreover my board sent a dispatch to the Russian minister [asking him] to instruct the Russian war vessels at Shanghai on no account to attempt such a thing.

Shanghai is a busy commercial port, and it is China's earnest desire and for the general interest as well that the belligerent nations should avoid any violation [of its neutrality]; China is observing strict neutrality, and will most certainly exert herself to devise means to fully discharge her responsibilities.

I have to thank the American Government for its kind concern, and, as in duty bound, I send this reply for your excellency's information and that you may transmit the same.

A necessary dispatch.

Kuanghsü, XXXI year, 3d moon, 28th day [May 2, 1905].

[SEAL.]

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*Chargé Coolidge to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Peking, May 22, 1905.

(Mr. Coolidge reports that the Chinese Government, in order to prevent the supply of coal to belligerent war vessels, requires shippers of coal from Shanghai to record guarantees at their consulates that a receipt for the shipment will reach the Shanghai customs authorities from the port of destination within forty days, under a penalty of five times the value of the cargo. This requirement was caused by the unusual form adopted for rapid handling of coal recently shipped from Shanghai, which aroused suspicion. Upon request he informed the consul-general at Shanghai. Mr. Coolidge asks instructions.)



*The Acting Secretary of State to Chargé Coolidge.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, May 23, 1905.

(Mr. Loomis states that in the matter of coal for belligerent war vessels the Government of the United States is well disposed toward the Chinese Government in her efforts to preserve neutrality.)

*Chargé Coolidge to the Secretary of State.*

No. 1902.]

AMERICAN LEGATION,  
Peking, May 27, 1905.

SIR: I have the honor to confirm my telegram of May 22 regarding restrictions imposed by the Chinese Government on shipments of coal from Shanghai with a view to prevent the supply of belligerent vessels, and the Department's reply.

I inclose a translation of the note on which the telegram was based and of the answer which I returned when instructions were received. On receipt of the formal note from the foreign office I wired its substance to Mr. Davidson for his information and later notified him that our government was favorably disposed toward this measure of precaution. The facts seemed to be that there have recently been shipments of foreign coal from Shanghai packed in small sacks, which could be readily handled even at sea, a condition which was unprecedented and is not justified by any requirements of legitimate trade. The conclusion is obvious, and the Japanese, who have taken every precaution to prevent the difficulty of their position from being increased through the rapacity of traders and the weakness of the local government, were probably the instigators of this measure. It would perhaps have been a better solution of the difficulty if it had been decreed that for the present nothing but bunker coal should be exported from Shanghai—that is to say, that steamers might take enough for their own supply in their own bunkers, but that no shipment of coal as cargo would be permitted.

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 1.]

*Prince Ch'ing to Chargé Coolidge.*

I have the honor to state that in the war which is still being waged between Japan and Russia China is maintaining a strict neutrality. She must, therefore, adopt strict measures to prevent war junks from keeping up their supply of necessities. Recently there have been some boats shipping coal from Shanghai, and as this coal is of the best quality and is so shipped as to be very conveniently loaded or unloaded, it was thought highly necessary to look into the matter officially, so that nothing might happen which would result in the breaking of China's neutrality.

It is now proposed to let the matter be dealt with in the same manner as was done in the case of rice and grain; that is, merchants (who wish to ship coal) will be required to write out and put on record at their consulates a bond, and in this bond it must be stipulated that within forty days the Shanghai customs must receive a receipt from the port to which the coal was shipped. In case no such receipt is returned within the time specified a fine of five

times the original price of the coal will be collected. All coal boats will be required to follow this rule. This will not injure the regular needs of the merchants, and at the same time it will prevent dishonest people from keeping the belligerents supplied with their needs.

My board telegraphed to the Shanghai customs taot'ai and communicated with the inspector-general of customs directing him to order the Shanghai commissioner of customs to carry out this rule. Besides this it becomes my duty to send this dispatch to your excellency for your information and that you may quickly telegraph to your consul at Shanghai that he may know of the matter and act accordingly. An answer to this dispatch is requested. I wish to add that this is merely a temporary measure, and when the war is over it will be rescinded. This is clearly understood along with the new plan.

A necessary dispatch.

Kuanghsü, XXI year, 4th moon, 18th day (May 21, 1905).

[SEAL.]

[Inclosure 2.]

*Chargé Coolidge to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, May 24, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your imperial highness's dispatch of the 21st instant, in which your highness informs me that recently coal has been shipped from Shanghai in a form very convenient for handling, and that your government had decided that in order to maintain strict neutrality and prevent supplies of coal being sent to the belligerents it would be necessary to treat exports of coal in a manner similar to that used with exports of grain—that is, require shippers to deposit at their consulates written guaranties that within forty days after shipment a receipt will reach the Shanghai customs from the port to which the shipments are destined, failing which a fine of five times the value of the coal will be collected. Your imperial highness also requests me to telegraph the American consul-general at Shanghai, informing him of this decision.

In reply, I have the honor to inform your imperial highness that I have already notified the American consul-general at Shanghai by telegraph of your government's proposed method of dealing with this matter, and that my government is favorably disposed toward China's efforts to preserve neutrality in the matter of coal for belligerent war vessels.

I avail myself of the occasion to renew to your imperial highness the assurance of my highest consideration.

JOHN GARDNER COOLIDGE.

#### PAYMENT OF THE CHINESE INDEMNITY.

[Continuation of correspondence in Foreign Relations, 1904, page 177, *et seq.*]

*Chargé Coolidge to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, February 15, 1905.*

(Mr. Coolidge transmits the latest proposal of China for the payment of the indemnity.)

Arrearages of 8,000,000 taels to be paid within twenty-five days after signing of the proposed arrangement, bearing interest at 4 per cent from January 1, 1905. Future payments to be made monthly, interest at the rate of 4 per cent being allowed thereon until date of maturity. Exchange on payments to be calculated at London rate of silver on the day of payment, or, at the option of the government receiving payment, by telegraphic transfers or unrestricted purchase of drafts in the currency of the receiving government.)

*Chargé Coolidge to the Secretary of State.*

No. 1815.]

AMERICAN LEGATION,  
*Peking, February 24, 1905.*

SIR: I have the honor to confirm my telegram of February 15, indicating the nature of the proposals which China now offers, informally, with a view to the settlement of all questions at issue connected with the payment of the indemnity.

When China refused the Belgian proposals, she offered to pay the indemnity as a gold debt at protocol rates if certain concessions were made regarding matters of interest on payments, and if an equitable system of fixing the rate of exchange were substituted for the arbitrary one which had prevailed. The powers, before considering this proposition, desired to know how much loss these concessions would involve, and various tables were drawn up on various bases by the bankers' commission, with various results.

It soon became evident that the attempt to arrive at an agreement as to the exact sum would be productive of an indefinite delay, partly because the bases of calculation were essentially different and partly because inaccuracies were quickly discovered in most of the tables presented. Furthermore, the representatives of the powers concerned were not agreed as to the nature and extent of the concessions which should be granted in return for China's offer to pay on a gold basis.

Finally, the Chinese Government, after conference with foreign representatives, decided to offer a fixed sum in payment of arrears to January 1, 1905, in the nature of a compromise between the amount payable if the concessions which they had asked for had been agreed to, and the amounts claimed as due according to the calculations based on the varying interpretations of article 6 of the protocol. For the future a new system of establishing the rates of payment was proposed, offering to each of the different governments concerned an independent choice between three different systems, all of them framed with the intention of removing from the hands of the voting majority of the bankers' commission at Shanghai the power to establish an artificial rate of exchange.

\* \* \* \* \*

The negotiations which are outlined in this dispatch are explained at some length in the inclosures herewith.

\* \* \* \* \*

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 1.—Translation.]

PEKING, February 7, 1905.

*Conferences held with the Chinese Government with a view to obtaining the signature of the national bonds.*

By a collective note dated July 26, 1904,<sup>a</sup> the representatives of the powers which signed the protocol of 1901, with the exception of the minister of the United States of America, presented to the Waiwu Pu the compromise proposition of which the Belgian Government had taken the initiative, relating to the payment of the indemnity.

<sup>a</sup> Printed in Foreign Relations 1904, page 177.

This proposition tended to authorize China to pay her debt, as she had been doing up to that time, in silver, at the rate of exchange of the date of each installment, and to pay off the whole indemnity in this manner.

The real value of the payments depending on the rate of exchange on silver, it was understood that every time the difference between the sums paid and the sums due the powers was in favor of the latter, this difference would remain due and would produce the same interest as the principal of the indemnity.

The rate of exchange had to be fixed every month, and not every six months as stipulated in the protocol.

After conferences, which continued during the months of August and September, the compromise proposition in question was not accepted by the Chinese ministers.

The objections made against it were that it would leave China in ignorance as to the amount which she would have to pay in 1940, and oblige her to pay compound interest on the differences due the powers up to the latter date.

Under these conditions no agreement was possible, and the Waiwu Pu transmitted to me officially the counter proposition which was submitted to the examination of the representatives of the powers by the circular of October 13, 1904.<sup>a</sup>

China acknowledged that the indemnity constituted a debt payable in gold, and consented to sign immediately the national bonds and to make the installments in gold, beginning January 1, 1905, on the following three conditions:

1. Fixing of the rate of exchange according to the average exchange during the amount of the payment.

2. Renunciation on the part of the powers of interest on arrearages.

3. Deduction at the rate of 4 per cent on advanced payments, up to the date when these payments ought to have been made.

In the opinion of the Chinese Government, the first and the third of these propositions ought to have a retroactive effect. Unfortunately, the passage referring to the retroactive effect was omitted by error from the French translation of the Chinese note. Hence arose the necessity for several representatives of the powers, who had expressed a favorable opinion on the Chinese project, to demand new instructions.

It was important, above all, to ascertain the extent of the sacrifice which a consent to the Chinese project would involve for the powers as regards the past.

For this purpose I requested the Waiwu Pu to draw up a table showing the sums to be paid by China on December 31, 1904, in order to cover the deficit of the last three years.

The first two replies of the Waiwu Pu, which formed the subject of the circulars of October 27 and November 17, were vague and did not mention the sum of 9,000,000 taels, being the amount of the arrearages of the first six months. The reason was that the powers and China took a different standpoint regarding the payment of these arrearages. In point of fact, from January 1, 1902, to December 31, 1904, China allotted an annual sum of 3,000,000 taels for the extinction of the arrearages of the second half of 1901. The taot'ai of Shanghai made this known to the commission of bankers by a letter in February, 1902. However, inasmuch as, on the one hand, a period of three years had been granted to China to clear herself of these arrearages, and as, on the other hand, the value of the white metal had declined sensibly since the time when the protocol had fixed the equivalence of the haikwan tael with regard to the currencies of the various countries, the bankers devoted the total amount of the installment to the extinction of the debt of the half year which was due and of the interest on the 9,000,000 taels. The result is that, according to the bankers, China was a debtor to the powers, on December 31, 1904, not only for the total amount of the arrearages, viz, 9,000,000 haikwan taels, but also for a sum of 1,435,000 Shanghai taels for the arrearages of the three years elapsed.

On the contrary, China claimed that she had acquitted herself of the whole of her debt, but in silver. She consented, since she acknowledged her obligation to pay in gold, to make up the difference, but on condition that the interest on the 9,000,000 taels should cease to be placed to her debit proportionally to the quota of the principal which she had discharged. In other words, she was disposed to pay interest on 9,000,000 taels during the first year, on 6,000,000 during the second, and on 3,000,000 during the third and last.

Long conferences were necessary in order to induce the Waiwu Pu to prepare a table showing the exact amount of this debt.

The table, which was submitted to the representatives on December 11, 1904, had been prepared on the following bases:

- (a) Remission to China of the interest on payments in arrears.
- (b) Deduction at the rate of 4 per cent on the monthly installments.
- (c) Fixing of the rate of exchange according to the average price of gold during the month preceding the installment.

<sup>a</sup> Printed in Foreign Relations, 1904, p. 182.

(d) Allowance to China of the interest on the excesses of the semiannual installments.

Thus calculated, China's deficit was reduced to £1,032,000, whereas it really amounted, according to the bankers, to £1,411,000.

The sacrifice required exceeded the extent of the concessions which the powers were willing to make to China. This impression is gained from the discussions to which the question of the indemnity gave rise on December 14, 1904. With a view to diminishing the loss, certain ministers proposed not to give a retroactive effect to the clauses relative to the remission of the interest on the arrearages and to the deduction of the interest from the monthly installments. Other representatives of the powers were inclined to divide the loss between China and the powers.

As to the future, the ministers were unanimously of opinion that it was proper to protect China against arbitrary rules in fixing the rate of exchange. They agreed to the principle of the average rate, but without being able to reach a conclusion as to the method of fixing it. They successively rejected the quotation published by the Shanghai newspapers, the quotation of one of the financial institutions of this city, and the average of the quotations of these various establishments. A simple means of settling the difficulty would have been to authorize the Celestial Government to negotiate the exchange itself; that is, to pay in drafts. Article VI of the protocol, which says, "The capital and interest shall be payable in gold or at the corresponding rate of exchange" did not seem to authorize it. It was then suggested to refer to the price of silver in London for the fixing of the rate of exchange.

The majority of the powers consented to allow China 4 per cent on the monthly installments, while others would have liked not to exceed 2 per cent, the rate corresponding to the interest allowed by the banks on the daily balance of their running accounts.

From my conferences with the ministers of the Waiwu Pu, I had reached the conclusion that they would be accommodating as regards the past, provided the powers were willing to accede to their demands with regard to the future.

Consequently I notified the Waiwu Pu that the powers would not admit the retroactive effect of clauses 1 and 3 of the note of October 13, 1904, and would not agree to the recalculation of the indemnity on the basis of the average rate.

The Waiwu Pu sent us its reply on January 25. It did not completely fulfill our expectations. For the past, it offered a sum of £1,000,000 with a view to covering the total deficit, whereas, as was seen above, the figure indicated by the bankers amounted to £1,411,000. In point of fact, China waived the remission of the interest on the arrearages and the deduction of the interest of 4 per cent on the monthly installments, but she did not adopt the method of calculating of the bankers, or, in other words, she rectified their calculations according to the indications that had been given her by the taot'ai of Shanghai concerning the rate of exchange.

However, it appeared equitable to give China credit, to a certain extent, for the profits which the bankers had realized to her detriment, and the proposition of 8,000,000 protocol taels or, £1,200,000, was generally well received.

For the future, the Chinese note said: "If the powers consent to the monthly fixing of the rate of exchange according to the average rate and to the deduction of 4 per cent on the monthly installments, the deficit of the last three years will not be regulated according to the propositions of the Waiwu Pu." It appeared dangerous to accept this wording, which had the defect of not specifying the methods of payment to which China was having recourse with a view to discharging her indebtedness. Moreover, the average rate had not yet been agreed upon. Since the diplomatic meeting of December 14 certain powers had gotten over their prejudices against drafts, and inclined to accept them rather than to refer the matter to the price of silver in London.

In case it was permissible for China to discharge her indebtedness by means of drafts or telegraphic transfers—that is, to negotiate herself the exchange—the average rate lost its purpose.

The Waiwu Pu was given to understand that it should leave to the powers the choice between these two modes of payment, viz, drafts and telegraphic transfers, or the rate corresponding to the price of silver at London.

"As far as the future is concerned," said the memorandum which I sent to the Waiwu Pu on January 27, "the powers authorize China to make monthly installments and to deduct 4 per cent interest on these installments. The latter shall be made on the basis of the price of silver at London, multiplied by the coefficient of charges. As regards the powers which would not accept this mode of discharging her indebtedness, China shall pay them in gold or by telegraphic transfers in money of their countries, which she may procure at her pleasure and according to her best interests."

The Chinese ministers showed some hesitation about accepting the telegraphic transfers, but they finally resigned themselves to it. They asked to be allowed to discharge their indebtedness by means of drafts, it being well understood that these drafts would be at the disposal of the creditor power on the date of maturity. China finds a certain advantage in this system. If, on the one hand, she loses the interest during the time the draft is traveling,

she can, on the other hand, procure drafts at the time the rate of exchange appears favorable to her, and it is known that the fluctuations of the rate of exchange are often greater than the rate of interest. Thus we see in Europe a rise in discount incites the bankers to furnish, unsecured, to their correspondents abroad long-dated bills of exchange, in order to profit by the difference between the rate of discount abroad and that of their own country.

It was very difficult to make the Chinese ministers understand the meaning of the words "coefficient of charges." The rate of silver is telegraphed daily from London to Shanghai. It is increased by the price of sending, viz, the freight, insurance, and brokerage, or from 0.90 to 1 per cent. It may be observed also that the intrinsic par value of silver quoted at London is below that of the Shanghai tael and that the latter weighs more than a troy ounce.

In order to determine the rate of exchange at Shanghai according to the price of silver at London, there is therefore a computation to be made. It consists in multiplying the value of an ounce of silver at London by 1.182.

The reply of the Waiwu Pu dated from January 31. It did not yet appear acceptable. China did admit the drafts, the telegraph transfers, and the price of silver at London, but she did not say that the payments would be paid in the respective money of each country and directly into the hands of each power. Moreover, the Chinese Government raised the claim of proportioning the payment of the arrearages and was silent regarding the interest on these arrearages from January 1, 1905, up to the day of payment. Hence the necessity of proposing new modifications to the Waiwu Pu.

Of this counter project, which I sent to the Waiwu Pu on February 1, the first part, referring to the manner of making the payments, was accepted, and the second part, relating to the interest, was rejected.

After urgent pressure, the Waiwu Pu yielded also on this question of interest.

These successive modifications led the Chinese Government to propose the method of settlement which formed the subject of the circular of February 6, No. 16.

[Inclosure 2.—Translation.]

*Circular No. 16.*

IMPERIAL GERMAN EMBASSY,  
*Peking, February 6, 1905.*

As a result of conferences which his excellency the minister of Belgium and other ministers have had with the Chinese ministers, the Waiwu Pu sent to Mr. de Gaiffier, officially, the draft of note and the inclosed table, which I have the honor to place in circulation with the French translation.

As this draft did not yet appear acceptable, Mr. de Gaiffier began new conferences with the Waiwu Pu with a view to determining in a clearer manner the mode of payment and to cause the 8,000,000 of haikwan taels of the protocol to bear interest at the rate of 4 per cent from the 1st of January, 1905, until the day of liquidation.

These conferences induced the Waiwu Pu to accept the draft of note hereto annexed with French translation.

In this project the offer of the Chinese Government for the past, which had been £1,032,405 8s. 10d., is brought up to 8,000,000 haikwan taels of the protocol (£1,200,000), which China declares herself ready to pay within a period of twenty-five days after the signature of the agreement, and which will bear interest at the rate of 4 per cent from January 1, 1905, until the day of payment.

It results from this figure, compared with that of H. T. P. 9,412,349.70 (£1,411,852 9s. 1d.) which the bankers' commission of Shanghai indicated to us as representing the entire claim of the powers on January 1, 1905, that the acceptance of the Chinese proposal would involve for the whole of the powers a loss of H. T. P. 1,412,349.70 (£211,852 9s. 1d.). According to the new table which has just been addressed to us by the bankers' commission and which I submitted to the examination of my honored colleagues by circular No. 15 of the 4th last, this loss would be diminished by H. T. P. 374,968.59 (£56,245 8s. 9d.) if the calculation of the bankers were made on a gold basis, as the diplomatic corps had asked, as a matter of information, in the telegram of His Excellency Baron Czikkann on December 14 last.

As far as the future is concerned, China asks of the powers the authorization to make monthly installments and to deduct 4 per cent interest on these installments. These installments will be made at the option of the various powers, either on the basis of the price of silver at London or in drafts or in telegraphic transfers, which China may procure anywhere and in any manner, according to her best interests, and which she shall remit directly to the various powers in their currencies at the maturity periods. According to the oral statements of the ministers of the Waiwu Pu, each power shall make its choice as to the mode of payment once for all upon the conclusion of the new agreement.

While requesting my honorable colleagues, as dean, to be pleased to express their opinions on the new Chinese proposition, I have the honor to add, in my capacity as minister of Germany, that, with a view to a definite settlement of the question of indemnity and in view of the recognition by China of the debt (payable) in gold, in her communication of October 14, 1904, I will recommend the acceptance of the Chinese proposition to my government.

As soon as this circular is returned to me I shall place it in circulation a second time in order that copies may be taken of the annexes.

A. v. MUMM.

ANNEX 1.

*July 1, 1902.*

Due:	Interest, 9,000,000 protocol haikwan taels; interest on arrearages of 9,000,000 protocol haikwan taels, 180,000 protocol haikwan taels=9,180,000 protocol haikwan taels; at the protocol rate of exchange 3s .....	£	s.	d.
		1,377,000	0	0
Paid:	Six monthly installments of 1,820,000 haikwan taels=10,920,000 haikwan taels=12,164,880 Shanghai taels; or at the rate of exchange of June 30 of 2s. 3.625d.....	1,400,228	7	6
	Balance to China's credit.....	23,228	7	6

*January 1, 1903.*

Due:	Amortization, 829,500 protocol haikwan taels; interest, 9,000,000 protocol haikwan taels; interest on the arrearage of 9,000,000 protocol haikwan taels, 180,000 protocol haikwan taels=10,009,500 protocol haikwan taels; at the protocol rate of exchange 3s.....	1,501,425	0	0
Paid:	Five monthly installments of 1,820,000 haikwan taels; one monthly installment of 1,809,500 haikwan taels=10,909,500 haikwan taels=12,153,183 Shanghai taels; or at the rate of exchange of December 31, 1902, of 2s. 2d.....	1,316,594	16	6
	Surplus of the last payment period.....	23,228	7	6
	Interest on this surplus for six months....	464	11	4
		1,340,287	15	4
	Balance to the debit of China.....	161,137	4	8

*July 1, 1903.*

Due:	Interest on 8,983,410 protocol haikwan taels; interest on arrearage of 9,000,000 haikwan taels, 180,000 protocol haikwan taels=9,163,410 protocol haikwan taels; at the protocol rate of exchange 3s.....	1,374,511	10	0
	Deficit of last payment period.....	161,137	4	8
	Interest on the deficit.....	3,222	14	10
		1,538,871	9	6
Paid:	Six monthly installments of 1,820,000 haikwan taels=10,920,000 haikwan taels=12,164,880 Shanghai taels; or at rate of exchange of June 30 of 2s. 3.875d.....	1,412,900	2	6
	Balance to debit of China.....	125,971	7	0

January 1, 1904.

Due:	Amortization, 862,680 protocol haikwan taels; interest 8.983,410 protocol haikwan taels; interest of arrearage of 9,000,000 protocol haikwan taels, 180,000 protocol haikwan taels=10,026,090 protocol haikwan taels; at protocol rate of exchange 3s. ....	£		s.	d.
	Deficit of last payment period.....		1,503,913	10	0
	Interest on this deficit.....		2,519	8	6
			1,632,404	5	6
Paid:	Five monthly installments of 1,820,000 haikwan taels=1,809,500 haikwan taels=10,909,500 haikwan taels=12,153,183 Shanghai taels; at the rate of exchange of December 31, 1903, of 2s. 5.25d.....		1,481,163	3	7
	Balance to debit of China.....		151,235	1	11

July 1, 1904.

Due:	Interest, 8,966,156 protocol haikwan taels; interest on arrearage of 9,000,000 protocol haikwan taels, 180,000 protocol haikwan taels=9,146,156 protocol haikwan taels; at protocol rate of exchange 3s. ....	£		s.	d.
	Deficit of last payment period.....		1,371,923	8	0
	Interest on this deficit.....		151,235	1	11
			3,024	14	0
			1,526,183	3	11
Paid:	Six monthly installments of 1,820,000 haikwan taels=10,920,000 haikwan taels=12,164,880 Shanghai taels; or at rate of exchange of June 30 of 2s. 6.625d.....		1,552,289	7	6
	Balance to China's credit.....		26,106	3	7

January 1, 1905.

Due:	Amortization, 897,188 protocol haikwan tael; interest 8,966,156 protocol haikwan taels; interest on arrearage of 9,000,000 protocol haikwan taels, 180,000 protocol haikwan taels=19,043,344 protocol haikwan taels, or at protocol rate of exchange 3s. ....	£		s.	d.
			2,856,501	12	0
Paid:	Five monthly installments of 1,820,000 haikwan taels; one monthly installment of 1,809,500 haikwan taels=10,909,500 haikwan taels=12,153,183 Shanghai taels; or, at rate of exchange of December 31, 1904, of 2s. 9.125d.....		1,677,392	8	11
	Surplus of last payment period.....		26,106	3	7
	Interest of this surplus.....		522	2	5
			1,704,020	14	11
	Balance to debit of China.....		1,152,480	17	1

## ANNEX 2.

[Translation.]

## Note.

According to the computations made by the Waiwu Pu regarding the arrearages of the indemnity for the three preceding years, the total of China's debt to the powers amounted to £1,032,405 8s. 10d.

On the other hand, it is found from a note which was sent us by Mr. de Gaiffier that the sum due in order to cover the deficit of the last three years is £1,419,443 8s. 8d.



In the opinion of the ministers at Peking the ministers of finance of the various countries have counted on the sums paid for the past years and have long ago allotted them for expenses, and it appears impossible to modify the accounts. Consequently the three points proposed by the Waiwu Pu can not be applied to China as far as the past three years are concerned.

We, ministers of the Waiwu Pu, have taken these considerations into account, but we must discuss anew the following two points, viz:

1. At each payment period the Shanghai bankers do not convert the silver into gold according to the current rate of exchange on the Shanghai market.

It is impossible for us to approve this procedure. The daily rate of exchange of gold and silver is notified to us from time to time by the taot'ai of Shanghai.

Herein below we reproduce for the five payment periods the rate of exchange fixed by the bankers and that which was notified to us by the taot'ai of Shanghai.

From a comparison of the two rates it is seen that the bankers reserve to themselves too great advantages on the occasion of the payment of the indemnity.

*From the first to the fifth payment period.*

Period.	Bankers' rate.	Rate of the Taotai.
June 30, 1902.....	2.3 $\frac{1}{2}$	2.3 $\frac{3}{8}$
December 31, 1902.....	2.1 $\frac{1}{2}$	2.2
June 30, 1903.....	2.3	2.3 $\frac{3}{8}$
December 31, 1903.....	2.4 $\frac{1}{2}$	2.5 $\frac{1}{2}$
June 30, 1904.....	2.5 $\frac{3}{8}$	2.6 $\frac{3}{8}$

As regards the sixth payment period, the rate was fixed in the computation of Mr. de Gaiffier at 2.8. This was a rate which, having been fixed in advance, could not but be fictitious. We have since learned that on December 31 this rate was 2.9 $\frac{1}{2}$ .

2. China's debt being a debt (payable) in gold, the account of the arrearages of each semi-annual period should be drawn up in gold and not in Shanghai taels.

According to the table which Mr. de Gaiffier sent us and which was prepared according to the mode of calculation adopted by the bankers, the arrearage up to June 30, 1904, amounted to 1,468,758.63 taels. The computation was made in Shanghai taels, and comprises the deficit of the preceding years. These amounts were converted into haikwan taels of the protocol at the rate of exchange of June 30 of last year, and give a total of 1,280,665.96.

This operation can not be considered as correct and equitable. Thus, for instance, at the time of the arrearage of the second payment period the tael of Shanghai was worth 2.1 $\frac{1}{2}$ . This arrearage was carried over to the fifth payment period, when, according to the rate of exchange of June 30, 1904, the Shanghai tael had a value of 2.5 $\frac{3}{8}$ . In this manner a profit of 4 pence is derived from every tael.

It would not be fair to make the debtor sustain too great a loss when paying his debt.

We know the feelings of justice with which the ministers of the powers are animated, and we are sure that they will not approve the methods of the bankers.

Moreover, the two points set forth above enable the bankers to receive more white metal from China, without the government's benefiting, however, when they receive the amount in gold of the sums thus calculated.

If the computations are corrected by taking into account the two points mentioned above, the deficit of the three past years will amount approximately to 8,000,000 haikwan taels, which China will pay in its entirety.

As far as the future is concerned, if the powers consent to China's paying monthly installments and deducting 4 per cent interest on these installments, China will clear herself of her debt to them either by means of payments in gold or by drafts which she will purchase and remit on the date of the maturity or else by means of telegraphic transfers which she will procure and purchase by contract, according to her best interests and at the lowest price.

If there are any among the powers which desire to receive telegraphic transfers expressed in the currency of their countries, China can purchase them as well in Europe as in Shanghai. If, on the contrary, the powers wish to be paid in gold on the basis of the value of silver on the London market, China consents to that also.

As far as drafts and telegraphic transfers are concerned, China can buy them at all places, on all markets, and in any bank, provided the payments in gold or in the respective currency of each country be made directly into the hands of each power on the day of maturity.

The 8,000,000 protocol taels in question shall be paid within a period of twenty-five days after the signature of the agreement, and they shall bear interest at the rate of 4 per cent from January 1, 1905, to the day of payment.

*The Secretary of State to Chargé Coolidge.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 2, 1905.*

(Mr. Hay informs Mr. Coolidge that the Chinese proposal relating to the payment of the indemnity is acceptable to the Government of the United States.)

*Chargé Coolidge to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, April 22, 1905.*

(Mr. Coolidge reports that the new arrangement for the payment of the Chinese indemnity will probably be signed very soon. Payments of arrears will be made directly to each government within fifteen days after signature by telegraphic transfer. Recommends adoption of such transfers on New York in American dollars. Requests instruction.)

*The Acting Secretary of State to Minister Rockhill.*

No. 8.]

DEPARTMENT OF STATE,  
*Washington, May 31, 1905.*

SIR: I have to acknowledge the receipt of Mr. Coolidge's telegram of the 22d of April last.

In reply I inclose herewith for your information a copy of a letter from the Secretary of the Treasury expressing his views in the matter.

I am, etc.,

FRANCIS B. LOOMIS.

[Inclosure.]

*The Secretary of the Treasury to the Acting Secretary of State.*TREASURY DEPARTMENT,  
*Washington, May 12, 1905.*

SIR: In reply to your letter of the 24th ultimo, embodying a telegram dated the 22d ultimo from the chargé d'affaires ad interim at Peking, China, and requesting to be advised by this Department as to what answer should be telegraphed to the chargé d'affaires in reply to his recommendation that the payments of the Chinese indemnity should be by "telegraphic transfers" on New York, I have to state that the agreement of this government with the international banking corporation provides for the receipt by the bank of all payments due to the United States arising under the protocol fixing the amounts to be paid by the Chinese Government. The bank is to account to the United States Government for the amount of taels received from the Chinese Government at the value of the tael in Shanghai at the time of payment, expressed in United States cents, and to deposit this amount to the credit of the United States Government in the United States without any charge for loss by exchange. It would therefore appear that it would not concern the United States Government in what way the bank might place their money in New York for the payments due the United States. In fact, it would appear that the bank is not obliged to make any actual transfer. The only obligation resting on the bank would be to deposit with the United States Treasurer the value of the taels received in accordance with the terms of their bond. If, however, there is a new arrangement between the Department of State and the Chinese Government, doing away with the provisions of the existing protocol relative to the method of payments and providing

for the payment of the amounts due and coming due to the United States in American dollars and making the payments direct to this government, as the telegram embodied in your letter would indicate, I can see no objection to the payments being made by "telegraphic transfers."

Respectfully,

L. M. SHAW.

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*Minister Rockhill to the Secretary of State.*

No. 33.]

AMERICAN LEGATION,  
Peking, July 15, 1905.

SIR: I have the honor to report that on Sunday, July 2, I accepted in the name of the United States the new Chinese proposals for the settlement of the indemnity stipulated by Article VI of the final protocol of September 7, 1901. The representatives of the other governments concerned signed their assent collectively at the same time, so that the new arrangement, which goes into effect at once, has now taken the place of the original agreement. I signed under the instruction of our Department to accept a solution which met with the unanimous consent of the other powers, and I did this the more readily as the present measure is certainly more equitable and less burdensome to China. The advantages derived from its substitution are, in the first place, that China finding herself compelled to admit that the indemnity is a gold debt is now enabled to cancel the arrears which have accumulated while the question was still open by a payment of 8,000,000 taels, which is 1,412,350 taels less than the lowest estimate made of her indebtedness, on this account, under the former arrangement. In the second place, she is placed in a more advantageous position as regards interest allowed to her on payments in advance, both on interest and amortization, but by far the most important gain to China is in the fact that she is now enabled to make all future payments in gold directly to the governments concerned by means of telegraphic transfers, bought where she chooses in the open market, and thus doing away with the iniquitous system of calculating her payments on the basis of an artificial rate of exchange established arbitrarily by the bankers' commission.

I inclose copies of my notes to Prince Ch'ing and my colleagues with regard to the acceptance of the Chinese proposals, the terms of which will be forwarded by the next mail.

I also acknowledge receipt of instruction No. 8 of May 31, 1905, with regard to payment by telegraphic transfer, and inclose a copy of my note on this subject.

This change in the provision of the final protocol with regard to the payment of the indemnity has already been communicated officially to the bankers' commission, and I, too, have sent a notification of it to our delegate.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure 1.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
Peking, July 2, 1905.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your note of to-day, in which your imperial highness presents a new proposition for the settlement of the question of the indemnity stipulated in the final protocol of September 7, 1901.

In reply I have the honor to announce that I accept in the name of my government the new form of settlement proposed by China and accepted by the other governments concerned.

I avail, etc.,

W. W. ROCKHILL.

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[Inclosure 2.—Translation.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, July 2, 1905.*

YOUR IMPERIAL HIGHNESS: Referring to my note of this date accepting in the name of the United States the proposals of the Chinese Government for a definitive settlement of the question of the indemnity agreed upon in the final protocol of September 7, 1901, I have the honor to inform your imperial highness that the method of payment selected by my government is by means of telegraphic transfers to New York in American dollars.

I avail, etc.,

W. W. ROCKHILL.

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*Minister Rockhill to the Secretary of State.*

No. 35.]

AMERICAN LEGATION,  
*Peking, July 25, 1905.*

SIR: In further reference to Mr. Coolidge's dispatch, No. 1815, of February 24 last, and my dispatch, No. 33, of July 15, I have the honor to transmit to you herewith a translation of the note handed to the Prince of Ch'ing by the representatives of the powers accepting the proposals for the settlement of the indemnity due under the final protocol of September 7, 1901.<sup>a</sup>

The Department will note that under this arrangement there will be no duties for the commission of bankers to discharge, as henceforth China will make payments on the dates fixed by the protocol to each of the powers of the amount specified in the table of amortization attached thereto. It would seem that this only necessitates that the Chinese Government, or rather the Shanghai taot'ai, should be informed by the consul-general of the United States that the Government of the United States wishes hereafter that the various telegraphic transfers of the sums due it which shall be made by China shall be deposited directly in the Treasury of the United States at Washington to the credit of the account of the Chinese indemnity fund, 1900. The contract entered into between the Secretary of the Treasury of the United States and the International Banking Corporation, by which the latter was to receive one-half of 1 per cent for discharging the duties of delegate on the commission of bankers and of agent for the Government of the United States for the transmittal of the amounts due the latter, has, in my opinion, lapsed, and the bank should be informed of this fact. This seems to be more necessary since the payment which was made on the 18th of this month by the Chinese Government to the United States in settlement of arrears of the indemnity referred to in the inclosed note was made by telegraphic transfer, not directly into the Treasury of the United States, but to the International Banking Corporation, which in turn deposited it in the United States Treasury. This appears to be an unnecessary and round-about way of carrying out the provisions of the arrangement.

I have, etc.,

W. W. ROCKHILL.

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<sup>a</sup> Not printed. See inclosure to No. 113, p. 156.

*Minister Rockhill to the Secretary of State.*

No. 113.]

AMERICAN LEGATION,  
Peking, October 4, 1905.

SIR: Referring to my dispatch, No. 35, of July 25, with regard to the new indemnity arrangement, I have now the honor to inclose a more carefully prepared translation of the note to the Prince of Ch'ing, by which, with our concurrence, the new system was established.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Note to Prince Ch'ing in re new indemnity arrangement.*

JULY 2, 1905.

YOUR HIGHNESS: We have the honor to acknowledge the receipt of the letter which your highness was so good as to address to us on July 2, 1905, in answer to the collective note of the representatives of the powers, dated July 26, 1904, regarding the payment of the indemnity. It is therein stated as follows:

"On July 26 last we had the honor to receive the collective note by which the representatives of Germany, Austria-Hungary, Great Britain, Italy, Japan, The Netherlands, and Russia made certain proposals to us for regulating the payment of the indemnity.

"We have examined these proposals with the greatest care, after having discussed them several times both verbally and in writing with the Belgian and other ministers. We are now in a position to submit to the powers concerned and to ask them to be so good as to accept a definitive arrangement respecting both the liquidation of the arrears and the payment to be made in future.

"Recognizing that the sum of 450,000,000 taels constitutes a debt in gold; that is to say, for each haikwan tael due to each of the powers China must pay in gold the amount which is shown in Article VI of the final protocol as the equivalent of one tael, we undertake:

"1. To extinguish by means of a lump sum of 8,000,000 protocol taels the whole of the debt incurred toward all the powers, collectively, on account of the payment in silver during the years up to January 1, 1905. This lump sum shall be divided among the powers in proportion to the amount of the sums which remained due to each of them on January 1, 1905. With regard to these sums, which are determined by converting the balance of each half year into gold and carrying it forward in protocol haikwan taels, we beg the ministers to be so good as to let us know what they are in order that they may be paid by telegraphic transfers to each power direct a fortnight after the present proposals have been accepted. These 8,000,000 taels will bear interest at 4 per cent per annum from January 1, 1905, to the day of payment.

"2. To sign the national bonds as soon as the powers have given their assent to our proposals.

"3. In future on the last day of each month to pay equal monthly installments of the whole of the sum payable each year for interest and sinking fund, which is fixed by the sinking-fund tables attached to the respective national bonds, the powers agreeing that China at the end of each half year may deduct interest at the rate of 4 per cent per annum on these installments from the date on which they have been made to the last day of the half year.

"China will make these payments, calculated on the bases set forth above, which fixes the value of the haikwan protocol tael in relation to the money of each country, either in silver, according to the price of silver on the London market, or in gold bills, or in telegraphic transfers, at the choice of each power. China may obtain bills and telegraphic transfers as best suits her interests at any place and at any bank at the lowest price or by public tender, provided that the payments in gold be made to each power direct on the due date. It is understood that China is responsible for the exact payment of the transfers and the bills. Each power in accepting the present proposals must inform the Chinese Government which of the three methods cited above is the one it chooses till the debt is extinguished.

"4. As to the sums in silver which have been paid over to the banker's commission between January 1, 1905, and the coming into force of the new arrangement regarding the indemnity, we propose that they should be repaid to the Shanghai taot'ai. He will then meet the installments that have then fallen due, in accordance with the methods set forth above, with deduction of interest at 4 per cent per annum from the day the payment shall have been reeffected up to the date of the next half-yearly payment.

"We beg, your excellencies, the ministers of the powers, to inform us as soon as possible whether their governments accept our proposals."

We have submitted these proposals to our respective governments, who, after examining them in a conciliatory spirit, have assented to them.

We therefore have the honor to inform your highness that we all accept the definite arrangement of the question of the indemnity proposed in your letter of to-day.

It is understood that article 4 of the present agreement shall be applied in an equitable manner.

Your highness will find attached a table setting forth the division of the 8,000,000 taels, which you have expressed the desire to receive.

*Amount due each power from the sum of 8,000,000 protocol taels.*

Country.	Foreign currency.	Protocol taels.
Germany.....	marks..... 4,971,917.95	1,627,469.05
Austria-Hungary.....	crowns..... 263,700.83	73,352.11
Belgium.....	frances..... 560,776.83	149,540.44
Spain.....	do..... 8,943.75	2,385.00
United States.....	dollars, gold..... 490,435.44	660,964.20
France.....	frances..... 4,684,727.62	1,249,260.70
Great Britain.....	pounds sterling..... 138,114.91	920,763.04
Portugal.....	£250 16s. 4d.....	1,672.11
Italy.....	frances..... 1,759,261.46	469,136.39
Japan.....	yen..... 724,487.16	514,916.25
Netherlands.....	florins..... 24,169.69	13,457.51
Russia.....	roubles..... 3,266,264.32	2,313,218.36
International claims.....	pounds sterling..... 408.73	2,722.42
Sweden and Norway.....	do..... 171.73	1,142.42
Total.....		8,000,000.00

*Minister Rockhill to the Secretary of State.*

No. 134.]

AMERICAN LEGATION,  
Peking, October 27, 1905.

SIR: I have the honor to inclose herewith translation of a note addressed on the 19th instant by the Waiwu Pu to the dean of the diplomatic corps. It relates to a divergence of opinion as to the amount of indemnity paid during the first six months of this year. This results from the adoption of different rates by the commission of bankers on the one hand and the Shanghai taot'ai, through whom the payments are made, on the other in calculating the value in gold of the amounts paid in silver. This difference amounts to £27,000, which the Chinese Government now proposes to split with the powers interested. The Chinese Government also asks that it be allowed on any surplus found due to it on this last half-yearly account interest at 4 per cent.

A meeting of the representatives of the powers interested was recently called to consider the proposal of the Waiwu Pu. Under the general instructions given me on the matter by the Department, I agreed to the Chinese proposals as equitable and just. The other ministers also agreed, subject to the instructions of their governments. The Russian chargé d'affaires, however, raised objections in view of his government having informed China previously that it would take its share of the indemnity in silver. He agreed finally to submit the proposals to his government, but I fear this small matter may drag for some time.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Na-T'ung to Baron von Mumm.*

Twenty-first of the ninth moon of the thirty-first year Kuanghsü (October 19, 1905).

I have already expressed to your excellency my sincere thanks for your helpful assistance in settling the indemnity question. But there remains a last point on which I am desirous that your excellency should, before your departure, lend me your assistance, so that this matter shall offer no further difficulty. This unsettled point relates to the conversion into gold, at the rate of June 30, of the sums paid in silver during the first six months of the current year, and to the difference between the rate of gold fixed by the banks and that which had been ascertained by the Shanghai taot'ai.

In an interview which your excellency had on this subject with the Waiwu Pu on the 20th of the month before last, you said that the sterling rate ascertained by the Shanghai taot'ai of 2 shillings 7.8125 pence for the tael, was inexact, and that the rate for telegraphic transfers on the 30th of June was, in reality, 2 shillings 7.75 pence; that the difference according to the rate was, not £30,000, but only £27,000; that in your opinion this difference of £27,000 could be borne half by the powers and half by China, but that you had not yet reached any agreement with your colleagues on this point.

As a considerable length of time has elapsed since this interview, I presume you have reached a conclusion, and if the foreign ministers all agree to the division by halves, I shall not insist, on my side, on my views. Therefore, in view of the difference between the gold coins of the various powers, and that sterling coin can not be uniformly used for all, I would be obliged if your excellency would have drawn up, at a rate calculated for the coin of each country, a list of the sums of which each power would relinquish a half, and to send it to me for examination and consideration.

On the other hand, as regards the payment of the indemnity, there are yearly two terms; the one at the end of June includes only interest and is the smallest; the other, at the end of December, includes the sinking fund and interest and is the largest. The Chinese method of payment consists in calculating the lump sum for sinking fund and interest for the whole year and dividing that whole into twelve equal fractions which are paid monthly. It results, therefore, that, if on the 30th of June the amount of the sums paid during the first half year is added up, a surplus will always be found. This surplus is nothing else than the anticipated payments on which, according to the new arrangement, China is to be allowed 4 per cent interest.

Now then, when an agreement has been reached on the rate, if, after each power had made its calculations, a surplus is found to exist, it will be proper to request the bankers of the interested powers to allow on this surplus interest at 4 per cent from the 30th of June to December 31.

I shall be obliged if your excellency would reach an understanding as soon as possible with your colleagues and inform me of the result.

(Compliments and cards.)

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*Minister Rockhill to the Secretary of State.*

No. 181.]

AMERICAN LEGATION,  
*Peking, December 27, 1905.*

SIR: In further reference to the proposal made by the Waiwu Pu for the settlement of the question of the conversion into gold at the rate of exchange of June 30, 1905, of the amounts paid in silver during the first six months of the current year by the Chinese Government on account of the indemnity, and of an adjustment of the rates of exchange fixed by the bankers' commission at Shanghai and the taot'ai who makes the payments on account of the indemnity (see my No. 134 of October 27, 1905), I have now the honor to inclose copy of an identic note handed me and to the other diplomatic representatives of the powers which signed the final protocol of September 7, 1901, by the Prince of Ch'ing on the 23d instant, together with copy of the collective note we handed him accepting the proposals made by his board.

With this matter disposed of, the negotiations concerning the mode of payment of the indemnity of 1900 are now, it would seem, terminated, and China has fairly successfully defended her interests.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.—Translation.]

*Prince of Ch'ing to Baron von Mumm.*

PEKING, *December 23, 1905.*

As to the matter of the payment of the indemnity, notes were exchanged between the various ministers in Peking representative of the powers and the Chinese Government on the 30th of the fifth moon of the present year (July 2, 1905), by which a satisfactory arrangement was agreed to, as the records will show. But the matter of the amounts of the payments made during the first half of the present year, as reduced to gold at the rate of June 30, 1905, and that of the nonagreement of the rate of exchange into gold, used by the bankers' commission, and the rate of the Hongkong and Shanghai Banking Corporation, it was by general agreement decided to leave for settlement later. That is to say, according to the rate of exchange into gold for the 30th of June, 1905, as fixed by the bankers' commission 1 tael Shanghai Sycee was equal to 2 shillings 7.125 pence, but according to the rate of the Hongkong and Shanghai Banking Corporation 1 tael was equal to 2 shillings 7.75 pence. According to the difference between these two rates the error in reckoning the total amount paid the powers is equal to 186,792.95 protocol haikwan taels. As the Chinese Government desires to settle the matter justly, if the powers concerned will agree to forego one-half of this sum, China on her part will agree to bear the loss of the other half.

According to the arrangement entered into on the 2d of July this year, China is required to divide into twelve parts the total amount due each year for amortization and interest and pay one part each month, but this arrangement will go into effect only at the beginning of next year. For the present year, according to Article VI of the protocol of 1901, China has to pay interest only in the first half of the year, and the payments on the principal due for the year have to be paid only in the latter half of the year. Therefore, if on reckoning the amounts paid during the first half of the year, it appears that China has paid in excess of the amount due, according to the new arrangement with regard to payments made in advance, she should be allowed a discount equal to interest at 4 per cent on such excess for the six months from June 30 to December 31, and I have to request each of the ministers residing in Peking representative of the powers concerned to inform me of the amount in the gold currency of his own country received on June 30 by his country in excess of the amount due it, so that I may notify the Shanghai taot'ai to take action accordingly. This is the proposition of my board, and, as in duty bound, I send this dispatch to request the various ministers concerned to give it their consideration, and I beg that they will inform me at an early date of the willingness or otherwise of their governments to accept this proposition.

A necessary dispatch.

Kuanghsü XXXI year, 11th moon, 27th day.

[Inclosure 2.—Translation.]

*Baron von Mumm et al. to the Prince of Ch'ing.*

PEKING, *December 23, 1905.*

YOUR HIGHNESS: We have the honor to acknowledge the receipt of the letter which your imperial highness was pleased to send us under date of December 23, 1905, and in which it was stated:

"As to the matter of the payment of the indemnity \* \* \* to accept this proposition."  
(See inclosure 1.)

We have submitted this proposal to our respective governments which, having examined it in a conciliatory spirit, have given it their approval.

Consequently we have the honor to inform your imperial highness that we accept the proposal made in your note above cited and we acknowledge a balance due China at the date of June 30, 1905, of 268,484.86 protocol taels, being made up of 175,088.39 protocol taels overpaid by China during the first six months of the present year, according to calculation made by the bankers, plus 837.65 protocol taels, which amount the Chinese Government still owed



the United States of America on the 30th of June, according to the same calculation, and of one-half of the above-mentioned difference, that is to say, 92,558.82 protocol taels. To this sum of 268,484.86 protocol taels should be added interest at the rate of 4 per cent a year from June 30 to December 31. The total of this balance plus the interest, to wit, 273,854.53 protocol taels, may be subtracted by the taot'ai of Shanghai from the payment of December 31, and instructions in accordance will be given by me to the commission of bankers at Shanghai.

Your highness will find annexed hereto a list of the balances of the various powers on the 30th of last June, which have been fixed on the basis of the proposal accepted by our governments.

A. v. MUMM.	ERNEST SATOW.
A. ROSTHORN.	C. BAROLI.
E. de PRELLE,	Y. UCHIDA.
E. DE CARCER.	A. J. CITTERS.
W. W. ROCKHILL.	D. POKOTILOV.
M. DUBAIL.	

[Subinclosure.]

*List of balances.*

	Balance on June 30 in foreign currencies.	Interest.	Amount to be credited to China on December 31, in foreign currencies.	The same amounts in protocol taels.
Germany . . . . . marks . . . . .	152,234.06	3,044.68	155,278.74	50,827.73
Austria-Hungary . . . . . crowns . . . . .	7,190.90	143.82	7,334.72	2,040.25
Belgium . . . . . francs . . . . .	18,270.84	365.41	18,636.25	4,969.66
Spain . . . . . do . . . . .	291.39	5.82	297.21	79.25
France . . . . . do . . . . .	152,635.13	3,052.70	155,687.83	41,516.75
United States . . . . . dollars, gold . . . . .	3,618.86	72.37	3,691.23	4,974.71
Great Britain . . . . .	£3,639 17s.	£72 15s. 11d.	£3,712 12s. 11d.	24,750.97
Portugal . . . . .	£6 12s. 6d.	2s. 8d.	£6 15s. 2d.	45.05
Italy . . . . . francs . . . . .	57,319.26	1,146.38	58,465.64	15,590.33
Japan . . . . . yen . . . . .	70,302.15	1,406.04	71,708.19	50,965.31
Netherlands . . . . . florins . . . . .	908.05	18.16	926.21	515.71
International claims . . . . .	£10 15s. 3d.	4s. 4d.	£10 19s. 7d.	73.19
Russia . . . . . roubles . . . . .	107,248.84	2,144.98	109,393.82	77,474.38
Sweden and Norway . . . . .	£4 10s. 4d.	1s. 10d.	£4 12s. 2d.	30.72
Grand total . . . . .				273,854.53 [sic]

*The Secretary of State to Minister Rockhill.*

No. 81.]

DEPARTMENT OF STATE,  
*Washington, December 29, 1905.*

SIR: I have to acknowledge the receipt of your dispatch No. 134, of October 27 last, in relation to a difference of opinion between the diplomatic representatives at Peking and the Chinese Government as to the amount of indemnity paid by China during the first six months of this year, and in relation to the request of the Chinese Government that it be allowed interest at the rate of 4 per cent from June 30 to December 31, 1905, on any surplus payment that may be found to exist.

In reply I have to say that it would seem, on the facts stated by you that the Chinese proposals, as explained in your dispatch, are, as you say, equitable and just.

I am, etc.,

ELIHU ROOT.

## OPENING OF TRADE PORTS IN CHINA.

*Chargé Coolidge to the Secretary of State.*

No. 1831.]

AMERICAN LEGATION,  
*Peking, March 9, 1905.*

SIR: Referring to legation dispatch No. 1609 of May 17, 1904,<sup>a</sup> with regard to the opening by China herself of Chinanfu, the capital of Shantung, to foreign trade, I have the honor to inclose a copy of a note from the foreign office announcing the conditions governing the creation and regulation of the new port.

The point of chief interest is, that the city of Chinanfu is not to be opened itself; consequently, merchandise from the port to the city must be shipped with a transit pass or pay the native customs, octroi, and likin dues. The question of the payment of such dues on goods passing from the foreign settlement to the walled town has never been clearly decided in some of the ports opened by treaties.

Another point to be noted is that the establishment of custom-houses is temporarily postponed with a view to encourage trade.

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure.]

*Prince Ch'ing to Chargé Coolidge.*

It appears from the records that my board after consultation agreed with the superintendent of trade for the north and the governor of Shantung to submit a memorial to the Throne, praying that a commercial port might be opened by China herself outside the walls of Chi-nan Fu in Shantung with branches at Wei Hsien and Chou Ts'un. Concerning this matter my board sent a dispatch to your legation on the 3d of the fourth moon, thirtieth year of Kuanghsü (May 17, 1904), as your files will show.

These being ports opened by China herself, the regulations for their opening and management ought to be determined by the viceroy and governor concerned, and I have just received the regulations in nine articles which the superintendent of trade for the north and the governor of Shantung have submitted in memorial and which have been approved. It is clearly stated, moreover, in the original memorial that on the first opening of the ports the matter of chief importance is to encourage people to locate there, and that it is proposed therefore to postpone temporarily the establishment of custom-houses.

As in duty bound, I transmit herewith a printed copy of the regulations for your examination.

A necessary dispatch.

Kuanghsü, XXXI year, 2d moon, 2d day (March 7, 1905).

[SEAL.]

[Subinclosure.]

*Regulations for the newly opened treaty ports in Shantung.*

\* \* \* \* \*

I. *Boundaries.*—Boundaries must be laid out for the commercial port outside of Chinanfu in order to distinguish this place from the "interior." The following boundaries are proposed: From "Shih-wu-tien" (situated southeast of the Chiao-chou and Chinan Railway, west of the city), west to Pei-ta-huai-shu, south to the Ch'and-ch'ing road, and north as far as the railway. From east to west this boundary line will be a little less than 5 li (about a mile and a half) and from north to south about 2 li (about two-thirds of a mile). Thus there will be in all some 4,000 mou of land which will comprise the port for both Chinese and foreign

<sup>a</sup> Printed in Foreign Relations 1904, page 167.

trade. Countries having treaties with China will be permitted to establish and maintain here commercial officers; and commercial citizens of the various foreign nations may come and go, and may rent land, and open up shops, and may reside and carry on business the same as Chinese merchants. All outside the boundaries of this commercial port, both inside and outside the city wall, and all places in the vicinity shall be considered as still being under the regulations for "interior" districts, according to which foreign merchants must not rent or lease houses or open up hongs or shops in such places.

II. *Renting of land.*—All public and private land inside the limits of the port, as laid down herein, must be surveyed and laid out in divisions, and prices must be determined upon for the different lots. Private houses and lands which are to be used must first be bought by the officials, and then rented out to Chinese or foreign merchants. This is to prevent coercion and the holding of property till the market price has gone up. Proclamations must also be issued preventing landowners and renters from making any private transactions (in land), but if anyone contemplates renting a certain piece of land he must go first to the board of public works and register his application, then any troubles will be avoided by acting upon applications according to priority. (More detailed regulations as to the renting of land will be drawn up later.)

III. *Officials.*—The port once opened, a great number of people should locate there, and Chinese and foreign intercourse of all kinds will necessarily be very great. It will be necessary then to have special officers to have control of these matters. It is proposed to appoint the taot'ai of the Chi-Tung-T'ai-Wu-Lin circuit, being near, as superintendent.

There are three classes of matters which must be dealt with at the new port. First, the board of public works must take special charge of the improvement of the roads, the erection of public buildings, and building of all kinds. Second, the board of police must look out for the policing of the streets and the investigating of cases of smuggling, etc. (Detailed regulations will be decided upon later.) Third, the judicial bureau must take charge of all matters of litigation, Chinese and foreign. The taot'ai of the Chi-Tung-T'ai-Wu-Lin circuit must appoint deputies to manage the various different affairs, but if the affairs in the port become multitudinous, another official with large experience in international matters can be appointed to assist him or the superintendent of trade for the north and the governor of Shantung can consult together and appoint a foreigner to assist in the management of affairs.

V. *Duties and taxes.*—Chinanfu being a distinctly inland port, differs from the various other ports, wherefore the matter of customs regulations will be left until we can look into the conditions of the case and then in due time decide how to deal with them. The necessary expenses for the streets, the police, street lighting and sweeping, must be raised by the Chinese officials. After taking into consideration the circumstances, licenses shall be collected in due order from houses, shops, and large and small vehicles, in accordance with rules similar to those generally in use at the other ports, and this tax, when made, shall be paid by Chinese and foreign merchants alike.

VI. *Expenses.*—When the new port is opened, all kinds of business will increase greatly, and there will be two principal uses for which funds will be necessary. First, the expenses connected with opening up the place—buying up the land, for instance, and the expense of public work—which will amount to a very large sum; second, the annual expenses of the port, the salaries and expenses of the officials, the wages and provisions for messengers and police, and the miscellaneous expenses.

A memorial will be submitted asking for special appropriations of funds to defray these expenses when necessary, that there may be no waste of public money.

VII. *Prohibitions.*—It will not be permitted to erect straw houses within the limits of the port, nor to store there any powder or dynamite. None but soldiers may carry knives, and it is forbidden to do anything which might injure the general health. Offenders will be dealt with according to the laws of their own country. In cases where dynamite, etc., is needed for use in works of some kind, permission may be obtained from the officials to import it, but it can not be stored up for any length of time.

VII. *Mail, telegraphs, etc.*—When the new port is opened, news must be efficaciously despatched. The mail, telegraph, and telephone service shall be under the control of the Chinese, who will establish the systems also and draw up restrictions preventing the establishment of the same by others.

IX. *Branch ports.*—As the memorial calls for the opening of Wei-hsien and Chou Ts'un as branch ports, these places will be opened up under regulations similar to those for the port outside of Chinanfu.

The above nine articles constitute only the main outline; more detailed regulations must be drawn up for the carrying out of the main rules. Moreover, additional regulations may be added at any time when the circumstances of the place or conditions not previously met may demand it.

*Chargé Coolidge to the Secretary of State.*

No. 1901.]

AMERICAN LEGATION,  
*Peking, May 27, 1905.*

SIR: I have the honor to report that in obedience to an imperial edict referring to the board of foreign affairs and the board of commerce the question of the advisability of opening Yunnanfu, the capital of Yunnan, to foreign trade a memorial has been presented to the Throne recommending that this be done.

In this memorial it is set forth that the railway from Tongking will soon be constructed and will reach the provincial capital, which will become an important center of distribution. This will necessitate the opening of the port, and it is advisable that this should be done by China herself and not by treaty. The circumstances are similar to those at Chinan, and as the railway is approaching completion it is very desirable for China to take measures to promote trade and to protect her sovereignty. It is therefore recommended that, as in the case of Chinan, a port for international trade be opened outside the walls of Yunnanfu, and that in case this petition be approved the viceroy should draw up suitable regulations, based on previous instances of the same kind, and submit them in a memorial fixing the date of the opening of the port, so that notifications may be sent to the representatives of foreign governments in Peking through the foreign office and to the inspector-general of customs.

This memorial received imperial sanction on May 14.

I have, etc.,

JOHN GARDNER COOLIDGE.

*Minister Rockhill to the Secretary of State.*

No. 94.]

AMERICAN LEGATION,  
*Peking, September 18, 1905.*

SIR: I have the honor to transmit to you herewith a translation of an imperial edict which was published on the 15th instant, directing the board of foreign affairs, the board of commerce, the Viceroy Yuan, and the governor-general of Manchuria to jointly consider and report on the opening of more localities in Manchuria to international trade, the promoting of trade and commerce in the same region, and for other purposes.

The opening of a large number of localities in Manchuria to international trade is strongly favored by the Japanese Government and by the Viceroy Yuan, at least, (perhaps by others), in China.

I fancy this important step is taken at the present moment by the Chinese Government so as to show to the world that without any outside pressure it favors and is ready to carry out a progressive policy. China also firmly believes that the opening of localities to international residence and trade is the most efficacious method of preventing one nation acquiring preponderating influence in any given section of the Empire. I am disposed to think we shall shortly hear of a number of localities being opened to international trade in other parts of the Empire, especially Mongolia and Chinese Turkestan.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Imperial edict of September 15, 1905, looking toward the development of the Manchurian Provinces.*

The board of commerce has memorialized us with regard to the encouragement of trade in the Manchurian Provinces, requesting that orders be issued for the preparation and submission of a suitable plan of operation.

The territories of the Manchurian Provinces are large, their products varied, and the people unacquainted with modern methods. It becomes urgently necessary therefore to determine and mark the boundaries of the subdivisions of the Provinces, open more ports of international trade, and develop international commerce, in the hope that all those nations with which we have treaties may share in the benefits to be derived, and that the local authorities be directed to inaugurate various industrial enterprises, so as to encourage trade.

Let the board of foreign affairs and the board of commerce consult with Yuan Shih-k'ai, the superintendent of trade for the north, and Chao Erh-hsun, the tartar general of Sheng-king, and make satisfactory regulations covering the whole subject, to be submitted to us, after which we will issue an edict directing them to be put into operation.

Respect this.

*Minister Rockhill to the Secretary of State.*

No. 147.]

AMERICAN LEGATION,  
*Peking, November 10, 1905.*

SIR: I have the honor to transmit to you herewith in translation copy of an imperial rescript sanctioning the opening of Hai Chou in the Province of Kiang-su to international trade.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Imperial rescript sanctioning the opening of Hai Chou, Kiang-su, to international trade.*

[Peking Gazette, November 3, 1905.]

The board of foreign affairs, in compliance with an imperial decree, directing it to take the matter herein referred to into consideration and report thereon, reverently submits this memorial, praying for it the gracious approval of your imperial majesties.

On the 24th of the eighth moon of the thirty-first year of Kuanghsü (September 22, 1905), we received from the grand council a copy of a memorial, submitted by the acting viceroy of the Two Kiang and others, stating that the commerce of Hai Chou was gradually increasing and proposing that it be opened as a port of international trade by China herself, and a copy of a petition from the gentry and merchants of Hai Chou requesting that small steamers might be allowed to visit the port. The memorial was indorsed by the imperial pencil as follows: "Let the board of foreign affairs and the board of revenue consult about the matter and report to us. Let the petition also be forwarded to them. Respect this. Reverently comply."

On the receipt of the same our board made investigations and found that the original memorial made the following statements:

"Hai Chou in Kiangsu is an independent department, situated upon the seacoast near the border of Shantung Province. The people are industrious and orderly and commonly follow the pursuit of agriculture. During the past few years certain of the gentry, among them Shen Yün-p'ei, a second-class compiler of the Han-lin academy, and a taot'ai, Hsü T'ing-lin, established three industrial companies, one for the manufacture of bean oil, one for making flour, and an agricultural and cattle-raising company. Production has gradually increased and the people are somewhat better acquainted with modern methods than formerly. It is proposed to have a careful return made of the waste lands, and the establishment of a chamber of commerce is being urged, all of which will be beneficial. Agricultural and commercial enterprises ought to be extended and prosecuted with energy. These members of the gentry also came to my capital (Nanking) and in a personal interview said that Lin-hung-k'ou in

Hai Chou has been a port for seagoing junks, and that Ch'ing-k'ou, in Kung-yü district (also written Kan-yü) and in the district of Hai Chou was also a place visited by junks and had grown into a great trading place; that during the past few years production had steadily increased, but that as there were no steamers the trade could not be extended, and that they requested that a port of international trade might be established, which would be beneficial both to Chinese and foreign trade, and would be, moreover, not wanting in benefit to the customs revenue. In order to test the public opinion, I repeatedly sent deputies to make personal inquiries, who found the majority to be of the opinion just set forth. I therefore wrote to Sir Robert Hart, the inspector-general of customs, to consult with him about the matter, and he sent the coast inspector and harbor master, Tyler, to consult with the officials and gentry and make an inspection. Afterwards he received a report from Tyler, saying Lin-hung-k'ou would be the most suitable place for the establishment of a port of international trade; that for several tens of li (a li=one-third of a mile) ships drawing 8 feet of water could anchor; that at Ching-k'ou, some tens of li north of Lin-hung-k'ou, the water was rather shallower and that it ought to be made a branch customs station, and he mentioned the names of several other places on the river near Ch'ing-k'ou which might also be opened and all placed under Lin-hung-k'ou, all of which would be beneficial to the river trade. He estimated the annual exports of native products at 5,000,000 or 6,000,000 taels. The value of the foreign goods that would be imported he found it difficult to estimate beforehand.

"Inasmuch as the mud flats at the said place are very broad, he stated that it would be necessary to build wharves godowns, and cargo boats, and construct roads, the funds for which would have to be provided for. Some ten-odd li outside the harbor there are several islands where ships can anchor, but there is no shelter from the violence of the winds, and if it were thought desirable to construct a breakwater, the expense would be very heavy. He considered that on the whole it would be better to use only ships of shallow draft for transportation of goods.

"When the gentry were received in a personal interview, they presented a plan by way of explanation, and their statements agreed with the reports just quoted. Since the views of all are thus agreed, it seems right to ask that Lin-hung-k'ou in the department of Hai Chou be opened by China herself as a port of international trade, and that Ch'ing-k'ou and the other places referred to be made branch stations for the collection of customs dues under the jurisdiction of the Hai Chou customs. I have therefore to request that instructions be issued to the board of foreign affairs and the board of revenue to consider the advisability of opening the port in question. As to the sand bars, shallows in the channel, and the places for the anchorage of ships, it will still be necessary to send a coast inspector to make a survey (and mark them). The work of building wharves, etc., should wait until after this survey shall have been completed, when a deputy may be appointed to make inspection and an estimate. As to whether or not the customs station shall be called the Hai Chou customs, the matter should be referred to the board of foreign affairs for consideration and report. The petition of the gentry states that Hai Chou is about midway between Shanghai and Kiaochow, and must therefore be passed by ships going to and fro between these places. As to the repeated requests of the gentry of the said department that they be permitted to charter small steamers to transport their goods out and in, I find that it is in accord with the island waterways regulations and ought to be granted. The said gentry further state that the funds needed by the customs established at the various new ports opened within the past few years have been provided for by the local customs, repayment being made whenever the customs receipts had become sufficient for the purpose, and it is requested, therefore, that as the receipts from dues on the chartered vessels in the proposed experiment can not be very large they be kept for the construction of wharves, etc., and that should this sum prove in the future to be insufficient the gentry and merchants are willing themselves to raise the money by an interest-bearing loan, which can be paid off later by the government, by which plan it is hoped the works may be earlier brought to completion.

"I find these proposals all in harmony with the regulations heretofore in force, and as soon as the boards mentioned shall have made their joint report, memorialized and issued their instructions, they may be carried out." (End of viceroy's report.)

We, your ministers, humbly represent that the condition of commercial affairs daily becomes more encouraging, and that in every province there are unopened trade centers, which the government is urgently requested to open as ports of international trade. Hai Chou is an important seaport, and its situation and condition are such as to justify its being opened. During the past few years the export of native produce has steadily increased, and it seems reasonable, therefore, to arrange the matter so as to increase trade and protect our own interests and authority. The proposal of the said viceroy and others that Lin-hung-k'ao, in Hai Chou department, be opened as a port of international trade by China herself originated in a request of the gentry and merchants of the place, and since the deputy sent to make investigation makes report in agreement with their statements it becomes our duty to ask that permission be given to deal with the matter as proposed. The customs station should be called the Hai Chou customs. The viceroy and other officials concerned

should inquire into the method employed in opening other ports that have been opened by China on her own initiative and propose satisfactory regulations in accordance therewith and proceed to open the port. Ching-k'ou, in the district of Kung-yü, and the other ports referred to should be made branch stations of the customs as proposed. But as the customs receipts at these branch stations may not be very large in undertaking such works as dredging and building breakwaters, which require a large expenditure of money, care should be taken to discriminate between those which are urgently needed and those which can wait until a later time, lest the income should not be equal to the outlay. As to the matter of permitting the use of steamers, this is a natural corollary to the opening of the port. Since the said place is to be opened as a port of international trade, the request of the gentry and merchants of the place that they may be permitted to charter vessels to ship goods should be granted on the understanding that they shall comply with the inland waterways regulations, and these vessels thus be allowed to ply between port and port, as well as go into the interior.

As to the request of the said gentry and merchants that the customs receipts that may be collected from the use of these small chartered vessels may be retained to be used in the construction of wharves, etc., and their statement that they are willing to raise a loan to be repaid later by the government, we find that in the case of the opening of other ports and the establishment of customs thereat the funds for the required expenditure have been furnished by the province in which the port is situated and repaid by the local customs in installments as the receipts may permit, as the records will show. In the present proposal that the receipts from duties in connection with the use of the small steamers shall be used in the construction of necessary public works, the matter is one which concerns the local customs, which will be but using its own receipts for its own necessary expenditures. As to the raising of loan by the gentry and merchants, that matter concerns the provincial administration, which must provide for the funds. These requests ought to be granted, but as the very purpose in granting permission to use steamers and in opening port is to protect our own interests and authority it is not permitted to borrow or use any foreign money, which might lead to troublesome complications. The viceroy and other officers concerned ought, first of all, to report to the boards interested the plan adopted as to raising the interest-bearing loan by the gentry and merchants and the method proposed for repayment, that record may be made of the same.

This memorial reporting upon the opening of Hai Chou as a port of international trade and the use of small steamers is respectfully submitted to the inspection of your imperial majesties, with a prayer for instruction.

This report has been prepared by the board of foreign affairs after consultation with the board of revenue, which unites in its presentation.

Submitted on the 26th of the ninth moon, thirty-first year of Kuanghsü (October 24, 1905), and an imperial rescript has been issued saying, "Let it be as proposed. Respect this."

## CENSUS OF CHINESE IN THE UNITED STATES.

*The Chinese Minister to the Secretary of State.*

No. 59.]

CHINESE LEGATION,  
Washington, March 31, 1905.

SIR: I have the honor to inform you that it has come to my knowledge through reports received by this legation from all parts of the country and confirmed by inquiry at the Department of Commerce and Labor that the bureau of immigration has been engaged for some time past, and is still occupied, in taking a census of the Chinese residents of the United States. This action is causing much disturbance and anxiety among the Chinese. It is understood that this proceeding is not authorized by any legislation of Congress, but is the voluntary action of the Executive Department of the government of the United States.

I can not refrain from expressing to you my surprise at this proceeding. It is well known to the officials of the Department of Commerce and Labor that negotiations are being conducted between your Department and this legation for a new treaty, in which this very question of a new registry or census is one of the matters under consideration.

Under these circumstances such an independent procedure as that above stated can not fail to impress my government very unfavorably and will not tend to promote the good understanding that is so much to be desired between the two countries.

I deem it my duty to protest against the action of the bureau of immigration, and to ask you to bring the subject to the attention of the President in order that this impediment to a continuance of the negotiations may be removed by an order to suspend the further taking of a census, or registry, until the negotiations are concluded.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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*The Acting Secretary of State to the Chinese Minister.*

DEPARTMENT OF STATE,  
Washington, April 13, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 59, of the 31st ultimo, in which you protest against the taking of a census of the Chinese residents of the United States by the bureau of immigration while negotiations are pending between the two governments for a new treaty in which this question is one of the matters under discussion.

On the 1st instant the Department sent the Secretary of Commerce and Labor a copy of your note for his consideration and an expression of his views on the matter. In his letter, in reply, dated the 6th instant Secretary Metcalf says:

A careful consideration has been given to the contents of the said note with the result that I am constrained to express the view that if the act complained of is within the authority of the officers charged with the enforcement of the Chinese-exclusion laws it would not be proper to suspend such action unless it can be shown to be useless upon the sole ground that the matters involved therein are now under consideration in connection with the negotiation of a new treaty between the Chinese Empire and the Government of the United States.

There seems to be some misapprehension as to the nature of this so-called census. When the collectors of internal revenue and the collectors of customs were superseded by officers of the bureau of immigration under authority of the act of February 14, 1903, entitled "An act to establish the Department of Commerce and Labor," instructions were issued to them to compile a record of Chinese residents in their respective districts. The object of securing such a record was not less to identify and protect those Chinese persons who are entitled by the laws and treaty to remain within the United States than to detect and expel those not so entitled. It is probably unnecessary to enumerate the advantages of such an accessible record of Chinese lawfully resident here, as well in securing them from molestation, as in facilitating their admission after temporary departure from this country. On the other hand, I can not assume that the Chinese minister has any desire to shield those who are unlawfully in the United States from the consequences of such unlawful residence.

That it is the duty of the administrative officers to make inquiries as to Chinamen who are apparently in the United States in violation of law there can be no reasonable question. If the exclusion acts themselves do not in literal terms require such action on the part of said officers, yet the uses to which the appropriation for the enforcement of these laws can be applied, as described in the words "and for expenses of returning to China all Chinese persons found to be unlawfully in the United States, including the cost of imprisonment, etc.," show plainly that the inspection officers are required to make some sort of an inquiry to ascertain the presence of such persons in this country.

The taking of the so-called census amounts to simply preparing a record of information secured as to lawful residents while making such inquiries as a necessary preliminary to carrying into effect the above-mentioned purpose of the law. As I have already pointed out in the foregoing, such records serve as a protection to Chinese of the exempt classes.

The specific occasion, I learn, of the protest to which this is a reply was the issuance recently of a letter by the commissioner-general of immigration to the officers in charge of the various districts, directing that the practice which has been in operation for eighteen



months past should be so hastened as to furnish information for use by the former in the preparation of his next annual report. But that letter does not indicate any new departure from the established practice in such matters for the time indicated.

Accept, etc.,

FRANCIS B. LOOMIS.

*The Chinese Minister to the Secretary of State.*

No. 61.]

CHINESE LEGATION,  
Washington, April 17, 1905.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, in which you embody the reply of the Secretary of Commerce and Labor to my protest against the taking of a census by the bureau of immigration while negotiations for a treaty are pending involving this very subject.

Secretary Metcalf's letter confirms my impression that there has been no legislation of Congress requiring such action, and, as it is plainly within his administrative control, I must confidently believe that he will not further push the matter of the census till the negotiations are concluded. I am gratified to note that the action of the bureau of immigration as set forth in the Secretary's letter is not recognized by you as a sufficient answer to my protest.

Accept, etc.,

CHENTUNG LIANG-CHENG.

*The Acting Secretary of State to the Chinese Minister.*

No. 63.]

DEPARTMENT OF STATE,  
Washington, April 19, 1905.

SIR: Your note of the 17th instant, acknowledging the Department's communication replying to your protest against the taking of a census by the bureau of immigration during the pending negotiations for a treaty involving this question, has been received. I observe that you say:

I am gratified to note that the action of the bureau of immigration, as set forth in the Secretary's letter, is not recognized by you as a sufficient answer to my protest.

The taking of the census in question is a matter within the exclusive jurisdiction of the Department of Commerce and Labor, which is charged with the execution of the existing law, unless it is shown—which your note does not allege—that the action is in contravention of treaty obligation.

The absence of comment in my note of the 13th instant, transmitting the communication from the Department of Commerce and Labor, may not be regarded as a constructive nonconcurrence, in the opinion of the officer of this government who is competent to respond in the name of the government, respecting the execution of the existing law.

Be pleased, etc.,

FRANCIS B. LOOMIS.

## PROTECTION OF TRADE-MARKS IN CHINA.

*The Acting Secretary of State to Minister Rockhill.*

No. 4.]

DEPARTMENT OF STATE,  
Washington, April 17, 1905.

SIR: I inclose herewith copy of a correspondence between the British ambassador and the Department<sup>a</sup> looking to an arrangement whereby consular courts of the United States in China may protect British subjects against the infringement by American citizens in China of such of their trade-marks as have been duly registered in the United States, and the British consular courts may afford like protection to American citizens against the infringement by British subjects of such of their trade-marks as have been duly registered in Great Britain.

The correspondence shows that the agreement is to be effected by an exchange of notes, as was done in the case of the reciprocal protection of trade-marks in Morocco, and that the British minister at Peking has been instructed in the matter.

I inclose a print of the Morocco notes,<sup>b</sup> and authorize you to effect an exchange of like notes with the British minister at Peking with regard to the reciprocal protection of trade-marks in China.

I am, etc.,

FRANCIS B. LOOMIS.

*Minister Rockhill to the Secretary of State.*

No. 26.]

AMERICAN LEGATION,  
Peking, July 8, 1905.

SIR: I have the honor to acknowledge the receipt of Department's instruction, No. 4, of April 17, by which I am directed to effect an agreement, if possible, by an exchange of notes with the British minister at Peking, "whereby consular courts of the United States in China may protect British subjects against the infringement by American citizens in China of such of their trade-marks as have been duly registered in the United States, and the British consular courts may afford like protection to American citizens against the infringement by British subjects of such of their trade-marks as have been duly registered in Great Britain."

In reply I have the honor to report that this agreement has been effected by an interchange of notes, copies of which are transmitted herewith, and a circular inclosing these has been sent to all American consular officials concerned. The stipulation that the consent of the British minister or chargé d'affaires must be obtained, as a matter of form, on each occasion is made necessary by an order in council regulating such questions.

I avail myself of this opportunity to recommend earnestly that whenever it is possible similar arrangements be made with other powers, more especially with Germany and Japan. If this were done it would, in my opinion, prove more effectual as a protection for American trade-marks in China than any other step that could be taken.

I have, etc.,

W. W. ROCKHILL.

<sup>a</sup>Not printed.

<sup>b</sup>Printed in Foreign Relations, 1904, pp. 407-409.

[Inclosure 1.]

*Minister Rockhill to the British Minister.*AMERICAN LEGATION,  
*Peking, June 28, 1905.*

MR. MINISTER AND DEAR COLLEAGUE: The Acting Secretary of State of the United States has informed me in an instruction dated April 17, 1905, that you have been authorized by your government to enter into a reciprocal agreement with me for the mutual protection of trade-marks registered in the United States and Great Britain against infringement in China by the citizens or subjects of our respective nations, and he has given me authority to effect with you by an exchange of notes an agreement for the reciprocal protection of American and British trade-marks in China.

In pursuance of the general agreement reached between our respective governments on the subject, it affords me much satisfaction to agree on behalf of the Government of the United States that henceforth trade-marks of British subjects, having been duly registered in the United States of America, will be protected against infringement by such persons as come under the jurisdiction of the United States consular courts in China, in which effectual provision exists for the punishment of such infringements by American citizens.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 2.]

*The British Minister to Minister Rockhill.*PEKING, *June 28, 1905.*

MR. MINISTER AND DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your letter of this date, informing me that you have been authorized by your government to effect with me by an exchange of notes an agreement for the reciprocal protection of American and British trade-marks.

I beg to thank you for this communication, and to assure you that it affords me much satisfaction to enter into this reciprocal agreement, and henceforth protection will be afforded in China by His Britannic Majesty's supreme court for China and Korea and the provincial courts to trade-marks of citizens of the United States which have been duly registered in Great Britain in conformity with "The Patents, Designs, and Trade-marks Acts, 1883 to 1888."

At the same time it appears necessary to mention that the consent in writing of His Majesty's minister or chargé d'affaires must be obtained on each occasion, which consent will be given as a matter of course in consequence of the assurance contained in your note under reply that effectual provision exists for the punishment in the United States consular courts in China of infringement by such persons as come under the jurisdiction of those courts of the trade-marks of British subjects which shall have been duly registered in the United States of America.

I have, etc.,

ERNEST SATOW.

*The Acting Secretary of State to Minister Rockhill.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, July 24, 1905.*

(Mr. Adee authorizes Mr. Rockhill to sound other legations in regard to the protection of trade-marks in China, and, if they be duly authorized by their governments, to effect arrangements by an exchange of notes on the basis of the British precedent.)

(*Minister Rockhill to the Secretary of State.*

No. 116.]

AMERICAN LEGATION,  
Peking, October 5, 1905.

SIR: Referring to the Department's telegraphic instruction of July 24 last, authorizing me to exchange with such of my colleagues as I might find enabled by their governments to do so notes for the reciprocal protection of trade-marks in China, I have now the honor to transmit herewith copies of notes exchanged for the above purpose, on the 3d instant, with the French minister.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Minister Rockhill to the French Minister.*

AMERICAN LEGATION, Peking, October 3, 1905.

MR. MINISTER AND DEAR COLLEAGUE: The Government of the United States being desirous of reaching an understanding with the Government of the French Republic for the reciprocal protection against infringement in China by citizens of our respective nations of trade-marks duly registered in the United States and France, I am authorized by the Secretary of State of the United States to inform you that effectual provision exists in American consular courts in China for the trial and punishment of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade-marks of persons subject to the jurisdiction of France which have been duly registered in the United States.

I beg that you will kindly inform me whether American citizens are entitled to the same legal remedies in the consular courts of France in China as regards the protection from infringement of their trade-marks duly registered in France.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 2.—Translation.]

*The French Minister to Minister Rockhill.*

LEGATION OF THE FRENCH REPUBLIC IN CHINA,  
Peking, October 3, 1905.

MR. MINISTER AND DEAR COLLEAGUE: By your dispatch of this day your excellency has been pleased to inform me that, the Government of the United States of America being desirous of reaching an understanding with the Government of the Republic for the reciprocal protection of trade-marks, you have been authorized to state to me that the American consular courts in China are competent in all matters relating to the counterfeiting of trade-marks by persons under the jurisdiction of the United States.

Any complaint made by a person under French jurisdiction to an American consular court for the purpose of securing against persons under American jurisdiction protection for a trade-mark duly registered in the United States of America will be heard by said courts in first instance and on appeal by the competent courts.

I have the honor to confirm to your excellency this declaration which responds to the request I had made you.

So as to perfect the understanding thus arrived at by both countries I am authorized to state on my side to your excellency that the Government of the Republic will willingly insure in China protection for duly registered American trade-marks which may be counterfeited by persons under French jurisdiction.

To that end French consular courts in China for complaints in first instance and the court of Saigon for appeals will be competent to hear all such cases presented by persons under American jurisdiction.

Please accept, etc.,

G. DUBAIL.

*Minister Rockhill to the Secretary of State.*

No. 130.]

AMERICAN LEGATION,  
*Peking, October 26, 1905.*

SIR: Referring to my dispatch No. 116 of October 5, 1905, informing you that I had effected an agreement with the French minister for the reciprocal protection of trade-marks in China, I now have the honor to inform you that on October 23 I effected a similar agreement with the minister of The Netherlands.

I have the honor to inclose herewith copies of the notes exchanged with the minister of The Netherlands.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Minister Rockhill to the Netherlands Minister.*AMERICAN LEGATION, *Peking, October 23, 1905.*

MR. MINISTER AND DEAR COLLEAGUE: The Government of the United States being desirous of reaching an understanding with the Government of The Netherlands for the reciprocal protection against infringement in China by citizens of our respective nations of trade-marks duly registered in the United States and The Netherlands, I am authorized by the Secretary of State of the United States to inform you that effectual provision exists in American consular courts in China for the trial and punishment of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade-marks of persons subject to the jurisdiction of The Netherlands which have been duly registered in the United States.

I beg that you will kindly inform me whether American citizens are entitled to the same legal remedies in the consular courts of The Netherlands in China as regards the protection from infringement of their trade-marks duly registered in The Netherlands.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 2.—Translation.]

*The Netherlands Minister to Minister Rockhill.*ROYAL LEGATION OF THE NETHERLANDS,  
*Peking, October 23, 1905.*

MR. MINISTER AND DEAR COLLEAGUE: Under date of the 23d of October, 1905, your excellency was pleased to inform me by your note that the Government of the United States of America was desirous of reaching an agreement with the Government of The Netherlands concerning the reciprocal protection of trade-marks in China. You added that you had been authorized to declare that the American consular courts in China had jurisdiction in all matters concerning the infringement of trade-marks by persons under the jurisdiction of the United States, and that consequently complaints made by any person subject to the jurisdiction of the consular courts of The Netherlands in China to an American consular court for the purpose of securing from persons subject to the jurisdiction of the United States protection for trade-marks duly registered in the United States of America, who would be tried before said courts in first instance and on appeal by the competent courts.

In reply to this communication I have the honor to inform your excellency that my government accepts with pleasure the above agreement and has directed me to do so by the present note.

The minister of foreign affairs at The Hague has furthermore authorized me to state on my part that the laws of The Netherlands protect duly registered trade-marks regardless of the nationality of their owner, and that not only when infringements have been committed in the country itself, but when they have been committed in a country subject to extritoriality, as in China.

Consequently the consular courts of The Netherlands in China will take cognizance in first instance and the courts of justice in Amsterdam and Batavia on appeal of any complaints made to them on this subject by persons subject to the jurisdiction of the United States.

I avail myself of this opportunity to add that for the object of putting the above agreement into effect I have written to the consular officials of The Netherlands in China, giving them the necessary instructions, and I would be pleased if you would inform me what action you have taken to this end.

I avail, etc.,

A. J. CITTERS.

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*Minister Rockhill to the Secretary of State.*

No. 163.]

AMERICAN LEGATION,  
*Peking, December 5, 1905.*

SIR: Referring to my dispatch No. 130 of October 26, 1905, informing you that I had effected an agreement with the Dutch minister for the reciprocal protection of trade-marks in China, I now have the honor to inform you that on November 27 last a similar agreement was made with the chargé d'affaires of Belgium.

I have the honor to inclose herewith copies of the notes exchanged with the Belgian representative.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure.]

*Minister<sup>a</sup> Rockhill to the Belgian Chargé.*

AMERICAN LEGATION,  
*Peking, November 27, 1905.*

MR. CHARGÉ D'AFFAIRES AND DEAR COLLEAGUE: The Government of the United States being desirous of reaching an understanding with the Government of Belgium for the reciprocal protection against infringement in China by citizens of our respective nations of trade-marks duly registered in the United States and Belgium, I am authorized by the Secretary of State of the United States to inform you that effectual provision exists in American consular courts in China for the trial and punishment of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade-marks of persons subject to the jurisdiction of Belgium which have been duly registered in the United States.

I beg that you will kindly inform me whether American citizens are entitled to the same legal remedies in the consular courts of Belgium in China as regards the protection from infringement of their trade-marks duly registered in Belgium.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure 2.—Translation.]

*The Belgian Chargé to Minister Rockhill.*

ROYAL BELGIAN LEGATION,  
*Peking, November 27, 1905.*

MR. MINISTER: I have had the honor of receiving your excellency's note of this date regarding the mutual protection of Belgian and American trade-marks in China.

It is stated in this communication that the Government of the United States of America has given such instructions to the American consular courts as are sufficient to insure the legal protection of trade-marks the property of Belgian subjects which have been duly registered in the United States.

While acknowledging to your excellency the receipt of this communication I have the honor to inform you that the Royal Government in like manner guarantees in the Chinese Empire the protection of American trade-marks duly registered in Belgium, if counterfeited by Belgian subjects.

The royal legation and the consulates, vice consulates, and consular agencies in China are competent to take cognizance of actions brought before them in the matter.

I have informed our consular representatives in China of the agreement arrived at between Belgium and the United States of America which is set forth by this interchange of correspondence between us.

I avail, etc.,

EDM. DE PRELLE.

*Minister Rockhill to the Secretary of State.*

No. 165.]

AMERICAN LEGATION,  
*Peking, December 6, 1905.*

SIR: Referring to my dispatch No. 163 of December 5, 1905, informing you that I had effected an agreement with the chargé d'affaires of Belgium for the reciprocal protection of trade-marks in China, I now have the honor to inform you that I have this date made a similar arrangement with the German minister.

I have the honor to inclose herewith copies of the notes exchanged with the German minister.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Minister Rockhill to the German Minister.*AMERICAN LEGATION,  
*Peking, December 6, 1905.*

MR. MINISTER AND DEAR COLLEAGUE: The Government of the United States being desirous of reaching an understanding with the Government of Germany for the reciprocal protection against infringement in China by citizens and subjects of our respective nations of trade-marks duly registered in the United States and Germany, I am authorized by the Secretary of State of the United States to inform you that effectual provision exists in American consular courts in China for the trial and punishment of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade-marks of persons subject to the jurisdiction of Germany, which have been duly registered in the United States.

I beg that you will kindly inform me whether American citizens are entitled to the same legal remedies in the consular courts of Germany in China as regards the protection from infringement of their trade-marks duly registered in Germany.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 2.—Translation.]

*The German Minister to Minister Rockhill.*IMPERIAL GERMAN LEGATION,  
*Peking, December 6, 1905.*

MR. MINISTER: I have the honor to acknowledge the receipt of your letter of this date, informing me that you have been authorized by your government to effect with me, by an exchange of notes, an agreement for the reciprocal protection against infringement in China by citizens and subjects of our respective nations of trade-marks duly registered in Germany and the United States.

You furthermore inform me that effectual provision exists in American consular courts in China for the trial and punishment of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade-marks of persons subject to the jurisdiction of Germany which have been duly registered in the United States.

I have the honor to inform you in reply that I have been authorized by the chancellor of the German Empire to enter into this reciprocal agreement and to state that German consular courts in China are empowered under the German law for the protection of trade-marks of May 12, 1894, to prosecute and punish all persons subject to their jurisdiction for infringement of trade-marks, the property of persons coming under the jurisdiction of the United States when duly registered in Germany.

Furthermore, for the purpose of putting this arrangement into effect, I am authorized and ready to instruct the German consular representatives in China in accordance therewith, subject to your taking similar action.

I avail, etc.,

A. v. MUMM.

*Minister Rockhill to the Secretary of State.*

No. 173.]

AMERICAN LEGATION,  
*Peking, December 18, 1905.*

SIR: Referring to my dispatch No. 165, of December 6, 1905, informing you that I had effected an agreement with the German minister for the reciprocal protection of trade-marks in China, I now have the honor to inform you that I have this date made a similar arrangement with the Italian minister.

I have the honor to inclose herewith copies of the notes exchanged with the Italian minister.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Minister Rockhill to the Italian Minister.*AMERICAN LEGATION,  
*Peking, December 18, 1905.*

MR. MINISTER AND DEAR COLLEAGUE: The Government of the United States being desirous of reaching an understanding with the Government of Italy for the reciprocal protection against infringement in China, by citizens and subjects of our respective nations of trade-marks duly registered in the United States and Italy, I am authorized by the Secretary of State of the United States to inform you that effectual provision exists in American consular courts in China for the trial and punishment of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade-marks of persons subject to the jurisdiction of Italy which have been duly registered in the United States.

I beg that you will kindly inform me whether American citizens are entitled to the same legal remedies in the consular courts of Italy in China as regards the protection from infringement of their trade-marks duly registered in Italy.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 2.—Translation.]

*The Italian Minister to Minister Rockhill.*ROYAL ITALIAN LEGATION,  
*Peking, December 18, 1905.*

MR. MINISTER: I have the honor to acknowledge the receipt of your note of to-day's date, by which you inform me that you have been authorized by your government to conclude an arrangement with the Italian legation by means of an exchange of notes for the reciprocal protection in China of American and Italian trade-marks, and that hereafter infringements of trade-marks, the property of Italian subjects, and duly registered in the United States, by persons subject to the jurisdiction of American consular courts in China, will be tried by the latter according to law.

Having been duly authorized thereto by the Royal Government, I am pleased to inform you that hereafter infringements of trade-marks of American citizens, duly registered in Italy, by persons subject to the jurisdiction of the Italian consular courts in China, will in first instance, be tried according to the law by said courts, and on appeal by the royal court of appeal of Ancona.

Please accept, etc.,

C. BAROLI.



**PENAL, GOVERNMENTAL, EDUCATIONAL, AND CURRENCY  
REFORMS.**

*Chargé Coolidge to the Secretary of State.*

No. 1870.]

AMERICAN LEGATION,  
*Peking, April 26, 1905.*

SIR: I have the honor to transmit herewith translations of two Imperial edicts which appeared in the Peking Gazette of April 24 and 25, by which the more cruel forms of punishment now in use are abolished or modified.

These edicts were in response to a memorial of His Excellency Wu T'ing-fang. Mr. Williams's explanatory note is appended.

I have, etc.,

JOHN GARDNER COOLIDGE.

[Inclosure 1.—Translation.]

*Imperial edict issued in response to a memorial of His Excellency Wu T'ing-fang, abolishing  
cruel forms of punishment.*

Wu T'ing-fang, Shêng Chia-pên, and others, having been appointed to revise the criminal code, have submitted a memorial, praying that first of all certain severe forms of punishment may be modified.

When our dynasty first came through the great wall, decapitation was the severest form of punishment used, but in the reign of Shun-chih (1644-1662 A. D.), when the laws were being revised, following the long-established practice of the Ming Dynasty, dismemberment and other severe forms of punishment were adopted, and although these were intended to serve as warning to the criminal and the stupid, yet investigation shows that they are not in harmony with the original intention of the Imperial House to temper justice with mercy. Now that the laws are being revised, we decree that henceforth the severest form of punishment for capital offenses shall be immediate decapitation. The three forms of punishment known as "dismemberment," "exposure of the head," and "beheading the corpse," are hereby abolished forever. The sentences of "dismemberment" and "exposure of the head" provided for in the present laws are hereby changed to "immediate decapitation." Crimes to be punished by "immediate decapitation" under the present laws shall be punished by "immediate strangling." Those punished by "immediate strangling" shall receive sentence of "strangling after the autumn assize," provided the investigation at the autumn assize shall show the facts to be as alleged. Sentences to "decapitation after the autumn assize" are changed to "strangulation after the autumn assize," and criminals sentenced to strangulation after the autumn assize are still to be allowed an investigation at the said assize and to have sentence carried out or commuted, as the facts shall show. As to the provisions for the punishment of accessories in crime, while punishment is still to be inflicted according to the circumstances of the case, such persons are entirely relieved from the penalty of "branding," which is hereby abolished.

In addition to the foregoing we command the aforesaid vice-president (Wu T'ing-fang) and those associated with him to carefully consider what further changes and excisions may be necessary and without delay to suggest modifications, make selections (from other codes) and prepare a code for the promulgation of which they shall ask an edict. And we earnestly hope that their deliberations may result in the adjustment of the law to present conditions, the avoidance of extremes and the adoption of that which is most suitable, thus fulfilling the purpose of the court to instruct the people in their duties by making plain the system of punishments.

Let this be published throughout the Empire for general information.

[Inclosure 2.—Translation.]

*Imperial edict abolishing torture in court of law, and authorizing inspection of jails.*

We received yesterday the memorial of Wu T'ing-fang and Shên Chia-pên, recommending a modification of the penal code and more considerate treatment of prisoners, praying that orders might be issued forbidding the use of torture to secure evidence, which involves

innocent persons in trouble, and asking for a reform of the system of whipping with the light and heavy bamboo, praying also for an inspection of prisons and houses of detention, to which we have already responded with an edict granting the requests made.

But although the very best laws may be enacted, they can not execute themselves. What is required is that all the officials, both high and low, shall conscientiously discharge their duties and exert themselves to get rid of evil practices, so that to some extent we may have a just government and the settlement of litigation by clear and well-defined principles, and thus get rid of long-standing abuses.

We constantly hear from the various provinces that the department and district magistrates either tyrannically or following their own caprice employ torture in examination, or get a lot of persons implicated in a case and summon them to court, but do not make prompt investigation, allowing the yamen underlings to confuse the case so that they may illicitly profit by it, implicating (innocent) persons whom they detain and oppress in a hundred ways, all of which practices are most abominable.

Now, since we have approved the regulations submitted in the memorial above mentioned, let them be published abroad and let all observe them. We repeat the announcement and warning that our desire is to show compassion upon all who are imprisoned, that justice shall be shown, and the sentiments of the people satisfied. Let all the viceroys and governors concerned issue strict orders to their subordinates to conscientiously and with due regard to all the circumstances exert themselves to carry this edict into effect and from time to time to make careful investigation. Should any be found who, while outwardly observing, are secretly disobeying, the edict, treading the old path of malpractice, let them be at once impeached. There must be no shielding of them nor any attempt to save their faces. Let each be diligent in seeking the welfare of the people, and give earnest attention to the settlement of litigation, and so fulfill the purpose of the Throne to have compassion upon the lowly and to lighten their punishments.

Let this edict be published for the information of all.

[Inclosure 3.]

*Notes upon edict abolishing cruel punishments.*

The punishment which I have called "dismemberment" is called "ling ch'ih," and sometimes translated "death by slicing," sometimes "lingering death." Originally the sentence required the dismemberment of the body by 24 cuts. As has been practiced in modern times, it consists in tying the offender to a cross or stake, and gradually slicing the body beyond all recognition. As Alabaster says:<sup>a</sup>

It is not a lingering death, for it is all over in a few seconds, and the *coup de grace* is generally given the third cut.

The purpose of such a sentence is not the torture of the criminal in this world, but to make his fate more dreadful in the world to come. As his body is unrecognizable here, so his spirit will be unrecognizable in the lower world, unless the fragments of his body can be brought together again. This form of punishment has been reserved for such serious crimes as high treason, parricide, and the murder of a husband.

The punishment referred to as "exposure of the head" is in full "decapitation with exposure of the head," which is one degree more severe than simple decapitation. In the latter case, the body is delivered to the relatives, who are permitted to have the head sewn on, so that the deceased may not wander headless in the land of shades.

"Beheading the corpse" refers to the practice of carrying into execution the sentence of decapitation even if the condemned shall have died in prison. Even in the case of sentence to dismemberment, the corpse of the criminal has heretofore been subjected to this greatest indignity, if death occurs while awaiting execution, and in at least one case, where the guilty man was killed by his brother, the body was exhumed and cut to pieces.

"Strangling after the autumn assize" is a much lighter sentence than "immediate strangulation," inasmuch as the postponement carries with it the right to revision by the board of punishment in Peking, such revision being made at the autumn assize. As a rule all death sentences are sent to Peking for approval, but sometimes authority is given the local officials to execute without waiting for such approval. But, while other death sentences are referred to Peking for approval, the facts as reported are not called in question and the court has merely to decide whether or not the sentence is in accordance with law. In the case under consideration, "strangling after the autumn assize," the whole case is reviewed and the accused may have his sentence commuted or may be pronounced innocent and released.

<sup>a</sup> Notes and Commentaries on Chinese Criminal Law.

The various forms of capital punishment in the order of their severity are as follows: (a) Dismemberment of the body and extinction of family; (b) dismemberment; (c) decapitation and exposure of the head; (d) simple decapitation; (e) decapitation subject to revision at the autumn assize; (f) strangulation; (g) strangulation subject to revision at the autumn assize; (h) self-execution.

"Branding" has heretofore been employed for the identification of old offenders, sometimes on the arm or back, but in the case of hardened criminals, on the face.

The unwritten constitution of China requires that some responsible minister shall first submit in a memorial any legislation which it is desired to enact. The Emperor is not expected to act upon his own initiative. In the present instance the commission for the revision of the penal code has been at work for about two years. It has recently submitted three memorials praying for the reforms mentioned in those two edicts and for others, which have also been granted, though the Gazette has not as yet announced the fact. Among the measures not yet mentioned is one requiring the provincial authorities to establish a school of law in each province in which candidates for civil offices must prepare themselves to pass a proper examination before appointment, and another abolishing the practice of punishing the relatives of a criminal as well as the criminal himself for his crime, as has been customary in the case of certain serious offenses. This is a very radical change, as Chinese law has heretofore proceeded upon the assumption of the responsibility of the family for the acts of each member thereof.

It has been the common practice in Chinese courts to examine the accused and sometimes the witnesses as well with the aid of torture. This is commonly by beating with the bamboo, but sometimes by beating the face with the hand, or requiring the unfortunate prisoner to kneel on chains, at other times by suspending him by the thumbs, or breaking his legs with bars of iron. Many ingenious methods have been devised unknown to the law. The abuse is a very serious one, but is based upon the theory that the prisoner must acknowledge his guilt before he can be punished. When he has confessed, he places his thumb-mark as a seal to the written confession. Innocent persons are sometimes implicated in the charge by testimony thus extorted, and in turn put to the torture or compelled to pay the underlings blackmail to escape, a practice hinted at in the edict.

The five legal punishments under the present dynasty are: (a) Beating with the light bamboo; (b) beating with the heavy bamboo; (c) transportation for a certain time; (d) banishment to a certain distance; (e) death—by strangling or decapitation or by dismemberment or suicide.

Corporal punishment is not abolished by this edict, but is to be modified. The regulations which are yet to be published will show in what manner.

The word for "prison" in Chinese also means "hell." The law does not prescribe imprisonment as a penalty, but accused persons are confined in jail simply to await trial or the execution of the sentence imposed. Many languish for years without judgment being given. This is a crying evil in civil cases where a debtor is deprived of his liberty until some settlement can be forced out of his relatives. Even witnesses are sometimes kept in the houses of detention until wanted, and suffer there great hardship and injustice.

The inspection of the prisons therefore by authorized persons under definite regulations will do much to correct these evils and will constitute a great reform.

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*Minister Rockhill to the Secretary of State.*

No. 34.]

AMERICAN LEGATION,  
Peking, July 19, 1905.

SIR: I have the honor to transmit herewith for your information an imperial edict published in the Peking Gazette of July 16, by which four high officials are directed to visit foreign countries to study methods of government and report on the reforms needed in China.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Imperial edict.*

[Peking Gazette, July 16.]

Just at present public interests encounter many difficulties, and there are a hundred matters awaiting adjustment. The court has repeatedly announced in plain speech that earnest efforts must be made to introduce reforms with a resolute purpose to restore prosperity. During the past few years plans have indeed been made, but as yet no actual reform has been accomplished. The reason for this may all be summed up in one, the officials responsible for the execution of the plans not having informed themselves have not been able to thoroughly understand what had to be done. How can they ever raise China from her present condition of weakness, and deliver her from the dangers into which she has fallen, if they continue to cover up their deficiencies by a mere show of words, as they appear to be doing.

We now therefore expressly designate Duke Tsai-tse, Tai Hung-tz'u, Hsu Shih-ch'ang, and Tuan-fang, accompanied by the necessary staff of officials, to separately visit various foreign countries, East and West, to inquire into their methods of government, in the hope that we may thus be able to select and adopt the best. Hereafter we shall elect other companies of officials and send them abroad also. Each official so deputed shall choose subjects for investigation, as circumstances may suggest, make their investigations with care, and prepare a report, making recommendations of the measures that should be adopted. Let there be no failure to execute the work intrusted to them. Let the board of foreign affairs and the board of revenue consult together and report to us the best method of providing the expenses of these officials.

*Minister Rockhill to the Secretary of State.*

No. 42.]

AMERICAN LEGATION,  
Peking, August 1, 1905.

SIR: One of the principal drawbacks with which the Chinese students who have studied abroad have had to contend with on returning to their country has been that the time thus passed and the knowledge thus gained has been detrimental to them so far as entering the public service went. They had left their country after having only passed the lower examinations received by the Chinese Government for eligibility to the lowest ranks of the public service, and on returning after years passed abroad they found themselves obliged to take up their Chinese studies where they had left them and pass years preparing themselves for the high degrees, which alone could open the way to the higher and responsible positions in the civil service of this country.

A recent imperial edict, copy of which I inclose, has for the first time recognized the value of foreign education to Chinese officials by conferring on fourteen students recently returned from Japan metropolitan degrees and appointing them at once to positions of responsibility, to which until now they could not have attained for years to come for the reasons above given.

It is to be hoped that this course will be followed in the case of other promising young Chinese educated abroad, as it will stimulate a desire for foreign study and introduce into the official classes a much-needed element.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

*Imperial edict of July 14, 1905—Degrees for students who have been educated abroad.*

The following students, who have been abroad and who were presented in audience this morning, are granted degrees and official positions as below:

Chin Pan-p'ing and P'ang Pao-o are hereby granted the degree of Chin Shih (doctor) and are assigned to duty as graduates of the Hanlin Academy.

Chang Ying-hsü, Chien Ch'eng-chih, Hu Tsung-ying, and Chi I-yün are granted the degree of Chin Shih (doctor) and will be attached to various boards and placed in charge of affairs according to the courses which they have pursued.

La Tsung-hü is granted the degree of Chü-jen and assigned to duty as archivist in the grand secretariat.

Wang Shou-shan, Lu Shih-fang, Wang Tsai-shan, Kaom Shu-ch'i, Shen K'un, and Lin Ch'i are granted the degree of Chü-jen and appointed district magistrates to be assigned to duty in the provinces to fill vacancies.

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*Minister Rockhill to the Secretary of State.*

No. 49.]

AMERICAN LEGATION,  
*Peking, August 9, 1905.*

SIR: Referring to my dispatch No. 34, of July 19, I have the honor to inform you that on the 3d instant I received a communication from the foreign office stating that on the 27th of July an imperial decree had been issued by which Shao Ying, senior under secretary of the board of commerce, was ordered to go abroad with the four high officials previously designated for that service to inquire into methods of government.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

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*Minister Rockhill to the Secretary of State.*

No. 85.]

AMERICAN LEGATION,  
*Peking, September 4, 1905.*

SIR: In continuation of my dispatch No. 42, of August 1, in which I reported a most important change in the educational system, by which foreign study was rewarded by promotion in the civil service, I have now the honor to inclose copy of an imperial edict of September 1 encouraging the sending abroad of students, who are to be under the supervision of the various Chinese diplomatic representatives, and promising successful scholars places in the civil service.

In another edict of September 2 the present time-honored courses of study are completely abolished, and a new educational system on modern lines is substituted in its place.

Still another edict appeared on the 4th instant making the provincial literary chancellors, who have heretofore directed and presided over the examinations in their respective provinces directors and inspectors of the various schools which are to be established in their jurisdictions.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure 1.—Translation.]

*Imperial edict of September 1, 1905.*

We have repeatedly issued orders to the provinces to select and send students to foreign countries for education, and the viceroys and governors have obeyed our directions and sent many students. All these young men abroad must be very earnest in their studies in the investigation of special subjects in order that they may be useful to their country when they return. They must not avoid difficult questions for the sake of easier ones nor pass their

time only in useless studies or pleasures. They must each take up a special department of study and master that subject thoroughly. In such case they will be duly rewarded when they return and receive a proper position. At present there are many students in Japan. Let more students go to Europe and America. The court feels a high appreciation of the services of all those abroad who are really working for their country. The Chinese ministers abroad are the superintendents of the students, and they must take a fatherly interest in all these young men and watch their progress. No matter whether they are studying at the government or at their own expense, if they are earnest, well conducted, and working hard they must be fully protected and looked after. If they are sick or in any difficulty, sympathy must be shown them and arrangements made for their assistance. If there are any students who do not conduct themselves well, they must be severely dealt with in order that they may be a credit to themselves and to our country, but no partiality must be shown by the ministers. This is the idea of the court with regard to the education of the young men to-day.

[Inclosure 2.—Translation.]

*Imperial edict of September 2, 1905.*

Yuan Shih-k'ai and others have memorialized, praying for the discontinuance of the present system of examinations for the civil service in order to encourage the extension of the (new) school system and proposing a satisfactory method of procedure.

During the "Three Dynasties" (Hsia, Shang, and Chou, 2205-250 B. C.) and before in the selection of civil officials the men were all obtained from the schools, and most excellent they were. As a matter of fact, China's time-honored custom of encouraging worth and nourishing talent and the successful methods of the various foreign nations East and West in making themselves wealthy and powerful all alike without exception depend upon the schools.

The present situation is one that is full of difficulties, as the demand for talent is urgent. The court, considering that every examination under the present system is but a practice of empty rhetorical composition, has repeatedly issued edicts directing the viceroys and governors of the various provinces to establish schools more widely, so that the people of the whole Empire may be enabled to make progress in real learning and men be properly prepared for the public service.

The matter is one in which we feel a very deep concern.

Sometime ago, in response to a proposal submitted in the memorial of the minister of education and others, we agreed that the fixed numbers allowed to pass at the examinations for the provincial and metropolitan degrees should be progressively decreased in the succeeding three examinations. Now we have received the above-mentioned memorial of the said viceroy and others stating that unless the examinations be discontinued the people will encourage one another to rest their hopes on them, and that if it is desired to extend and develop the school system the present system of examination must first be discontinued.

Their statement is not unreasonable, and we therefore decree that beginning with the year ping-wu (1906) the examinations for the provincial and metropolitan degrees shall both be discontinued, and that the examinations for the degree of licentiate shall also be stopped in all the provinces. Let those, however, who previous to that date shall have already secured the degrees of provincial graduate, senior licentiate, or licentiate, be entered on the civil service list for employment according to their several capacities. As for the other proposals of the memorial they are hereby sanctioned. Let action be taken as requested.

In a word, the new school system is substantially the same as that of the ancient academies, and in its encouragement of learning by rewarding of posts in the civil service it is in no way different from the present system of public examinations. Regulations for the schools have been issued from time to time which in the main look to the cultivation of character and the study of the classics. The various courses of study which they provide are all thoroughly practical. It now rests with the officials and gentry to make known the general plan, that those who hear of it may shape their actions accordingly, and that schools may be established in larger numbers, that education and culture may be diffused. Thus the state will be enabled to secure men of talent, and the localities establishing the schools will also win renown.

After the issue of this edict let the minister of education at once provide the text-books needed in the various departments, indicating clearly their places in the course, and thus furnishing comprehensive training for the public service.

The viceroys and governors, moreover, are charged with the responsibility of taking the whole matter into careful consideration, and strictly commanding the various prefects, sub-prefects, department magistrates, and district magistrates to at once establish elementary schools both in their cities and in the villages, and to exercise caution in selecting capable

teachers, so as to increase the intelligence of the people. Let each one conscientiously discharge his duty and make examination from time to time. There must be no glossing over of faults or any undue leniency shown which will lead to corrupt practices. We earnestly hope for an increase in worth and in practical abilities, a cultivation both of the common (Chinese) branches and of those more rare (foreign), which will further the purpose of the court to encourage education, so as to produce men of ability.

Respect this.

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[Inclosure 3.—Translation.]

*Imperial edict of September 4, 1905.*

A few days ago we issued an edict discontinuing the present system of examinations and directing special attention to be given to the establishment of schools.

Let the literary chancellors in their provinces make it their special duty to inspect the schools in their several provinces, and to consult with the viceroys and governors concerned as to the management of educational affairs.

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*Minister Rockhill to the Secretary of State.*

No. 97.]

AMERICAN LEGATION,  
*Peking, September 19, 1905.*

SIR: In my dispatch No. 85, of the 5th instant, I had the honor to transmit to you copy of the recent imperial decree abolishing the present competitive examinations for the civil service and establishing an entirely new educational system.

I had not then time to advert to the great importance of this measure, which more than any other which could be taken might have been supposed capable of shaking Chinese society to its very foundations. It was, as noted by the writer of the editorial I inclose herewith, the promulgation of a similar decree by the present Emperor in 1898, which was one of the principal causes of his removal from power.

The names of the six signers of the memorial in response to which the decree was issued are interesting. They are in first line the Viceroy Yuan Shih-k'ai and the Viceroy Chang Chih-tung, the latter the most celebrated living scholar in China. After these come Chao Er-hsün, the new governor-general of Manchuria, who, the Department will recollect, was the strongest supporter of Professor Jenks's plan of currency reform; the Viceroy Chou Fu, of the Liang Kiang Provinces, who has always shown himself a prudent, honest, progressive, and careful administrator. The fifth signer is the viceroy at Canton, Tsen Ch'un-hsüan, and the sixth the governor of Hu-nan Province, Tuan-Fang, who is now a member of the high commission being sent abroad to study governmental methods of foreign countries, and is counted among the most liberal officials of China. His son is being educated in Washington.

I inclose herewith an extract from recent issue of a Shanghai newspaper on the signers of this epoch-making memorial.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

[The North China Daily News.—Impartial, not neutral.—Shanghai, September 12, 1905.]

*The disappearance of the literary examinations.*

Among the Emperor Kuang Hsi's reforms whose promulgation was the cause of his removal from power by his aunt, the Empress Dowager, in 1898, was one for the abolition of the examinations which for centuries had made China famous as the one autocratic country where by sheer intellectual merit the son of the poorest peasant could rise to the highest offices in the Empire. These examinations were regarded as part of the very bone and sinew of the Chinese constitution. China without her examinations was unthinkable. Every foreign writer on China pointed out that China's decay was in reality due to these very examinations and to the course of study which the student who hoped for success must follow. A thorough knowledge of the literature of two thousand and more years ago was the passport to success. What the literary chancellor himself had learned when he was a candidate, no more and no less, was the measure of the knowledge which the Chinese student who hoped for a degree, the key to official life, must possess. Prompted by Kang Yu-wei, who was the Emperor's secret adviser in all his reforms, the Emperor, on the 23d of June, 1898, issued a decree to the board of rites ordering that board to entirely remodel the examinations, saying: "We have been compelled to issue this decree because our examinations have degenerated to the lowest point, and we see no other way to remedy matters than by changing entirely the old methods of examination for a new course of competition. Let us all try to reject empty and useless knowledge, which has no practical value in the crisis we are passing through."

The consternation that followed the promulgation of this decree can be imagined. The coup d'état followed, and on the 13th of November, 1898, the Empress Dowager issued a decree approving "a memorial from the ministers of the board of rites, dilating on the supreme importance of making it known throughout the whole Empire that there are to be no changes from the old methods of literary examinations among candidates for degrees, in order to set at rest, once for all, the present uncertainty that has been caused by the Emperor's recent reform measures in the above direction." But the heaven which the Emperor had introduced was working in the Empire, though he himself had become a discredited prisoner in the palace, and by degrees western subjects were added to the curriculum that had always obtained. In the last five years, since the complete bouleversement caused by the Boxer troubles, the reforms advocated by the Emperor seven years ago have been one by one adopted, and at last His Excellency Yuan Shih-k'ai himself, the most powerful subject in China, and the man whose devotion to the Empress Dowager when the Emperor called for his assistance made the coup d'état possible, has sent in a memorial, which was approved and accepted in an imperial decree dated the 2d instant, "advocating the summary abolition of the old style of literary examinations for the Chujên (M. A.) degree, in order to allow the expansion of the modern modes of education." With his unflinching astuteness the viceroy points out, however, that it is not a new scheme, but a return to an old scheme that he is proposing. The literary examinations seem to us to be of venerable antiquity, but His Excellency Yuan Shih-k'ai shows that they are really modern innovations on an older and much better system which he is proposing to recall. His is not the destructive hand of the reformer, but the conservative hand of the restorer. The decree says:

"Before the era of what is termed the "Three Dynasties" men for office were selected from the schools, and it must be confessed that the plan produced many talented men. It was indeed a most successful plan for the creation of a nursery for the disciplining of talents and the molding of character for our Empire of China. Indeed, the examples before us of the wealth and power of Japan and the countries of the West have their foundation in no other than their own schools. Just now we are passing through a crisis fraught with difficulties and the country is most urgently in want of men of talents and abilities (of the modern sort). Owing to the fact that, of late, modern methods of education have been daily on the increase among us, we repeatedly issued our commands to all our viceroys and governors of provinces to lose no time in establishing modern schools of learning in such number that every member of this Empire may have the means of going there to study and learn something substantial in order to prepare himself to be of use to his country. We have indeed thought deeply on this subject."

The decree goes on to mention that the ministers of education have suggested the gradual abolition of the examinations, but His Excellency Yuan Shih-k'ai, whose experience and knowledge are admitted, "asserts that unless these old-style examinations be abolished once for all the people of this Empire will continue to show apathy and hesitate to join the modern schools of learning," the fact being that the demand for the change has really come from the people. "Hence if we desire to see the spread of modern education by the establishment of a number of schools, we must first abolish the old-style studying for the examinations."



We therefore hereby command that, beginning from the Ping-wu Cycle (1906), all competitive examinations for the literary degrees of Chūjên and Chinshih (master of arts and doctor) after the old style shall be henceforth abolished, while the annual competitions in the cities of the various provinces for the Hsiuts'ai (bachelor of arts) or licentiate degree are also to be abolished at once. Those possessors of literary grades of the old style Chūjên and Hsiuts'ai who obtained their degrees prior to the issuance of this decree shall be given opportunities to take up official rank according to their respective grades and abilities. So that the officials who obtained their degrees under the expiring systems are not to be left entirely out in the cold; but they will have to buy text-books for themselves and get a smattering at least of western knowledge if they would avoid being dropped out of the procession. The rest of the decree is an urgent order to all officials from viceroys to district magistrates to devote themselves to establishing schools of all the necessary grades, and to the ministers of education to distribute text-books at once to all the provinces, "so that we may have a uniform system of teaching in all our schools." And a little word of encouragement is given to soothe the country and induce it to freely meet the expense involved in these radical changes. "The government being thus enabled to obtain men of talents and abilities, it follows that the cities and towns producing such bright lights of learning will also enjoy a reflected honor therefrom."

That it was time for a change is shown by the fact that at the present moment such is the dearth of statesmen in China the Throne can hardly find a man whom it can make a viceroy if it wishes to replace any of the men now holding the post.

*Minister Rockhill to the Secretary of State.*

No. 110.]

AMERICAN LEGATION,  
*Peking, September 29, 1905.*

SIR: In further reference to the cablegram which I had the honor to send you on the 15th instant,<sup>a</sup> concerning the newly-established uniform national coinage of silver and copper, I now inclose a substantially accurate translation of a joint memorial of the financial commission, which embodies in part the plan approved by the Emperor on August 22 last.<sup>b</sup>

In conversation with one of the members of the commission, however, I was informed that another memorial had been submitted and approved which gives further details of the scheme. By the courtesy of the Chinese Government I have been furnished with a copy of this latter memorial, which is as yet unpublished. As soon as translated I shall forward a copy. At present I may say that it provides for a coinage in three metals, gold, silver, and copper, but does not indicate the ratio to be established between gold and silver, nor the means to be adopted for maintaining parity of exchange.

The minister, to whom I have referred, informs me that the commission is awaiting the report of His Excellency Chang Chih-tung upon the scheme, when these matters will be definitely decided.

At present the coinage of silver is suspended except in the viceroyalty of Chang Chih-tung (Hupeh and Hunan), where an experiment of a coinage of 1-teal pieces and fractions thereof is being made.

As the copper cash is the real currency of the people, the mints are to be employed for some time in supplying the demand for these copper coins.

I have, etc.,

W. W. ROCKHILL.

<sup>a</sup> Not printed.

<sup>b</sup> Not printed. See subinclosures 1 and 2 to No. 168 of December 11, 1905, p. 185.

*Minister Rockhill to the Secretary of State.*

No. 168.]

AMERICAN LEGATION,  
*Peking, December 11, 1905.*

SIR: In further reference to my No. 110 of September 29 last, I have the honor to transmit, inclosed, (1) a report by the Chinese secretary of this legation, Mr. Williams, upon the subject of the new Chinese currency, which is accompanied by translations of a number of memorials dealing with the question and by a translation of a recent imperial edict establishing the weight and fineness of the standard silver coin and of the subsidiary silver coins, and (2) a copy of some comments upon the new system, made by Mr. E. G. Hillier, manager of the Peking branch of the Hongkong and Shanghai Banking Corporation, who is one of the most expert financiers in the Far East.

From these reports it seems that the new currency system of China is not likely to fulfill the requirements of our last treaty with China to the effect that she shall establish a uniform national coinage, and I have the honor to request that I may be instructed what representations, if any, under the circumstances to make to the Chinese Government respecting the matter.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Mr. Williams, Chinese Secretary, to Minister Rockhill.*AMERICAN LEGATION,  
*Peking, December 11, 1905.*

SIR: I have the honor to submit herewith a report on the new currency system of the Chinese Government, as set forth in various memorials and a recent imperial edict, translations of which are inclosed.

It will be seen from subinclosure 2, regulations 1 and 2, that it has been definitely decided to establish a currency in three metals—gold, silver, and copper. As time was needed, however, to determine the question of the weight and fineness of the proposed gold and silver coins, the government last August resolved to begin with the minting of the subsidiary copper coinage, and an edict to that effect was issued on August 22. Previous to that date, however, the provincial mints with the approval of the Throne had already been issuing copper coins for some time, and although these coins were of varying weights and degrees of fineness, they were allowed to remain in circulation, as were also the debased cash of the old system; but the provincial mints were ordered in future to make the copper coins of uniform weight, quality, and design, according to the rules laid down for the central mint.

These new copper coins are worth intrinsically only about two-fifths of their face value, and while they have found pretty general acceptance on account of the scarcity of cash some opposition to their exchange at the legal rate is now beginning to be shown, because in places the supply seems to be too great. Last week the cash shops of Pao-ting Fu in this province closed their doors for five days rather than take the coins at the official valuation. The foreign merchants at Shanghai called attention to this danger some months ago, and the Chinese Government was duly warned. It now sees the necessity for action and has ordered the suspension of copper minting for the present.

Efforts were made to confine the circulation of the provincial copper coins to the provinces issuing them; but despite the imperial edict to this effect the viceroy at Canton prayed for permission to export his coins to Shanghai and other ports, claiming that his provinces needed exceptional treatment. His request was refused; but his neighbor, the viceroy at Foochow, endeavored without permission to ship large quantities of his coppers to Shanghai and Chefoo, which were seized by the customs, and this incident led to the order for the punishment of those concerned. The profit on these coins is so great that the temptation to evade the edicts is more than ordinary Chinese official nature can resist, and the provincialism which exists everywhere in China makes the officers of one viceroyalty utterly indifferent to the confusion which their acts may occasion elsewhere.

After three months deliberation the financial commission determined to recommend that the standard silver coin be made the equivalent of one K'u-p'ing tael. This was approved

by imperial edict on November 19. But while this coin is to be called a "K'u-p'ing tael" and the law makes it exchangeable for a true K'u-p'ing tael of silver its intrinsic value is somewhat less, notwithstanding the declaration of the commission that the intrinsic value of the standard coin should agree with its nominal value. The K'u-p'ing tael contains 99.8 parts of pure silver. The new coin will contain but 96 parts, the difference being charged to the cost of minting, and the commission expresses the belief that if the government will accept it freely in exchange for the K'u-p'ing tael the merchants will be glad to do the same in order to avoid the annoyance attending the testing of silver sycee and the discount for lack of touch, etc. It does not seem likely, however, that the people will take kindly to this overvaluation of the new coin. It would seem to work hardship to creditors who have sums due them according to contract in K'u-p'ing taels and who are now required to receive in discharge of *old*, as well as new, debts one tael coin in lieu of a K'u-p'ing tael of silver. They must thus lose 3.8 per cent of their dues. Edicts have not been able to enforce such regulations in the past, and it is improbable that this will prove an exception. \* \* \*

But if it will be difficult to compel the people to accept the new silver standard coin it will certainly be more difficult to unload upon them the paper notes which are to be circulated with it. It is provided (inclosure 3, regulation 4) that when a sufficient amount of the new coins shall have been minted to inaugurate the system, an equal amount in paper shall also be issued. There is no provision as yet to retain any silver in the treasury to secure these notes and no arrangement for their redemption beyond the bare statement that when a sufficient number of the new coins shall have been minted they will replace all other forms of money. Former issues of paper money by the Chinese Government have been repudiated, and the people will be slow to accept these notes unless substantial guaranties are given for their redemption.

When the time shall arrive for the inauguration of the system, the government will determine what proportion of any debt may be paid in the new silver, what proportion in paper money, and what proportion in the present silver dollars, sycee, etc. It thus appears that the present mixed currency is to continue in circulation for some time to come along with the new coins. Further coinage of silver dollars is apparently to be stopped, but no provision is made as yet for the eventual removal of these various silver coins from circulation. It may be doubted whether they can be driven from circulation so long as there is no check placed upon the importation of Mexican and Hongkong dollars, and as the present commercial treaties provide that no import duty may be levied upon gold and silver bullion or coin, a revision of these treaties may first be required in order to secure the uniformity in the currency which is desired.

Although a gold coinage is provided for, its introduction is for the present postponed. Professor Jenks's suggestion that the gold value of the silver coins be fixed and guaranteed from the start was not accepted, and nothing has been done toward fixing the rate of exchange between the silver and the proposed gold coins.

Even the rate of exchange between the copper coins and the new silver currency has not yet been decided; the commission states that this will be done after the provincial mints shall have made the reports required of them.

On the whole the new system so far as developed at present can hardly be said to meet the requirements of Article XIII of the treaty of 1903 between the United States and China, which provides that China shall provide for "a uniform national coinage which shall be legal tender in payment of all duties, taxes, and other obligations throughout the Empire by the citizens of the United States, as well as Chinese subjects."

I have, etc.,

E. T. WILLIAMS.

[Subinclosure 1.—Translation.]

*Memorial submitting regulations proposed to secure the reform of the currency and the introduction of a uniform coinage throughout all the Provinces of the Empire.*

We, Your Majesties' ministers, in the fourth moon of last year (May-June, 1904) received an imperial edict, directing us to establish a central mint for the coinage of silver and cash with a view to the reform of the currency, and thereupon at once established such a mint at the port of Tientsin, and bought machinery. This machinery has now been erected and an experiment made in the minting of copper coins, the operations in connection with which have already been reported in a separate memorial; but coinage having thus begun at the central mint it becomes necessary at once to establish uniform regulations as to minting to be enforced in all the provinces in the hope that the purpose of the court to reform the currency, enrich the state, and benefit the people may be fulfilled.

The first minting of silver coins in China was undertaken in Kuangtung with the object of supplanting the foreign dollars and making good the deficiency in the volume of the copper

cash. Afterwards the Provinces of Hupeh, Kiangnan, Chihli, Chekiang, Anhui, Fengtien (Moukden), and Kirin successively bought minting machinery and proceeded to coin, but the coins minted differed considerably among themselves in weight and fineness, and even coins from the same mint lacked uniformity, so that the people made distinctions. The coins of one province, too, were unable to circulate in another, and thus they were less satisfactory than the Mexican dollar, which circulated generally throughout the north and south. Recently there has been added a minting of copper coins, because of the shortage in the ordinary cash. The circulation of these has found favor among the people and the profit from minting them has been very great.

The various provinces therefore have vied with one another in asking permission to coin, and there has been no end of confusion as a result. Because of this emulation, too, recently the prices of the machinery, copper, and lead have risen and the worth of the copper coins has depreciated, and if they are to go on, each coining for its own use, each having its own way, perhaps the price of copper will still further rise, and the value of the cash still further depreciate, and after a few years the demand for the new coins will be fully supplied and their circulation will not be easy, and there will be gradually a loss on the capital invested. Moreover, in the new commercial treaties there is an article providing that a uniform currency shall be adopted. But, if each province shall be allowed to adopt its own they will probably get a long way from fulfilling the intention to have a uniform currency. We find that in most countries the gold, silver, and copper coins in use are all coined at one mint, and the department of the government having direction of the matter will make investigation of the conditions of the market, and when the amount of money in circulation is insufficient minting is undertaken to increase it, and, if there is too much, the minting is stopped temporarily. Thus they are able to maintain the parity of exchange and avoid constant fluctuation.

The Chinese Empire is very large, and its population numerous, so that one mint will probably not be sufficient, and we propose in addition to the central mint established by the financial commission to permit four others which have proved most efficient in their work—those of Tientsin, Nanking, Wuchang, and Canton—to become branch mints for the coinage of silver.

As to the coinage of copper, the demand in the provinces is not yet supplied, and the mints already established will not be interfered with. For the present they will be allowed to continue coining (copper pieces), but in accordance with the memorial already submitted by the board of revenue no addition of new mints will be allowed, and we, your ministers, must be permitted to inspect the weight and fineness of the coins, which must be issued at a uniform rate without any variation. Should any one not comply with these regulations now submitted, on the one hand the mint concerned will be closed, and on the other the official in charge will be impeached. Investigation must be made from time to time of the coinage in the Provinces to determine whether or not the supply equals the demand. If the supply be sufficient, upon investigation of the facts by this board, orders will be issued to suspend for a time the minting in the provinces concerned, and such orders must be complied with; there must be no disobedience under the pretext that coins are needed to meet payments due. In this way we shall avoid complaints of an overissue, and we may hope that these mints being thus united under one authority will not be less advantageous than the use of one alone.

Your ministers reverently make these suggestions and submit herewith ten regulations, which, if after inspection, your Majesties approve of them, we shall notify the provincial authorities to observe.

Reverently submitted with a prayer for the instructions of their Majesties the Empress Dowager and the Emperor, as to whether or not the suggestions made and regulations proposed should be adopted.

[Subinclosure 2.]

*Ten regulations for the reform of the currency, reverently submitted for the imperial inspection.*

1. In order to carry out the present desire for the reform of the currency and the issue of a uniform coinage, it is proposed to request that the coinage of silver, after the weight and fineness of the coins shall have been decided upon and sanctioned, shall be allowed only to the central mint and the four branch mints at Tientsin, Nanking, Canton, and Wuchang. The central mint shall furnish the dies, and the weight, fineness, and designs shall be uniform. Every time an issue is ordered a number of the coins must be selected and forwarded together to the financial commission and the board of revenue, who shall appoint chemical experts to make analysis of them to determine whether or not they are up to the standard in fineness and weight. No variations of more than 1 per cent will be allowed. If the coins are not up to the mark, the whole lot minted must be remelted and reminted, and the several officials in charge shall be severally impeached. The central mint shall be under the direct management of the financial commission, and the said financial commission and the

board of revenue shall select and appoint honest and capable officials to proceed to the branch mints at Tientsin, Nanking, Canton, and Wuchang to make inspection, so as to secure proper attention.

2. More leniency may be shown comparatively in the matter of coining copper than in that of minting silver, and it is proposed that the provincial mints already in operation be allowed for the present to go on with their minting, but they shall be allowed to use only the machinery already on hand; no further machinery may be added to increase the output. As for those provinces which have not yet submitted memorials upon the subject and received the Imperial consent to the establishment of such mints, they shall not be permitted hereafter to request it.

The fineness of the copper coins to be minted shall be 95 per cent pure copper and 5 per cent zinc. Those who desire to use instead of the zinc 1 per cent of "tien-t'ung" tin may be permitted to do so. The weight of the coins shall be twenty-cash piece, 4 mace, K'u-p'ing scales; 10-cash piece, 2 mace K'u-p'ing; 5-cash piece, 1 mace K'u-p'ing; 2-cash piece, 4 candareens, K'u-p'ing. The matrices shall be furnished by the board of revenue, and the coinage shall be exactly like that of the central mint, except that on the obverse one character shall be added to indicate the province in which the coin is issued, so as to facilitate examination. Every time an issue of coins is made samples shall be sent to the financial commission and the board of revenue for assay, and the financial commission and the board of revenue shall from time to time select and appoint suitable officials to inspect the mints. If it shall appear that any are not complying with the regulations adopted, further coining by the said mint shall at once be suspended, and orders issued to call in and destroy the coins issued within a fixed time.

3. The minting of coins is for the convenience of the people. If, therefore, too many 20-cash and 10-cashes pieces be made, the people will not be able to divide them when they wish to make small purchases, and this will be very inconvenient. Therefore the regulations adopted by the central mint of the board of revenue provide that a sufficient supply of 5-cash and 2-cash pieces shall be minted. It is now proposed to fix a definite rule that at all the provincial mints the coins minted each day shall be in the following proportion: Two-cash pieces, five-tenths of the whole number; 5-cash pieces, two-tenths of the whole number; 2-cash pieces, also two-tenths of the whole number, and 20-cash pieces but one-tenth. The demand for coins smaller than the 2-cash piece shall be supplied by the use of the old cash in circulation.

4. The number of the coins to be minted must be determined by a careful consideration of the supply and demand; only so will it be possible to maintain their value. If the output is increased from day to day and they daily depreciate in value, the merchants who have a large supply on hand will suffer considerable loss, and that which was intended to be a benefit to the people becomes an injury to them. Hereafter in all the provinces which are minting these coins orders must be issued to the official cash bureau and assay office to make an investigation of the conditions of the market and fix the rate (of exchange) and firmly insist upon the issue and receipt of the coins at this rate, so as to inspire confidence, and the various denominations of copper coins shall be uniformly exchanged for their face value in the ordinary cash. Mercantile guilds shall not be allowed to interfere with the circulation by charging a discount, nor shall the mints be permitted to issue coins at a lower rate than that fixed, simply because they want to make a profit. When the condition of the market shows that there is an oversupply of copper coins, the coining must be suspended in compliance with the intention of the board (already expressed).

5. All the provinces engaged in minting these copper coins must first supply in full the lack of the ordinary cash in their own provinces, and they must not ship them in large quantities to other provinces, and thus stir up complaints from these other provinces. Any province having need of these copper coins may send the price to the central mint and obtain what they need. The provinces on the frontiers, however, will be allowed to send to the mint of a neighboring province and have it coin for them and forward the coins to their destination.

6. Every viceroy and governor in whose provinces there are mints for the coinage of silver or copper must once every three months report to the financial commission and the board of revenue the number of machines bought, the country of their origin, how many of them are stamping machines, cost of the machines, value of the buildings erected, number of officers and men employed, number of hours of work per diem, and number of coins minted. They shall also once a year make a report of the cost of copper and lead or other materials used, and the net gain after deducting all expenses of the mint of every sort, that it may be used for comparison.

7. The central mint will in the future require a great deal of silver for use in minting the silver coins, and if it must all be shipped by the treasury of the board of revenue after requesting orders to that effect, the cost of transportation will be very heavy. We propose to ask, therefore, that after the date fixed for the minting of the silver coins the board of revenue shall set aside silver of the proper quality from the imperial revenues being sent to

it, and issue instructions to certain of the provinces to send their quota of the imperial revenues thereafter to Tientsin, to the central mint, charging the managers of the mint with the responsibility of receiving and checking it, and requiring them to report the same day to the board of revenue, and the board of revenue shall, within the time limit fixed, acknowledge receipt which receipt shall be handed to the deputy (who has delivered the silver) by the central mint. The auditor of the board of revenue and the censors of the Kiangnan circuit have heretofore been charged with the duty of checking the receipts of the imperial revenues, but as the revenues from the provinces indicated are to be delivered instead to the mint at Tientsin and checked there, a change should be made in the old regulations so that they may correspond with the actual state of affairs, and it will not be necessary hereafter for the auditor of the board of revenue and the censors of the Kiangnan circuit to take delivery of the silver and give receipt therefor to the deputy. This arrangement will save time and prevent needless delay. But the duty of auditing the receipts of the imperial revenues is a very important one, and the board of revenue, therefore, should notify the auditor of these revenues and the censors of the Kiangnan circuit once every half-year of the various sums received by the central mint from the several provinces on this account, and the viceroys and governors of the provinces concerned should also every half-year make a report of the same that they may be compared. This will secure greater care in the auditing and the old regulations will not fall into confusion.

8. The coinage of money is a prerogative of the Sovereign. Both in China and in foreign countries merchants and other subjects are not allowed to coin money at their own pleasure. At present merchants see that there is great profit in the coinage of the copper pieces, and this awakens a covetous desire in their hearts, so that they are constantly asking permission to raise capital and mint such coins under the pretext that the government will receive tens of thousands of taels from this source, but with a real desire to encroach upon the ancient rights of the state and pay a small portion of their gains to the government. Their hearts are really interested in the surplus gain which they may obtain, and how, then, can they have any concern for the general interest? If their requests be granted, great rivalry will result, and the deterioration of the coinage and other evils more than can be mentioned will follow. Now that the various provinces have been forbidden to add any more branch mints, most certainly we can not turn about and permit merchants to do so, and we have to request that imperial orders be issued to all the yamens at Peking and in the Provinces that every such request from merchants for permission to mint copper coins shall be refused. Moreover, we, your ministers, will from time to time investigate, and if any mint shall be discovered to have shares of private capital invested in it, notwithstanding the fact that it may have received the imperial sanction, orders will be issued for its immediate closing, so as to protect the imperial prerogative.

9. The various coins minted by the central mint of the board of revenue must have general circulation throughout all the provinces. After the bank of the board of revenue shall have been put into operation the silver and copper coins minted by the central mint, with the exception of such as may be appropriated for the uses of the board, will be delivered to the bank, which will distribute them from time to time according to the deficiency in the supply of cash in the various provinces, and will be issued at the fixed rate.

10. When the mints for the coinage of copper were first established in the provinces, the output could not meet the demand, and they were continually buying copper disks from Japan which, after simply being stamped, could be very conveniently put into circulation. It would seem as though this were a very profitable arrangement, but wages and other expenses are much greater abroad than in China, and as the ready-made copper disks after being shipped from abroad are still not dear is sufficient to indicate that their weight and quality are not up to the standard. Moreover, the foreign merchants when they ship them in do not scruple to secretly bring in an extra number, which they sell to make a profit, lightly inducing evil persons to commit the offense of private coining. And now that we have already proposed that the weight and quality of the coins shall be made uniform, and, moreover, as the various provinces have had their mints going for a long time, so that it can no longer be pretended that they can not coin fast enough for the demand, it will be proper that they shall all melt the copper themselves and make their coins from it. Therefore we, your ministers, have already issued orders to the various provincial authorities forbidding the purchase of these disks, and we have also to request that imperial orders be issued to the viceroys and governors of the various provinces forbidding the purchase of these disks of copper, and that the board of foreign affairs be instructed to direct the commissioners of customs to the effect that the import of such ready-made copper disks be forbidden, so as to prevent the evils referred to.

[Subinclosure 3.—Translation.]

*Memorial submitting regulations for the central mint at Tientsin.*

We, Your Majesties' ministers, having reverently received an imperial edict directing us to establish a central mint for the coinage of silver and cash, have already on previous occasions reported the establishment of such a mint at Tientsin with the reasons therefor, and stated the facts with respect to the investigation into the character of the location and the arrangements with regard to the building operations, as the records will show.

In order to coin silver and copper, it was necessary to buy proper machinery, and we at once directed the managers of the mint to contract with the firm of Arnhold, Karberg & Co. for a complete outfit of the new-style machines for minting silver and copper, manufactured by the American firm, Ch'ang-cheng, to be delivered at Tientsin within a certain time, and the said managers, in connection with Wang Jen-pao, newly promoted to the post of Tientsin taot'ai, arranged the specifications for the building of the mint and hastened the construction, reporting its entire completion in the spring of the present year. They also urged the aforesaid foreign firm to hasten the shipment of the machinery contracted for and directed the foreign and Chinese employees to put it in place immediately upon its arrival, which was done. They then appointed officials to engage workmen for the mint, and on the 8th day of the fifth moon of the present year they started the machinery and first began the minting of copper coins. Your ministers, Na (t'ung) and Chang (Po-hsi?) during the present month went separately to Tientsin to make inspection, and found the machinery ingenious and very suitable for use and the buildings properly constructed; but the machinery, as originally contracted for, was to turn out over 600,000 coins, small and large, silver and copper, in a day. At present, however, as it has just been started, it is impossible that it should not show a little roughness, and the workmen, too, have not yet become accustomed to it, so that the daily output is still somewhat small, though this will be steadily increased as they grow more familiar with it.

We have already submitted drawings of the buildings and machinery, two sets, and specimens of the four kinds of copper coins minted. We have now to present eight regulations for the control of the mint, which we have arranged and for which we beg Your Majesty's approval. It will be necessary for us further to direct the various officials to give careful attention to their duties and to devise suitable arrangements, as occasion may require, and when things get in proper shape we shall begin the coinage of silver and purchase additional machinery, that the output may be gradually increased, in the hope that the purpose of the court to benefit the people by the reform of the currency may be fulfilled.

The original draft of these regulations was prepared by the financial commission and agreed to by the board of revenue, and both join in this memorial, submitting them to the inspection of Your Majesties.

[Subinclosure 4.]

*Regulations for the central mint at Tientsin.*

1. This mint having been established by imperial edict is on a different footing from that of the various provincial mints. For greater convenience in the shipment of coal and other materials it has been established at Tientsin (instead of Peking). The buildings have already been completed, and Your Majesties' ministers after consultation have agreed upon a name for the mint, calling it the "central mint of the board of revenue."

The coinage in three metals will be known as "The Ta-ch'ing gold coinage," "The Ta-ch'ing silver coinage," and "The Ta-ch'ing copper coinage" for general circulation throughout the Empire.<sup>a</sup>

2. The original intention in the establishment of this mint was the reform of the currency, and the purpose was to issue a currency in three metals—gold, silver, and copper; but the establishment of a currency system is a matter of serious importance, and we can not avoid a careful investigation to determine the proper weight and fineness of the gold and silver coins, and this has yet to be thoroughly considered and decided. During recent years, however, the supply of ordinary cash has been short, and that of the 10-cash pieces used in Peking has also been insufficient, and we propose, first of all, therefore, to undertake the minting of copper coins, and have decided upon four denominations. The largest will weigh 4 mace and be worth 20 ordinary cash; the second will weigh 2 mace and be the equivalent of 10 ordinary cash; the third weigh 1 mace and be equal to 5 ordinary cash, and the fourth weigh 4 candareens and be the equivalent of 2 cash. The fineness will be 95 parts copper and 5 parts zinc. After the copper and zinc shall have been mixed together, as

<sup>a</sup>This is to be the inscription on the coins and may be rendered freely, "Chinese imperial gold currency," "Chinese imperial silver currency," etc.

above required, and the coins made, they must from time to time be submitted to analysis and if any are found wanting they must be returned to the melting pot and reminted, so as to avoid any irregularity.

3. Sometime ago we received an imperial decree directing the board of revenue to appropriate 4,000,000 taels as capital for minting purposes. The present expenses for the purchase of land, labor, and materials for building, the cost of the machinery, and payments for copper and zinc have been met by appropriations from time to time by the board of revenue. Salaries, wages, and food of the officials and workmen engaged in starting the enterprise have been paid by a temporary loan by the financial commission. The profits from the coinage of copper will be devoted to paying the running expenses of the mint, and after setting aside one-tenth for reserve and one-tenth as bonuses the remainder will be paid into the board of revenue to be employed hereafter in enlarging the mint, purchasing additional machinery, and as capital to be employed in the coinage of gold and silver. When the time for its use shall arrive, it will be appropriated for these purposes as required by the board of revenue.

4. The copper coins minted by this mint shall first be devoted to fully supplying the needs of the capital, and the remainder shall be distributed through the provinces. No matter whether or not they be places in which the copper coins circulate, the copper coins of this mint may be sent thither, and the local authorities must give such protection as the circumstances may require and order the markets and mercantile houses to give them general circulation. In all public funds they must receive the same treatment as the ordinary cash. There must not be the least discrimination made against them. Should any one oppose or make discrimination, the financial commission and board of revenue shall make a thorough investigation and punish the offenders.

5. This mint being under the control of the board of revenue, the treasury of said board in receiving the copper coins and in paying them out for salaries and stipends ought to reckon them according to their intrinsic value; but this mint is on a different footing from that of the provincial mints, inasmuch as the provincial copper coins received by the board of revenue are received by chance; but this mint must send its coins constantly to the board for regular use, and if they are all to be reckoned only at their intrinsic value there will be nothing from which to pay the salaries, bonuses, etc., of the mint. Moreover, all the profits of the mint over and above its capital are all turned into the board of revenue, so that there is no use in reckoning these details, and we propose that hereafter when coins are minted and forwarded to the board of revenue to be paid out for salaries and stipends the price at which they shall be reckoned shall be determined by the amount of silver retained by the board in lieu of the copper coins paid out, so that the profits may be protected.

6. The affairs of the mint being of weighty importance, the officers concerned must exert themselves with sincerity in the discharge of their duties; only so can there be constant success. We can not, therefore, but establish a system of rewards and penalties. As the Provinces of Kuangtung and Kirin have secured a great deal of profit from their coinage of copper the Tartar generals, viceroys, and governors of these provinces have given extra rewards to the most energetic officials. This mint being just established will require the expenditure of a great deal of care, and we ought all the more to decide upon a system of rewards and penalties, so as to warn and encourage, and we propose to request that after the mint shall have been in operation for two or three years and shall have become a success that we shall select those officials who shall have been most energetic and recommend them for reward. Those who have been in the mint less than two years shall not be included in the list. Those who do not exhibit diligence shall from time to time be discharged and replaced by others, and any found guilty of malpractices and underhanded dealings shall at once be reported, with a list of the charges against them for punishment.

7. The profits derived by the various provinces from the coinage of silver and copper, with the exception of that which has been set aside recently for the army reorganization funds and the fund for the improvement of the Whangpu, have been held by the provincial authorities for extraordinary expenses connected with Government reforms. The board of revenue has already urged them to report, giving detailed statement of their uses, but up to the present the most of them have not reported.

The funds received and expended by this mint in the management of its affairs are all the moneys of the board of revenue, and we have ordered that a true report shall be made of all the actual expenditures. It shall not be allowable to imitate the various provinces in their cooked reports, but at the end of each year the managers must direct the various officers to prepare a strict and clear account of all the receipts and expenditures of the year for report to the financial commission and the board of revenue, and we, your ministers, will carefully examine the same and make report to the Throne, so that everything may be clear and businesslike.

8. This mint at the end of each year will make a statement of the coins issued during the year and the moneys received in payment thereof, and after deducting the cost of the copper, zinc, coal, charcoal, etc., and the expenditures for new machinery, repairs, salaries, and other



expenses of the mint, will reckon the net profit, which shall be divided into ten parts, one part of which shall go to the reserve fund of the mint, and one part for bonuses, and the remainder shall be transmitted to the board of revenue. The one part set aside for bonuses, following the general example of the provincial mints in such matters, shall be divided into ten parts, three of which shall be divided among the managers, five parts to all the other officials connected with the mint and to the mechanics and laborers, and two parts sent to the financial commission and board of revenue as food money (i. e., extra pay to the clerks).

As to the one part set aside for reserve, it shall year by year be added to the general fund, to be appropriated for any proper expenditure.

The foregoing regulations have been proposed after a consideration of the present conditions. But if there should be any matter not provided for or any need of additions or changes the propriety of such changes shall be taken into consideration from time to time, and a memorial on the subject submitted to the Throne, that proper action may be taken and the highest degree of perfection attained.

[Subinclosure 5.—Translation.]

*A memorial submitted by Prince of Ch'ing and others, ministers of the financial commission, in conjunction with the ministers of the board of revenue, recommending the experimental coinage of silver of a certain weight and fineness, and proposing regulations to be enforced.*

[From the Peking Gazette, November 21, 1905.]

In the regulations proposed by Your Majesties' ministers for the central mint at Tientsin, we said: "The establishment of a currency system is a matter of serious importance, and we can not avoid a careful investigation to determine the proper weight and fineness of the gold and silver coins, and this has yet to be thoroughly considered and decided." This was submitted in a memorial that was approved by the Throne, as the records will show. A further consideration of the matter discloses that a currency includes (a) a standard coin, and (b) subsidiary coins. The standard coin should correspond in its face value to the intrinsic value of the metals contained, and, as there can be no objection to its coinage and circulation in any amount, there need be no limit fixed. The value of the subsidiary coins will depend upon that of the standard coin, as they are to be used merely to supplement it, so that there can be no objection if their intrinsic value be somewhat less than their face value, but their coinage and circulation should be restricted. This is the general rule. The copper coins, whose minting has already begun by the central mint, are especially intended for subsidiary use, but in order to reform the currency we can not delay the determination of the standard coin. China's accumulations of gold are not large, and heretofore in public or private financial transactions it has been customary to use silver and copper, so that it is still difficult for us at once to decide how gold should be used.

The silver coins heretofore minted in the various provinces have imitated the Mexican dollar in their fineness and weight, but this was sanctioned as a temporary measure only, and can not be regarded as a fixed rule. A careful examination of the currencies of other countries shows that each has selected the coin most suitable to its condition—as, for instance, in Great Britain the shilling, in Russia the rouble, in Germany the mark, in France the franc, in America the dollar, and in Japan the yen. They did not mutually make experiment and follow a common pattern. China in the levy and collection of her taxes and duties has mostly used the K'u-p'ing tael, and the people, too, in the use of silver have generally made their reckonings in taels, mace, candareens, and li. Your ministers are therefore of the opinion that in fixing upon a standard coin for China we should select the K'u-p'ing tael, mint it with extreme care, and maintain its fineness in full, and that, more than all else, it should first of all be received by the board of revenue in payment of imperial dues. If it be received by the treasury of the board of revenue, then the provincial treasuries can not refuse to receive it, and if the imperial and provincial treasuries receive it, then the district and department officials can not refuse to receive it in payment of taxes and other public dues. And when the mercantile classes see that it is received in payment of public dues, they, too, will want to get rid of the trouble of making good the weight and fineness (of silver sycee, etc.), and there will be none who will not rejoice to see the new coin in general circulation. In considering the practices which have prevailed among the people both in ancient and modern times with a view to deciding upon the most suitable unit of value we find nothing better than this. Therefore in the eighth moon of last year the viceroy of the Hukuang Provinces, Chang Chih-tung, began the experimental coinage of the K'u-p'ing tael, and this year your ministers Na-(t'ung), and others went separately to Tientsin to consult with the viceroy of Chihli, Yüan Shih-k'ai, as to currency regulations, and the aforesaid viceroy earnestly advocated the coinage of the K'u-p'ing tael. Thus your ministers having found their views to harmon-

ize, have decided to unite in proposing that we coin a silver piece of the weight of one K'u-p'ing tael, and use the copper coins now being minted and the ordinary cash in circulation as subsidiary currency, and we reverently submit to the inspection of Your Majesties ten regulations. If they shall receive Your Majesties' approval, we, your ministers, will then direct the central mint of the board of revenue and the provincial mints at Tientsin, Nanking, Wuch'ang, and Canton to at once proceed to coin, and, as soon as a sufficient number of the coins shall have been prepared, to issue them at one and the same time. Thereafter the new silver coins shall be made legal tender in a certain fixed proportion for the payment of all debts, public or private. On the other hand, the minting of the coins will steadily continue until they shall gradually become sufficient for the needs of the Empire, and gradually be substituted entirely for the other silver in circulation. Thus we earnestly hope it will become the special silver coin in general use throughout the Empire and be accepted as the fixed standard, and handled with confidence. When the silver coin shall have been successfully introduced into circulation, then we shall consider the matter of accumulating a quantity of gold for the minting of a gold coin, so that we may have a currency in three metals, able to be mutually interchanged and used together, orderly and uniform, and the question of a national currency will thus in its general outlines be settled. As to matters not provided for, your ministers will from time to time take them into consideration and deal with them in memorials for Your Majesties' consideration. Such are the suggestions which we submit with the following proposed regulations to the consideration of Your Majesties, praying that Your Majesties will decide whether or not they should be adopted, and that instructions may be issued for general observance.

Reverently submitted. Imperial edict received. Respect this.

[Subinclosure 6.]

*Ten regulations regarding the minting of the new silver coins, submitted by the financial commission and the board of revenue on November 20, 1905, and approved by the Throne.*

1. The new silver currency should be purer in quality than the dollars heretofore coined in various provinces and the standard unit of value must be heavier to be suitable as a national coin.

The purest silver in circulation in China to-day is shown by chemical analysis to contain not more than 98 or 99 per cent of pure silver, but a deduction of 2 or 3 per cent should be allowed in minting the new coin to cover the cost of coinage, and it is proposed to make the new tael piece of 9 mace 6 candareens of pure silver, mixed with 1 mace's weight of pure copper, to be fixed as the equivalent of 1 K'u-p'ing tael of full touch.

The fractional currency shall consist (a) of a piece containing 4 mace 8 candareens weight of K'u-p'ing silver mixed with 5 candareens' weight of pure copper, which shall be declared the equivalent of 5 mace K'u-p'ing silver full touch; (b) a piece of 1 mace 7 candareens' weight of K'u-p'ing silver mixed with 3 candareens of pure copper to be the equivalent of 2 mace K'u-p'ing silver of full touch; and (c) a piece of the weight of 8 candareens 5 li of pure K'u-p'ing silver mixed with 1 candareen 5 li of pure copper as the smallest piece to be the equivalent of 1 mace of K'u-p'ing silver, full touch. It is also decided that in every ten pieces minted four shall be of 1 tael's value and two of the denomination of 5 mace, two of 2 mace and two of 1 mace. This shall be the rule, but if there shall be a demand for a larger proportion of any particular denomination orders shall be issued to make a careful investigation as to the real amount (in circulation) and report upon the matter to the financial commission and the board of revenue, who shall consult together and make reply, and only if they consent may the additional amount be minted. As to these coins, the central and branch mints must make them exactly of the same weight and fineness, and assay and inspection must be made according to the rules for the regulation of the coinage already submitted by us and approved by the Throne.

2. The 1-tael coin shall be equal to two 5-mace coins, or five 2-mace coins, or ten 1-mace coins. The small fractional coins of less than 5 mace shall exchange among themselves at this rate, and in all monetary transactions, public or private, they must be paid out and received at this rate. Under no circumstances may a discount be charged. Any disobedience will be punished according to law.

3. The 1-tael coin being the standard monetary unit, there shall be no limit to its circulation. The 5-mace and other fractional silver pieces shall be legal tender in every transaction to the amount of 10 taels—i. e., to the value of ten of the 1-tael coins. They must not be used to pay in full amounts over 10 taels, and if offered they may be refused in amounts over the sum specified. The rate of exchange between the copper coins and the silver and the limit of circulation of the former will be determined after the provincial authorities shall have complied with the regulations already submitted, by which they are required to investigate and report to the board of revenue the facts as to the circulation of the copper coins.

4. As to the minting of the silver coins, it is proposed that, the board of revenue having been ordered to coin, the central mint will coin several million pieces and send them to the bank, and the board of revenue shall send dies to the provincial mints of Chihli, Kiangsu, Hupeh, and Kuangtung, which shall at the same time mint several million pieces. whereupon the bank of the board of revenue shall print paper money to the full amount of the silver coins minted and fix a date upon which it shall be put into circulation. After its issue the treasury of the board of revenue and the treasuries of the provinces mentioned shall first receive it in a fixed proportion, and thereafter all the provinces, the railways, the (China Merchants) steamship company, and the telegraph administration shall receive it in the same proportion. There must be no discrimination against it on the ground that it is not issued in their own provinces. The method of arranging the proportions shall be to fix the proportion payable in silver coins and that payable in paper money of the bank of the board of revenue,<sup>a</sup> and for the present the remainder may be paid in other silver—i. e., in lump silver or the old dollars; but afterwards as the coinage of the new pieces increases in amount the proportion payable in this may be increased until finally payments will be made entirely in the new silver coins. We request that orders be issued to all the Tartar generals, viceroys, and governors, as well as to the superintendents of railways, of the China Merchants Steam Navigation Company, and the telegraph administration to comply with this regulation.

5. All provincial taxes levied in K'u-p'ing taels shall be payable in the same amount of the new tael coins. The collectors should have salaries definitely fixed—i. e., not be allowed to make their living by charges for exchange, etc., as heretofore. Aside from the legal charge for meltag, no other charge shall be added to the sum levied under the name of "assaying charges," etc. All other moneys heretofore collected or paid in taels of another scale shall be converted according to the value of the tael used into their equivalent in K'u-p'ing taels of full touch, and the conversion having once been made, these sums shall forever thereafter be receivable and payable in that amount of the new 1-tael coins, and no variation from this rule will be allowed. We have also to request that orders be issued to all the provincial authorities to comply with this rule.

6. As China is now entering into new commercial treaties with the various foreign powers which provide for the adoption of a uniform national coinage which the merchants of foreign nationalities residing in China shall use, it becomes necessary to request that the board of foreign affairs be instructed that at the time of the issue of the new coinage dispatches must be sent to the various foreign ministers and to the consuls at the various treaty ports and notification made to the commissioners of customs that they may all thereafter uniformly use the new coins. The customs duties have heretofore been levied and collected in Haikwan taels, and orders must be issued to the commissioners of customs thereafter in accordance with the provisions of the commercial treaties to convert the duties levied in Haikwan taels into their equivalents in K'u-p'ing taels and collect accordingly.

7. On the day when the new coins are put into circulation the viceroys and governors of the various provinces must issue instructions to the local authorities to put out proclamations informing the merchants and all people that whatever accounts they may have, old or new, and whatever commercial transactions may take place in the markets, the original amounts according to the value of the taels in which they may be reckoned must be converted into their equivalents in K'u-p'ing taels of full touch and paid in that amount of the new silver coins, and such payment may not be refused.

8. As all viceroys, governors, other officials, merchants, soldiers, and common people in all the provinces must use the new coins, all may send their silver to be minted, and the central mint and the branch mints at Tientsin, Nanking, Wuchang, and Canton will coin it for them. Every tael of K'u-p'ing silver of full touch will be refined to pure silver 0.985 fine or finer, in return for which (0.985 Tl.) they will receive one of the new tael coins. Fractional coins of the denomination of 5 mace, 2 mace, and 1 mace will also be minted for them in the proportions set forth above. The excess in the fineness of the silver will pay the cost of minting, and thus there will be nothing to make good on either side.

<sup>a</sup> This passage in No. 4 is rather vague. The proportions in which the new silver coins and the paper money shall be receivable in payment of public and private debts is as yet undetermined. It will be necessary first to get some idea of the volume of the currency needed for the business of the Empire. This will be a much larger sum than the mints can issue in the immediate future, so that the commission does not propose to retire at once the various forms of silver money already in use. They propose as a temporary expedient to double the volume of the new currency by issuing a paper tael for every silver one, and when the date of inaugurating the new system arrives the commission will announce the proportions in which one's debts may be paid in the new silver coins and in paper, and allow the balance for the present to be paid in old dollars, sycee, etc. As the volume of the new silver coinage increases these proportions will be changed, and presumably the paper gradually withdrawn, as well as the old coins, until only the new silver shall remain in circulation.—E. T. W.

Silver of inferior quality, foreign silver coins, and the silver dollars heretofore minted in the various provinces may also be sent in to be reminted, the amount of the new coins given in exchange being determined by the amount of pure silver contained—that is, their value will be determined in K'u-p'ing taels of full touch, and new coins issued accordingly.

9. When the new coins are first issued and the people are still unfamiliar with them there will almost surely be attempts made among the merchants in exchanging them to discriminate against them (boycott them) or to discount them. The bank of the board of revenue, the customs banks in the various provinces, and other official banks and cash shops must be charged with the responsibility of seeing that anyone bringing the new silver coins to exchange for paper money, bullion, or copper coins or desiring to exchange paper money, silver bullion, or copper coins for the new silver coins shall receive just treatment on the basis of 1 K'u-p'ing tael, being the equivalent of 1 tael in the new coinage. There must be no extortion. Orders must be given also to investigate the markets, and, if any mercantile firms are found raising or lowering the rate of exchange at their own pleasure, report shall be made for cases in Peking to the financial commission and the board of revenue, and for the provinces to the Tartar generals, viceroys, and governors concerned, who shall investigate and severely punish the offense, so as to enforce the coinage regulations.

10. These regulations must be published in the official gazettes for the information of the people, and we have to request that orders be issued to the Tartar generals, viceroys, and governors of the various provinces that at the time when the new coins are issued they must instruct the department and district magistrates to print these regulations in large characters in proclamations which must be posted in all the cities, villages, and market towns of their jurisdictions, that the people on seeing the same may become thoroughly acquainted with the matter, and that thus the yamen clerks may be kept from cheating them.

We have received the imperial rescript approving these regulations.

Respect this.

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[Subinclosure 7.—Translation.]

*Imperial edict of November 19, 1905, authorizing the coinage of taels and fractions of the tael in silver.*

The financial commission has submitted a memorial reporting the result of its deliberations upon the subject of a silver coinage, and its recommendations as to the weight and fineness of the coins, together with the regulations proposed for their issue. According to the statements of this memorial the coinage of silver dollars heretofore in the various provinces was but a temporary arrangement, and may not be considered as furnishing an established rule. Now that a national coinage is about to be adopted, it is proposed, to coin pieces of the weight of 1 K'u-p'ing tael, which shall be the unit of value, and in addition to mint three other silver pieces of the weight of 5 mace, 2 mace, and 1 mace, respectively, to be circulated in conjunction with the new copper pieces and the old cash.

The reform of the currency is the most important matter at present connected with the financial administration. Let the board of revenue proceed with the minting, and let the chief mint in accordance with the proposed regulations notify the branch mints of Chihli, Kiangsu, Hupeh, and Kuangtung to issue these coins without delay, to be put into circulation as legal tender for all public collections and disbursements, that thus the confidence of the people may be secured. In all matters not yet settled the prince and high ministers must investigate the circumstances and report from time to time suggesting a course of procedure. As for the rest, let the matter be dealt with as proposed.

Respect this.

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[Inclosure 2.]

[The Tientsin and Peking Times, December 7, 1905.]

*Further coinage regulations.*

The board of revenue and the council of government finance have submitted a memorial requesting that a limit be placed on the output of copper coins by the provinces. They point out that the coinage of gold, silver, and copper in foreign countries is properly regulated and the rate of exchange well adjusted. At present there is no limit set on the coinage of copper coins in the provinces. The viceroys and governors endeavor to extend the circulation of copper coins simply on account of its profit, and the output increases each day. The result is that one province strives for its exportation, while the other province prohibits strictly its importation. It is evident that the copper coins are now sufficient to meet the demand. The more the output increases the more copper and lead have to be purchased

and the more the price of copper coins will necessarily fall. The old 10-cash pieces coined by the mints of the boards of revenue and works are worth but 2 cash, which may be taken as an example. In future when the profit becomes less it will not only involve loss of capital, but will also drive up the price of the supplies in the market. The consequence will be loss to the government and distress to the people.

China has agreed in the commercial treaties settled with the foreign countries to adopt a uniform currency, and unless a remedy is applied the situation will be hopeless and we shall be laughed at by foreigners. It has therefore been decided that the coinage of copper coins should be limited—the daily output for Kiangsu, Hupei, and Kuangtung to be not more than 1,000,000 pieces, Chihli and Szechuan not more than 600,000 pieces, and other provinces not to be more than 300,000 pieces. The quality and weight are to be uniform according to the regulations sanctioned by the Throne. Shansi and Shensi can have their supplies from the imperial mint, Kueichou from the Szechuan mint, while in other provinces where there are no mints existing there should be no attempt to establish them.

The importation of copper coin blanks from foreign countries has been prohibited, but those orders made previous to the enforcement of the rule will be allowed to hold good. But as they are purchased from different countries their quality and weight will certainly not be uniform. If they are put into circulation by simply stamping them, it will make matters more complicated. After taking delivery, they must be melted down and recoined after the regulations approved for dealing with alloy. Should any of the copper coins be found not in agreement with the rules as regards weight and quality, the officials concerned will be severally impeached. Even the purchase of copper must first be sanctioned by the council of finance and board of revenue.

The names of the mints existing should not be used any longer, and the words Hu-pu Tsao Pi Fén-ch'ang prefixed with the name of the province—that is, submit of the board of revenue of a certain province—should be adopted. The matrices used at present are of different shapes, and the minting should be stopped temporarily (three months) until the issue of new ones by the board of revenue. In the meantime detailed reports should be submitted regarding the quantity of copper coins stamped since the commencement, the number in stock, the demand of the people, the circulation in the market, the localities, and the materials for minting in stock. The report must be in within three months, so as to enable the council of finance and the board of revenue to form an idea of the amount which is already in circulation and the quantity which is to be made.

Official exchange and assaying offices are to be established in connection with the board of revenue bank for the fixing of a uniform price of silver and copper, so that there will be no danger of there being an overflow of copper coins and frequently fluctuations of the rate of exchange. The attention of the viceroys and governors is called to the unreliability of the profit obtained from coinage. It is requested that orders be issued to the provinces that funds should be raised from other sources for the military organization and other reforms.

Imperial rescript. Let it be as proposed.

[Inclosure 3.]

*Punishment for disobedience.—Extensive coinage and export of copper coins.*

A memorial has been submitted by the council of government finance and the board of revenue requesting that the officials at the mint in Che kiang and Fukien be punished for a breach of regulations. It is clearly stated in the currency reform regulations that the copper coins stamped by a certain province should first be circulated in its own province and not be exported in large quantities to other provinces. This has been approved by imperial rescript and was notified to the provinces in the form of circular on the 21st day, seventh moon, this year. A dispatch has now been received from the Waiwu Pu stating that the British minister has been notified by the Chefoo consul that a British firm has imported from Shanghai 35 boxes of copper coins under bond, the landing of which has been prohibited by the commissioner of customs. Telegraphic inquiry was made at once, and in reply the viceroy of Liangkiang wired that a bond has, as a rule, to be signed by foreigners for the export of silver, both in coins and bullion, but lately, for the transportation of copper coins, a Huchao of the province where the coins are minted has to be provided. A British merchant shipped from Shanghai for Chefoo 35 boxes of Chêkiang copper coins, covered by Huchao from the Chêkiang governor, Nieh Chikuei, on the strength of which the Shanghai customs granted permission for its release. Besides this, there is another lot of 230 boxes of copper coins waiting to be shipped to Tsintau from Chêkiang Province.

It is stated in a separate telegram of the said viceroy that Chung Shan, Tartar general of Foochow, has telegraphed to the effect that the Foochow copper mint had to stamp in haste 14 millions of copper coins in order to pay off the debt due for copper obtained in Shanghai.

In addition to the 4 millions already shipped to Shanghai the balance will be shipped in lots. Three telegrams have been sent, stopping this, but a telegraph message has been received saying that 8 millions have already been put on board for export on the night of the 12th day, tenth moon. According to the regulations sanctioned, in any case of violation of the rules the mint in question will be ordered to discontinue the coinage and the officials concerned be impeached and dealt with strictly. The provincial authorities have already been notified of these rules. Now the Chékiang and Fukien Provinces have not only disobeyed the order of discontinuing the export of copper coins, but have attempted to have more sent out. They are heedless of the new rules. It is requested that the officials concerned at the mints of the two provinces be referred to the proper board to consult and decide on what punishment is due. The Chékiang governor, Nieh Chi-kuei, and Tartar general, Chung Shan, having issued an Huchao after receipt of the regulations and thereby caused the exportation of copper coins in large quantities, are also blameable and their names are to be handed to the board for treatment.

Imperial rescript. Let it be as proposed.

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*Minister Rockhill to the Secretary of State.*

No. 180.]

AMERICAN LEGATION,  
Peking, December 26, 1905.

SIR: In further reference to the matter of educational reform in China, to which I have referred in my dispatches numbered 42, of August 1, 85 of September 4, and 97 of September 19, and which is now the leading topic of interest among Chinese, I have the honor to inclose herewith a report prepared at my request by Mr. Williams, Chinese secretary of this legation, on this interesting subject. Mr. Williams herein sketches the history of the present movement for modern education, and then indicates the plan which has been adopted by the Chinese Government and what has been done to carry it out. Mr. Williams's remarks concerning the future rôle of the Christian mission schools are also of great interest. I propose to address you shortly on the subject of the desire of the American mission schools in China to secure recognition from the Chinese Government for graduates of their colleges and universities. Mr. Williams's remarks will make this question the more easily understood.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure.]

*Mr. Williams, Chinese Secretary, to Minister Rockhill.*

AMERICAN LEGATION,  
Peking, December 22, 1905.

SIR: I have the honor to submit the following report upon recent educational reforms in China.

By Article II of the final protocol of 1901 it was provided that all official examinations should be suspended for a period of five years in those cities where foreigners had been massacred or subjected to cruel treatment during the "Boxer" uprising of 1900.

In accordance with this provision an imperial edict was issued on August 19, 1901, suspending for five years all civil and military examinations in forty-six cities blacklisted by the representatives of the foreign powers.

This action opened the way for the favorable consideration by the Chinese Government of a much needed reform of the whole educational system of the Empire.

Previous to the Boxer trouble the Imperial Government had taken only an indirect interest in the education of Chinese youth. It contented itself with maintaining a system of examinations by which the brightest students were drafted into the civil service. This system, which apparently had its origin in the twelfth century B. C., was gradually developed through the long course of its history into an institution which was the pride of the Empire and the hope of its students, since by it the highest offices in the state and thier rich emolu-

ments became the prizes of scholarship. The method was not bad, provided the examination had had any bearing whatever upon the duties to be performed in the civil service. But, as the candidates were tested in their ability to expound the sacred books of China and to write beautiful odes and brilliant essays, proficiency in these matters became the one aim of master and pupil alike and was esteemed of more importance than any practical acquaintance with affairs or any knowledge of the science of government. Such a system was more apt to secure pedantry than statesmanship. But, if the examination had been of a more practical character, the studies of the candidates would of necessity have been of a more useful kind also. Attempts were made, indeed, at various times to introduce into the examinations questions of present day interest, but the attempts were local and spasmodic, and, being contrary to established custom in a land where precedent has all the force of law, the students rebelled, and the examiners yielded to pressure.

The advent of the foreigner, however, has gradually wrought a great change. Missionaries established schools wherever they went. This is particularly true of the American missionaries. Girls and boys, chiefly of the middle and lower classes, were taught to read and write their own language and were given a knowledge of the elements of mathematics, geography, history, and of the natural sciences. In the most important cities academies or colleges were founded, and their brightest students were, many of them, sent abroad to complete their education.

With a few exceptions, however, the mandarins of China looked askance at these educational efforts of the foreigners. They felt sure that there must be some ulterior motive and believed that the missionary was a political emissary, preparing the way for foreign encroachments. The mission schools have therefore never been regarded with much favor by the official classes, and the graduates from them have found little, if any, chance for official employment, except as teachers, interpreters, or clerks, and until within three or four years scarcely one of them has ever secured any post of importance.

But foreign commerce steadily expanded; political relations became of increasing importance, and these changing conditions produced a constantly growing demand for a knowledge of foreign languages, of western industrial methods, international law, and an acquaintance with the history and the sciences, whose comprehension is necessary to an understanding of western civilization. Mission schools therefore grew in numbers and importance from year to year, and the more enlightened officials, recognizing that "time makes ancient good uncouth," saw that China must change, and that without the learning which the West could give her she could not even maintain her prestige in Asia, much less hold her own among the great nations of the world. Several viceroys established colleges for the teaching of modern sciences. But these colleges had no relation to each other; there was no uniformity in the courses of study pursued; there were no elementary schools to prepare students for admission to them and, inasmuch as the old system of examinations still supplied the only entrance to an official career, the new schools seemed to lead nowhither and students were induced to attend chiefly by the payment of a monthly stipend. This attempt to establish a school system from the top was much like the Chinese method of building a house, the roof being put on before the walls are built up, except that the roof has the support of pillars resting on stone bases, while the school system was suspended in midair. The students therefore who really desired an education to fit them for a commercial career still continued, as a rule, to attend the mission schools. The military and naval schools established by various viceroys were also independent one of another. The methods of drill were unlike, the equipment different; the words of command in various languages, and the incipient armies and navies which began to be organized were formed upon different models. Nevertheless these government schools served the purpose of diminishing, to some extent, the prejudice which still existed in the minds of most officials and of increasing the number of those who recognized that there was valuable knowledge to be gained outside the Chinese classics. The war with Japan served to demonstrate still more conclusively that Chinese institutions were hopelessly antiquated, wholly unsuited to modern conditions. The young Emperor and his advisers, resolved on reform, planned a complete school system for the whole Empire. But with the rashness of inexperience they antagonized the strongest elements of the nation. High officials who had given their lives to the service of the state were relegated to private life and the religious sensibilities of the people were shocked by the wholesale confiscation of temples for educational purposes. The coup d'état followed which sent the Emperor's advisers to the execution ground or forced them to fly into exile. A strong reaction set in. There were many occurrences to justify antipathy to the foreigner, and all things foreign began to be taboo. The Boxer uprising was but an expression of this feeling. It failed of its purpose; but the attempt made shook the state to its foundations, and the walls of conservatism fell with a crash. Since that time there has been an unwavering determination on the part of the government to modernize all its institutions. The plans adopted may not be the best in every instance, but the purpose is there, and the result, as there is every reason to believe, can not but be gratifying in the highest degree to all friends of China.

Immediately after the signature of the final protocol in September, 1901, the government took steps to establish a general system of public schools on modern lines. On January 13, 1904, the chancellor of the Imperial University, Chang Pohsi, and the viceroy of the Hu-kuan Provinces, Chang Chih-tung, after many months of independent investigation and subsequent collaboration, submitted to the Throne a complete and detailed plan for a national system of public schools, beginning with the kindergarten and crowned by the Imperial University. These regulations were published in eight volumes and were based upon those of Japan, which, in their turn, were derived from the United States. The regulations were approved by Their Imperial Majesties, and local authorities were directed to carry them into operation. At the same time a special commission on educational reforms was appointed, the principal members being the two chancellors of the Imperial University, Chang Po-hsi (Chinese) and Jungch'ing (Mongol). The provincial authorities throughout the Empire took up the difficult task, but found themselves hampered from the start, first, by their own ignorance of the modern curriculum; secondly, by the lack of properly qualified teachers and superintendents, and, thirdly, by the want of suitable text-books. The teachers needed are being secured in part from the students in the mission schools, in part by the employment of a very few Europeans and Americans, but in much larger measure by appointment of numerous Japanese instructors. But the preparation of native teachers is being hastened by the sending of large numbers of students abroad for education. This movement began in earnest as soon as educational reform was determined upon and has been greatly accelerated in the past two or three years. These students are nearly all supported either by the Imperial Government or the various provincial authorities, and most of them have been sent to Japan. Those sent to Europe and America number at most but a few hundred, but those in Japan are to be counted by the thousand. The influence of Japan therefore in the new schools is predominant. And this seems wise, for Japan is near at hand and her educational system is abreast of the times. Her schools are easily accessible and her teachers can be brought to China at small expense and engaged at much smaller salaries than Europeans or Americans. Even more important, however, is the spiritual kinship of the two nations. The Japanese understand the Chinese. They have but recently passed through the great change to which China is now being subjected. They can study the situation from the Chinese point of view. Their own social, political, and religious institutions are similar to those of China. They can, therefore, enter into close sympathy with the Chinese, wear Chinese dress, live upon Chinese food, dwell in Chinese houses, adapt themselves easily and heartily to the Chinese environment, and avoid giving offense to Chinese prejudices. Their thorough understanding of the old and the new will enable them to graft the modern system upon the rootstock of the ancient without destroying the latter. The transformation will thus be natural and the continuity with the past preserved. All that is of value in the ancient institutions of China will be conserved, though they will be modified to meet the requirements of modern conditions.

The text-books needed are being supplied in part by translations or original works prepared by missionaries or by the various bureaus of translations which have been maintained by several of the provincial governments for some years past. These books are to be subjected to revision, however, and new works are being prepared under government supervision.

A recent memorial submitted to the Throne by Yin Ming-shou, a member of the Hanlin Academy, complains that the results of the past four years' work are very small; but, when all the difficulties are taken into consideration, the measure of success must be regarded as quite satisfactory. The new school system has now been inaugurated in every province of China proper and bids fair to make rapid development in the near future.

So long, however, as the old system of examinations was retained, as it was throughout the greater part of the Empire, and this door of hope to official preferment was kept open, a large number of the students adhered to the old course of study, and it became necessary therefore in the interest of the new system to definitely abolish the old order. This was done on September 2, 1905, by an imperial edict, a copy of which was sent <sup>a</sup> at the time, I believe, to the Department. This measure had an excellent effect, as is shown already by the memorials which are pouring in from all parts of the Empire, suggesting measures for raising school funds, method of employing the disappointed graduates of the old school, who are too advanced in years to take up with the new order of things, and recommending improvements in the new system in order to meet difficulties that have arisen. It is shown, too, in the rapidly-increasing number of schools that are being established and in the enthusiasm with which the people are making contributions of money to assist the government in its plans. The Peking Gazette makes frequent mention of such voluntary offerings, some individuals giving as much as 10,000 taels each, and the gentry in other neighborhoods combining to establish and support the additional schools needed. The experience of the past four years has shown the necessity for a better organization, and a number of memorials upon this subject have recently been submitted, which while they differ in the details of the plans proposed all agree in recommending a national board of education to rank with the other

<sup>a</sup>Inclosure 2 in dispatch No. 85, September 4, 1905, p. 181.



departments of the Imperial Government. The most important of these memorials was that of Pao-hsi, a Manchu of the imperial clan and superintendent of education for the Province of Shansi. He proposed the establishment of a national board of education modeled on that of Japan, and inasmuch as the provincial chancellors under the old system and the imperial examiners were under the jurisdiction of the board of rites, which was in reality a department of public worship and education, he proposed that the board of rites be entirely abolished and its duties in relation to public worship and court ceremonial be left to the court of sacrificial worship and the court of state ceremonial. He also proposed that the Hanlin Academy and the Imperial Academy of Learning be incorporated with the new board of education. Prince Ch'ing, on behalf of the commission on administrative reforms, reported favorably upon the recommendation that a board of education be established and favored also the proposal to incorporate with it the Imperial Academy of Learning, which action will give the new board handsome quarters adjoining the Confucian Temple. The prince was not in favor, however, of abolishing the board of rites nor of making the Hanlin Academy an appendage of the new board, though he advised that some changes be made in the character of that institution which will make its members more useful. In accordance with the recommendations of Prince Ch'ing, an imperial edict appeared on December 6, 1905, establishing the new board of education. I inclose a translation of the same. Jungch'ing, who has been made president of the board, is one of the chancellors of the Imperial University and has until recently been also one of the presidents of the board of revenue. He is also a grand counselor and a member of the commission on administrative reform. He is a Mongol, a comparatively young man of progressive ideas, and has risen very rapidly within the past three years from comparative obscurity.

Other recommendations of these recent memorials are that education be made compulsory and that parents be fined for not sending their children to school, and that the funds heretofore used in conducting the triennial examinations, amounting to from 20,000 to 50,000 taels, from each province every three years be employed in aid of the new system, one-half to be spent by the province concerned and the other half by the board. These recommendations are referred to the new board for consideration.

The school regulations as now in force provide that children between the ages of 3 and 7 years of age shall be sent to the kindergarten. At 7 years of age they must be sent to the second-grade primary, where a five years' course is taken, and thence to the first-grade primary for a four years' course. The hsien (county) authorities are required to provide these primary schools. Every hsien city and every department city, as well as every market town, and every village of one hundred families is expected to maintain from one to three second-grade primary schools and the cities and towns mentioned at least one first-grade primary. Where the villages are poor or children few, the authorities are authorized to combine two or three villages in the support of one second-grade primary, but not more than four hundred families are allowed to one school. It is recognized that this will not supply school accommodation for all the children, and the authorities are urged to persuade the people to supplement the government schools by others of their own establishment. The course of study in the primary grades comprises ethics, reading, and explaining the Chinese classics, Chinese composition, arithmetic, history, geography, elementary science, and physical drill. Drawing is also taken in the first grade.

From the first-grade primary the pupils are advanced to the intermediate grade, where a five years' course is to be taken. Each prefecture is required to provide at least one intermediate school. The course embraces a further study of Chinese, foreign languages (Japanese, English, German, French, and Russian), mathematics, geography, history, and the natural sciences, and ethics, drawing, and physical drill, with courses in law and political economy when possible to establish the same. The intermediate grade is not free, but the tuition fee is low. Pupils are told that they are not being prepared especially for the civil service, but for the ordinary avocations of life, and at the close of the intermediate course may, if they choose, enter one of the special industrial or professional schools.

From the intermediate grade students pass to the provincial academy, usually styled a college. Here a three years' course is taken, on the completion of which admission may be had to the Imperial University at Peking. The university course is divided into two sections, the lower covering a college course of three or four years, according to the course chosen, and the upper a real university course of five years.

The university embraces eight schools or departments—the classical, law, literary, medical, science, agriculture, engineering, and commercial. Students pay for tuition, but free scholarships may be won by competition.

In addition to the regular course as outlined above there are shorter courses provided for those unable to attend the university:

(1) For children already over 12 years of age, who can not attend the primary schools there are established industrial schools, where trades are taught.

(2) For boys who have taken the second-grade primary course and do not want to go farther there is provided a primary school of agriculture to prepare the peasants' sons to perform the work of the farm more intelligently.

(3) Pupils who have completed the primary courses may enter special schools of agriculture, engineering, or commerce, and thus prepare themselves for farming, engineering, or mercantile life.

(4) Pupils may, if they choose, pass from the intermediate schools to special schools of agriculture, engineering, or commerce of a higher grade than those mentioned in (3).

(5) Every hsien (county) or department city is expected to maintain a second-grade teachers' school, and every provincial capital a first-grade teachers' school. These are to assist in equipping the new schools with the needed teachers.

(6) Special schools of foreign languages to prepare men for translators and interpreters in the diplomatic and consular services and for use in the government translation bureaus. The course is five years in length.

(7) A special course of three years for those who have already won their doctor's degree at the recent examinations under the old system. This will serve to bring them more or less into line with the new order of things.

(8) Special schools of law and political science will be maintained in all the provinces for the especial benefit of those expectant officials who have already been placed on the civil list under the old examination system, but have not yet been appointed to office. There has for centuries past been a provincial college at each provincial capital for the preparation of young candidates for the duties of official life, but the colleges have really only existed in name; no course of study is provided, and no instructors have been employed. The buildings and grounds are generally very attractive, but are chiefly used as club houses for the mandarins and gentry.

In response to a memorial of Wu T'ing-fang last May it was decided to require all expectants to take a course of one and a half years in law and political science and to pass a satisfactory examination in the same before being assigned to duty. Instruction is to be given in lectures by graduates of foreign schools, who will be selected and assigned to this duty upon their return to China.

In this connection it is interesting to note that the viceroy of this province, Yuan Shih-k'ai has issued an order to the effect that all expectants of this province must spend at least three months in Japan before they can receive a definite appointment to office.

(9) Other special schools established in the provinces are those of veterinary surgery, police training schools, and the industrial schools connected with the new workhouses which are called for by the recent reform of the penal code. It is hoped that by giving the prisoners respectable trades the poverty of the lower classes will be reduced and thus one great incentive to crime removed.

It will be seen, therefore, that the system theoretically covers the whole field; but it must of necessity be many years before some of the provinces can approach to any realization of this ideal. It is impossible to obtain any statistics upon the subject, for the Chinese have not yet learned the value of statistics; but a brief statement of what has been done in part in this province will enable one to understand in some measure the present condition of affairs.

The viceroy at Tientsin has been very active in the matter and has been very fortunate in securing the services of a trained educator for provincial superintendent. This is Dr. C. D. Tenney, an American, who has been in the service of the Chinese Government for many years, chiefly in the capacity of president of the Tientsin University. Under the direction of Doctor Tenney the viceroy has already established more than 3,000 schools of various grades in this Province of Chihli. These are exclusive of the schools established in the Peking prefecture. In the old provincial capital, Pao-ting Fu, there are over 2,300 students in the various high schools and academies established there. Pupils in the primary schools are not counted, nor those in the police training school. Among the special schools included are those of law, veterinary surgery, and agriculture.

In the city of Peking there have been established by the local authorities, independently of the viceroy, over forty schools of all grades, primary, intermediate, academies, and the university (which was established before the Boxer folly, but reorganized two years ago), together with special schools of law, foreign languages, police training, and a military school for the sons of nobles.

Probably no other province is abreast of Chihli in education; but very much has been done also in the viceroyalty of Chang Chih-tung (Hupeh and Hunan), in the Province of Kiangsu, and in Kuangtung. With regard to the second mentioned, there are over forty government schools in operation in the city of Nanking and large numbers also in Shanghai, Soochow, and other cities of the province.

Shantung has at least one hundred of the new schools already established, of which twenty are in the provincial capital, Chi-nan Fu. As stated above, all the provinces of China proper have done something; but it has been very difficult for those far inland to secure qualified teachers. I note, however, that even in far-away Yunnan it is reported by the viceroy that a teachers' training school has been established at the provincial capital and two Japanese professors secured for it who also teach the Japanese language.

Owing to this lack of teachers and the fact that few students are prepared to enter the academies or the university, classes in the courses outlined for the provincial academies and the university are for the present suspended and the instructors are employed in teaching those branches required in the intermediate and the teachers' training schools.

In regard to the instruction given, there are two or three points worthy of special notice. No foreign instructor is allowed to teach his own religious views. This is eminently proper in view of the fact that the schools are supported by a government which maintains its own religious establishment. All instruction is to be given in the mandarin dialect, a most commendable regulation, which, in a generation, if carried out, will do much toward removing one of the principal obstacles to national solidarity. In all the coast provinces from Shanghai to the Tonkin border nearly every little district (county) has its own dialect, and these differ so much one from another that natives of the same province can not communicate with each other unless they can do so in writing. Although the curriculum provides for instruction in ethics in all the schools, the regulations call attention to the inadequacy of such instruction (so the ministers of education think), as given in foreign schools. This remark refers to the science of ethics as taught by the Japanese. The authors of the regulations do not believe that ethics can be taught so as to influence conduct unless based upon the sacred scriptures of China. The last point to which I would call attention is that military drill is required in all the schools, and a uniform is to be adopted for all students. The Chinese civilian has in past centuries been taught to despise the soldier and the art of war; but the civilized nations of the West have taught him that China will be respected only as she may be able to protect her interests by force of arms, and efforts are now being made to cultivate a martial spirit. There have been military and naval schools for some years in three or four provinces, but it is now proposed to establish in each province two grades of military and two of naval schools, and in Peking an imperial military college and an imperial naval college, students for which will be supplied from the provincial schools just named. This plan is in abeyance for the present, and to supply the military instruction needed all students will be required to drill and on reaching the provincial academy will have instruction in military regulations, military history, and in military tactics, while those who enter the department of law in the university will have special courses in military government.

The discipline of the students is, theoretically at least, very strict. Among other prohibitions they are forbidden to smoke opium and they are not allowed to interfere in any way in matters that concern the government. The latter has not been enforced, so far as the recent boycott of American goods is concerned, and there is reason to fear that the former will not be observed.

One matter of great importance under consideration at present is that of providing the necessary funds for the support of the schools. The regulations require the hsien (county) authorities to provide the primary schools, and it is suggested that in most places there are common funds belonging to the people which with the consent of their elders might be devoted to the support of these schools. Such funds are those for village free schools of the old type, for village theatricals, sports, and the support of certain benevolent institutions. It is further suggested that certain temples and clubhouses may be used for school buildings. With respect to the temples, many of them are endowed with lands which furnish revenues for the support of the monks and the maintenance of the sacrifices. One of the reform edicts of 1898 provided for the confiscation of certain classes of such temples for the support of the schools and this created great disaffection. On the approval of the present regulations steps were taken in some of the provinces, particularly in Fukien and Kuangtung, to compel the monks to surrender their property. To avoid doing so, a number who had an inkling of what was coming disposed of their property to Japanese Buddhist monks, who could not be compelled to yield to the demands of the officials. This led to an imperial edict forbidding the local authorities to coerce the monks. The mischief had already been done, however, in some places, and a recent traveler in Kuangtung and Kuanghsi ascribes the feeling of hostility toward foreigners in those provinces in part to this measure, since the people look upon the new education as foreign in its origin and forced upon China by foreign powers.

For the support of the intermediate schools and academies it is more difficult to find funds. I have already noticed the suggestion that the funds for the old examination system be devoted in part to this purpose. Another plan is that adopted by the viceroy of this province. He has already secured the sanction of the Throne to the levying of a special tax upon deeds for the transfer of real estate. This amounts to 4.9 per cent of the purchase price, of which 3.3 per cent shall be devoted to primary education and 1.6 per cent to the intermediate schools. Two days ago it was decided that henceforth for three years no vacancies in the twenty-four banner corps shall be supplied, and the funds thus saved shall be devoted one-half to the support of the regular school system and one-half to the support of the proposed military and naval schools. It was also decided to gradually abolish the eight divisions of palace guards, an obsolete organization no longer of use, the funds thus saved to be also applied to educational purposes. The old examination hall in Peking is to be occupied by the military college.

One serious defect in the system remains to be pointed out. No provision is made for the education of girls, except in the kindergarten.

The regulations say that there are many difficulties in the way of the establishment of girls' schools in China, and that very little can be done for them at present.

There are many high officials who do not agree with this statement of the authors of the regulations. One such high official is Tuan-fang, the governor of Hunan, now on his way to the United States to study our institutions. During his recent visit to Peking he had audience of Her Imperial Majesty the Empress Dowager and laid before her the importance of establishing girls' schools.

Her Majesty was much impressed and at once issued an edict directing that a large abandoned lamasery in Peking should be converted into a girls' college. This has not been done as yet, but several of the princesses, encouraged by this action of the Dowager Empress, have undertaken without any aid from the state to establish a number of girls' schools in Peking. At least one of these is absolutely free, and is conducted in the residence of Tuan-fang, which is given for a merely nominal rent for this purpose. Others charge a small tuition and are attended by girls from noble families. Some of the princesses have opened schools in their own palaces for their daughters and their relatives. A few Chinese women teachers have been secured, some of them former students in the mission schools. But the new branches, such as arithmetic, geography, foreign history, and the Japanese language are taught by Japanese ladies, who are giving their services without charge. Besides the branches mentioned, the curriculum embraces music, drawing, dancing, calisthenics, needlework, Chinese reading and writing, physiology, hygiene, physics, natural history, and nursing.

All pupils are required to unbind their feet, and are not allowed to paint, powder, wear jewelry or expensive gowns. They must wear their hair in a braid or plain coil and must dress in a plain blue gown, the only ornament being the rosette which indicates the school to which the pupil belongs. Similar schools have been opened in Tientsin, Chi-nan Fu, Shanghai, Chinkiang, Nanking, Soochow, Hangchow, and Hankow. I have seen no reports from other places, but the movement appears to be very general and is the most interesting feature in the present situation, though wholly independent of the government. In all these schools Japanese women appear to be the main reliance so far as teaching is concerned.

The missionaries with whom I have discussed the matter seem for the most part to fully appreciate the significance of the educational reforms and rejoice in the prospect of a better condition of society in China. Some, however, look askance at the new school system, and seem to think that it will mean a great loss of influence for the missionary, whose pupils will probably desert him for the government school. I am glad to say that this feeling appears to be shared by very few. The missionaries have every reason to be proud of their past record as educators in China, for although their influence has been indirect, the present movement owes very much more to them than appears upon the surface. It is quite true that the importance of their schools will probably lessen with the passing years unless arrangements can be made to admit their graduates to the examinations for official posts, but these schools will always have their special work in preparing men and women for the service of the church, and for many years to come they must probably be depended upon very largely for the needed supply of Chinese instructors in modern branches of learning.

\* \* \* \* \*

I have, etc., E. T. WILLIAMS.

SUPPLEMENTARY.

Since writing the above I have received a very interesting letter from Dr. C. D. Tenney, president of the Tientsin University and provincial superintendent of education for Chihli. I append his statistics for this province, calling attention to the fact that the schools which I have called "kindergartens" are classed by him as "primary," and those which I have called "first" and "second grade primaries" are listed as "higher" and "lower grade elementary" schools.

*Educational statistics for the province of Chihli.*

	Number of schools.	Number of pupils.
Primary schools already established.....	2,480	72,120
Lower elementary schools.....	124	6,200
Higher elementary.....	124	6,200
Middle (intermediate) schools.....	16	960
High school (academy).....	1	320
Provincial university (Tientsin).....	1	200
<b>Total.....</b>	<b>2,746</b>	<b>86,000</b>

It is to be noted that the Tientsin University existed before the new system was inaugurated, and that several such colleges have been established in various parts of China, which are no doubt to be affiliated with the new system. The above figures do not include schools in the prefecture of Peking, which are under the metropolitan and not the provincial administration.

[Inclosure 2.—Translation.]

*Imperial edict of December 6, 1905, organizing the board of education.*

[From the Peking Gazette.]

We have to-day received a joint memorial from the council of state (or bureau of national administration) and the minister of education, reporting upon the suggestions of Paohsi and others. Sometime ago we issued an edict abolishing the system of examinations, and it is most urgently necessary that something be done to encourage education, so as to develop the talents of men. At present the various provinces are gradually establishing the new schools, and there must be an office that shall have general control of the system and be responsible for the standard set and the direction of the course of study. Therefore we establish the board of education, and Jungch'ing is hereby transferred to be the president of the same. The first vice-president shall be Hsi-ying, and the second class Hanlin compiler, Yen-hsiu, is appointed acting second vice-president of the board of education with the rank of an expectant metropolitan official of the third grade. The Imperial Academy of Learning, known in ancient times as the "Ch'eng Chün" (i. e., a place where learning is completed), was originally the highest institution of learning. Let all matters pertaining to said institution henceforth be under the control of the board of education. As to matters not yet settled, let the aforesaid president and vice-presidents consult together and devise satisfactory arrangements and report to us. As the said board has but just been established, the commencement of such a work as the encouragement of education and the cultivation of talent is a most important one and the greatest care must be exercised in investigating the subject and extra attention given to strengthening the system of education in the hope that encouragement of genuine learning and the cultivation of useful talents may fulfill the purpose of the court to establish schools for the improvement of social conditions, the civilization of the people and the perfection of their customs.

As for other suggestions made, let them be carried out as proposed.

Respect this.

### ANTIAMERICAN BOYCOTT.

*The Acting Secretary of State to Chargé Coolidge.*

No. 921.]

DEPARTMENT OF STATE,  
Washington, May 26, 1905.

SIR: I inclose herewith a copy of a letter from the American Asiatic Association, of New York City, addressed to the President, and referred by him to this Department,<sup>a</sup> in which the writers quote, for his consideration, a telegram received by that association from the American Association of China, in which it is stated that the Chinese chambers of commerce, the gentry, and the guilds advise the people of the whole Empire to boycott, after August, all American schools, business, goods, products, and ships unless the exclusion treaty guarantees equitable treatment to travelers, students, and merchants entering the United States.

You will discreetly ascertain and report to the Department what truth there is in the telegram above mentioned.

I am, etc.,

F. B. LOOMIS.

<sup>a</sup>Not printed.

*Minister Rockhill to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Peking, July 1, 1905.

(Mr. Rockhill reports that orders have been issued by the Chinese foreign office to all viceroys and governors to stop the attempted boycott on American goods and the anti-American agitation.)

*Minister Rockhill to the Secretary of State.*

No. 23.]

AMERICAN LEGATION,  
Peking, July 6, 1905.

SIR: When I arrived in Shanghai on May 20, last, on my way to my post, I was informed by our consul-general that a few days previously the leading native merchant guilds of that place had held meetings for the purpose of declaring a general boycott against all American goods and persons residing in China for the purpose of forcing the Government of the United States to amend its laws concerning the exclusion of Chinese. The Chinese public was told that our government was attempting to force that of China to sign a treaty highly detrimental to Chinese interests and that the people of China ought by means of the proposed boycott to resist America's demands. Telegrams were sent by the meeting to some twenty cities in China, all interested in the American trade, urging them to take the proposed action, which was to be put in force on or about August 1 next.

Our consul-general, while not believing that the proposed anti-American agitation could have very serious results, was nevertheless anxious about it, and asked me to see the heads of the native guilds, which he had asked to meet him at the consulate-general for the purpose of talking the matter over with them.

I agreed to Mr. Davidson's request, and on May 21 I met the committee of representative merchants and bankers of the local guilds and explained to them that they had been misled and were evidently not aware of the true state of the negotiations now pending between the two governments, otherwise they would have refrained from taking the hasty action they had, which could only tend to create bad feeling and embarrass trade without any object. I then read to them the memorandum of which I inclose a copy. I asked them to make it known to their guilds. This they promised to do, and they left assuring me that they were perfectly satisfied with my explanations.

A couple of days later, the local native press continuing to print inflammatory articles against our country and encouraging the proposed boycott, I suggested to Mr. Davidson that he should see the taot'ai and ask him to put a stop to such foolish and lawless agitation. Mr. Davidson saw the taot'ai, but no action was taken by him.

On my arrival in Peking I found numerous telegrams and dispatches from our consuls and citizens, reporting that the movement had spread to Foochow, Amoy, Canton, Hankow, Tientsin, and to several interior towns of this province, and fears were expressed that the ignorant people of the interior might commit acts of violence against foreigners if the Chinese Government did not take prompt action to check the

movement and state the true conditions of the negotiations for a new treaty.

I therefore asked the Prince Ch'ing in the first interview I had with him on June 3 to take prompt action to put a stop to the agitation. This he promised to do, but as the inflammatory articles continued to appear, particularly in the Peking native press, I felt obliged to call his attention to the matter in a note. This having remained unanswered for a week, I wrote him again, and the day before yesterday I received the inclosed reply, which tends to strengthen my belief that the movement was with official approval, if not actually at official suggestion. The action of the foreign office would probably not have been taken yet had it not been that the energetic viceroy, Yuan Shih-k'ai, saw the possible danger lurking in it and took prompt and radical action to suppress it. He also wired to the foreign office here advising it strongly to instruct the viceroys and governors of the various provinces to use their efforts to arrest the movement. I have thanked the Viceroy Yuan for his prompt and wise action, during a visit I paid him at Tientsin a few days ago.

I inclose a copy of the proclamation issued in Tientsin by order of the viceroy.

On receipt of the note from the Prince Ch'ing I cabled the Department.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure 1.]

*Minister Rockhill to the Chinese guilds.*

MEMORANDUM.

In 1894 the governments of China and the United States, animated by the desire to amicably settle the question of the coming of Chinese laborers into the United States, which previous treaties had either left in an unsatisfactory condition or which previous experience had shown required change and amendment, concluded a new treaty for a period of ten years.

The last article of this treaty of 1894 provided that, if six months prior to the date on which it expired (7th of December, 1904,) neither of the signatory powers had declared its desire to terminate it, it should be in force for another period of ten years.

The Chinese Government informed the American Government during the summer of 1904 that it did not wish to see the treaty of 1894 extended beyond the date fixed for its termination; that is to say, December 7, 1904. At the same time it declared its willingness to begin negotiations for the conclusion of a new treaty regulating the subject of the entry of Chinese laborers into the United States. In August of last year—that is to say, about seven months ago—the Chinese Government, through its minister at Washington, submitted a first draft of a treaty for the consideration of the American Secretary of State. This was to serve as a preliminary basis for negotiations.

This first draft was carefully considered by the Secretary of State of the United States, and, in due course of time, a reply was sent to the Chinese minister, Liang Ch'eng, with a counter draft, in which the proposals made by China in its draft were embodied with such changes as were deemed necessary, to the end that the treaty when concluded should in no wise conflict with the laws of the United States, while at the same time they met all the wishes of the Chinese Government.

These proposals of the American Government were translated by the Chinese minister to his government at Peking, and some three months later—that is to say, the early part of this year—a new draft, embodying some of the modifications suggested by the United States, was received by the American Secretary of State from the Waiwu Pu.

This last draft is still before the American Government and is now the basis on which negotiations between the two governments are being conducted. It is confidently believed that it will enable the two governments who are equally animated by an earnest and sincere desire to remove this question from the field of discussion, and who are conducting

the negotiations in the most amicable manner, to reach a final settlement both just and satisfactory to the two nations.

Although it would not be proper at the present stage of the negotiations to disclose the provisions which in one form or another will be incorporated into the treaty when finally agreed upon between the two countries, it may be categorically and emphatically stated that neither by word nor implication has the United States sought to in anyway impede the return to the United States of Chinese laborers rightfully entitled so to do, nor to put burdensome restrictions in the way of Chinese subjects not belonging to the laboring classes who may wish to visit the United States or to reside therein for purposes of pleasure or study. On the contrary, it is the earnest desire of the President and the people of the United States to extend to this latter class of visitors all such courtesies and facilities as they may desire, to become better acquainted with our country, its resources, its industries, its mode of thought, its method of administration, by which knowledge, better than all other means, the relations with China may become closer and even more friendly than they have ever been. It is believed that the proposals which are now being considered by the United States and China looking to this most desirable end will fulfill our expectations and realize the friendly wishes of our President and our people.

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[Inclosure 2.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, June 17, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to inclose a copy of a Chinese newspaper, the Ta Kung Pao, containing a notice that advertisements of American firms will hereafter be refused publication in that paper, and a copy of a letter addressed by the same paper to an American lawyer in Tientsin, informing him that his advertisement in the paper must be taken out. This is but one of many instances brought to my notice in which newspapers, handbills, and posters, have been employed to urge the Chinese people to boycott American products, inciting a spirit of hostility to our people.

Recently in a conversation with your highness I called your attention to this agitation and received from your highness the assurance that the matter was due to the foolish action of persons ignorant of the real situation, and that your highness would take into consideration some plan for putting a stop to it. On two other occasions I made reference to the matter to your board, to his Imperial Highness Prince Ch'ing, president of the board of foreign affairs, through two secretaries of this legation when visiting the yamen. In view of the fact that the organizations which are responsible for this agitation state that they have communicated their views to the board of foreign affairs I am at a loss to understand why no sufficient action has been taken to put a stop to this foolish movement.

I trust, therefore, that your imperial highness will at once take the necessary steps to this end. Such senseless talk in no wise contributes to the friendliness and confidence which should exist between the peoples of our countries, and might not unlikely lead the ignorant to acts of violence against Americans and other foreigners.

I avail, etc.,

W. W. ROCKHILL.

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[Inclosure 3.—Translation.]

*Prince Ch'ing to Minister Rockhill.*

I have the honor to acknowledge the receipt recently of several letters from your excellency regarding the organized boycott against American goods in several ports of China.

Your excellency says this agitation is based on absolutely groundless reports of extraordinarily harsh terms now being enforced on Chinese in the United States, and you request that steps be taken immediately to arrest this movement.

My board finds upon investigation that this movement has not been inaugurated without some reason, for the restrictions against Chinese entering America are too strong and American exclusion laws are extremely inconvenient to the Chinese.

The coolie immigration treaty has now expired, but although this treaty is null, the exclusion restrictions are still enforced.

The great inconveniences brought to all Chinese merchants has thus led to this movement, but if the restrictions can be lightened by your government and a treaty drawn up in a friendly manner then this agitation will of its own accord die out.



My board has already telegraphed to the various coast and river ports instructing the viceroys and governors to use every endeavor to undeceive the merchants and others, that the affair may not spread into a general movement.

As to the report made by your consul at Foochow, mention of which you made in your recent dispatch, my board has already sent telegraphic instructions to (the governor of) said province directing him to use strict methods and put an end to the affair.

It becomes my duty therefore to send this report to your excellency's dispatch.

A necessary dispatch.

Kuanghsü, XXXI year, 5th moon, 29th day (July 1, 1905).

[SEAL.]

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[Inclosure 4.]

A proclamation issued by the Tientsin prefecture, Tientsin district, and the chief of police, enabling all to know that, whereas the people have been collecting in large numbers to meet for deliberation, it must be prohibited, as it is contrary to law.

We have now been informed by the governor general that if in future twenty or more people collect in numbers to meet for deliberation, it is imperative that the chief of police be first informed of the purpose and date of the meeting. At the time set for the meeting an official shall be appointed to proceed to the place to examine and listen to the discourse. If they shall dare to discourse upon an untruthful topic and by the use of fine words cause others to believe, or if there are any who, on their own authority, meet for deliberation, the leaders shall certainly be seized and dealt with accordingly.

As in duty bound we issue this proclamation, thereby enabling all to clearly understand. In accordance with this proclamation we trust that all the people of Tientsin will act as one body and obey accordingly. A special proclamation. Do not disobey.

From the "Ta Kung Pao" (L'Impartial), 22d day of the 5th moon in the 31st year of Kuanghsü (June 24, 1905).

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*The Acting Secretary of State to Minister Rockhill.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, July 7, 1905.

(Mr. Peirce informs Mr. Rockhill that the Standard Oil Company has made representations to the Department that the Chinese boycott is to begin on August 1, and that the petroleum industry of the United States will be gravely affected thereby. Mr. Rockhill is instructed to ascertain, in bringing the matter to the attention of the Chinese Government, whether its order prohibiting the boycott of American goods will be effective.)

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*Minister Rockhill to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Peking, July 14, 1905.

(Mr. Rockhill reports that the foreign office has informed him that the provincial authorities have been strongly urged to restrain the boycott movement, that a very strong stand against this movement has been taken by the viceroy of this province, and that the authorities at Shanghai and elsewhere are opposing the agitators.)

*The Acting Secretary of State to Minister Rockhill.*

No. 29.]

DEPARTMENT OF STATE,  
*Washington, July 26, 1905.*

SIR: Referring to your telegram of the 14th instant, reporting the answer of the foreign office that it has strongly urged on provincial and other authorities to restrain the boycott movement, I inclose for your information copy of a letter from the Acting Secretary of Commerce and Labor, transmitting a report from the Chinese inspector and interpreter at San Francisco, in which mention is made of a proclamation issued by the Chinese consul-general stating the encouragement by the Chinese Government of the movement.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

*The Acting Secretary of Commerce and Labor to the Secretary of State.*DEPARTMENT OF COMMERCE AND LABOR,  
*Washington, July 25, 1905.*

SIR: I have the honor to inclose for your information copy of report just received from Mr. Gardner, Chinese inspector and interpreter at San Francisco, having reference to the action of the Chinese Government regarding the boycott of American goods.

Very respectfully,

JAMES RUDOLPH GARFIELD.

[Subinclosure.]

*United States Chinese inspector and interpreter to the Commissioner of Immigration.*IMMIGRATION SERVICE, OFFICE OF THE COMMISSIONER,  
*San Francisco, Cal., July 17, 1905.*

SIR: In confirmation of my oral report previously made to you, I have the honor to report in writing that making it my business to observe whatever may appear from time to time on the bulletin boards in Chinatown or in the Chinese newspapers published in this city, in any way pertinent to the subject of Chinese exclusion or to our service in general, I saw yesterday an exceedingly important official proclamation issued by the Chinese consul-general stationed in this city, pursuant to cabled instructions from the foreign office in China in relation to the matter of the present Chinese boycott on American goods, the importance of which lies in the fact that it gives officially the true situation as it exists at present, inasmuch as it is given by the Chinese foreign office, which represents the Chinese Government in China, to the Chinese consul-general in San Francisco, who represents China in this district, and through him to the Chinese people in California, where the majority of the Chinese in America are. The information becomes doubly important, in view of the Associated Press dispatch, which I saw in the daily papers of San Francisco on the 15th instant, reading, "Mr. Rockhill, the American minister at Peking, has cabled the State Department that the Chinese Government is vigorously opposing the threatened boycott of American goods." On almost the same day cabled instructions are sent from the Chinese foreign office to the Chinese consul-general in this city, squarely contradicting the assurances reported in the press dispatch to have been given to Mr. Rockhill.

It is personally most gratifying to me that we at San Francisco are in a position to secure the true inwardness of the present Chinese situation as it is in Peking, as well as on this side of the Pacific.

The following is my translation of the proclamation referred to and of the comments appearing thereon in the *Tai Tung Yat Bo*, otherwise called "The Chinese Free Press," of the 14th instant. The Chinese Free Press is one of four Chinese daily papers published in San Francisco. The proclamation was first on the bulletin boards in Chinatown and afterwards published in the paper mentioned.

[Translation of Chinese consul-general's proclamation issued in pursuance of cabled instructions from the Chinese foreign office.]

"I, Chung, consul-general, stationed at San Francisco, issue this proclamation to make clear the following matter:

"A proclamation cabled by our foreign office has just been received, reading as follows: 'The Chinese exclusion act of the United States is what Chinese merchants at all ports desire to retaliate against by means of a commercial boycott on American goods. The said boycott this department has never at any time prohibited or obstructed. Just at this time, when negotiations are being carried on with the American minister, with the hope of removing the more oppressive laws, a public petition is received from certain Chinese in California, making the misstatement that our department has prohibited our merchants from boycotting American goods, and furthermore making the threat in the words, "A strong man will be employed to kill you," which is, indeed, wildly disloyal. We trust that you will issue a proclamation immediately, setting forth the facts of the situation clearly to the sojourning Chinese, to the end that they may not be influenced by idle rumors, and thus be made to misunderstand us.'

"In pursuance of this I issue this proclamation, conveying the words of the cablegram for the information of all Chinese. We of the Chinese Empire ought all to recognize the fact that the Prince and ministers of the foreign office have at heart the interest of our people sojourning abroad; that they have shown this interest for several years in the matter of the exclusion act, and at this very moment they are carrying on negotiations with the view of removing the more oppressive laws, and they have never at any time prohibited the boycott on American goods. All this they have done for the only purpose of affording protection to the 100,000-odd of our Chinese people sojourning beyond the seas. Now comes along certain ignorant person or persons with a petition sent to the foreign office, containing on the surface elegant phrases, but, as a matter of fact, wildly disloyal language, relying upon the fact of his or their isolated residence beyond the seas, but forgetting the fact that they still have families in China.

"In view of the above, this proclamation is issued for the information of all Chinese, in order that they may be fully acquainted with the beneficent intentions of our foreign office, and that they may not misunderstand the situation through listening to idle rumors, whereby they may be seriously involved.

"Kuanghsü, XXXI year, 6th month, 11th day (July 13, 1905).

"[Seal of consulate.]"

[Translation of extract from Tai Tung Yat Bo, otherwise known as the "Chinese Free Press," of the 14th instant, in relation to the above proclamation.]

"The oppressive features of the exclusion act of the United States all Chinese of any enthusiasm at all can not but vigorously oppose and with might and main seek to retaliate against. At this writing all officials in China are of one mind in encouraging and aiding merchants in the matter of retaliation. We see also by its cablegram that the foreign office is not now hindering and never has hindered merchants in their boycott on American goods. Hence it is clear not only that our officials are not stopping or hindering the boycott, but, on the contrary, are helping it on. From this it is also apparent that the report in the American papers of a few days ago, to the effect that Governor Yuan had issued a proclamation against the boycott is without proper foundation.

"Were it a fact that the governor had become fearful as to himself or that he tried to hinder others, he should wake up, be penitent, and set himself right. It is not known who sent the anonymous petition, but whoever it was, he could only be a mischiefmaker."

I have the honor to inclose herewith the extract from the paper referred to, together with the heading of the paper and the extract referring to the representations reported therein to have been made to Minister Rockhill.

The Chinese in California, quoting one of their own editorials, say, "The Chinese Government has no more power to prevent its merchants from refusing to buy goods from American dealers than the American Government has to oppose its own merchants' preference to deal with traders elsewhere than in China. It is a matter of business entirely, involving the individuals only, and the government has no concern in it," that their government can encourage the boycott, but not prevent it.

Respectfully,

JNO. ENDICOTT GARDNER.

*Minister Rockhill to the Secretary of State.*

No. 39.]

AMERICAN LEGATION,  
Peking, July 26, 1905.

SIR: In further reference to the boycott of American products by the Chinese of Shanghai, I inclose herewith report of a mass meeting held on the 19th instant at Shanghai. The last phrase in this report is significant. I fancy the movement will stop the day the boycotters begin to lose anything by the movement; until then there will be much talking and agitation.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

[Extract from North China Daily News of July 21, 1905.]

*Notes on native affairs—The American boycott.*

Very nearly 1,500 persons attended the mass meeting called on Wednesday afternoon at the Wupên Girls' School, outside the west gate of the native city, to discuss the measures with reference to putting into operation to-day the boycott on everything American as a protest against the proposed new Chinese exclusion treaty, the period of two months having expired yesterday afternoon, the 20th of July. There were also a large number of Chinese ladies, both old and young, present, who followed with intelligent interest the speeches that were made at the meeting. This alone shows that China is indeed awakening when over a hundred ladies attend a mass meeting specially meant as an assembly of the sterner sex. Besides the members of the Chinese Educational Association and older students of twenty-odd schools there were present a large number of delegates from the chambers of commerce and kindred associations of the majority of the treaty ports and from many inland cities and towns who had come to assure the Shanghai committee of their hearty support. There were also present Messrs. Su Pao-sên and Shao Ch'ing-tao, leading members of the executive committee of the Piece Goods Guild; Sze Tse ying, of the executive committee of the Silk Guild; the chief partners of the Old Shun Kee, South Shun Kee, Ching Chan, and other hong's representing the kerosene oil trade; a partner of the Shêng Yü Hong, the leading sundries goods hong in Shanghai; a partner of the Tabacqueria Filipina, and others representing the cigarette trade; a representative of Ko Tze Hong, the leading Chinese iron and metals hong in Shanghai, and representatives from the Native Banks Guild, ginseng trade, hemp sack, flour, sea delicacies, and other trades; also representatives of leading Canton, Fukien, Hankow, and Shantung hong's, and representatives of the local Chinese Chamber of Commerce and Commercial Schools Association, and others too numerous to mention, making a total present at the meeting of over 1,450 men. There were quite a number of eloquent and patriotic speeches made, in which the speakers exhorted every one present to maintain a firm front to show to the world that in this instance, at any rate, there is a united China. "For," said one gentleman (Taot'ai Ma), "some Americans have sneered at us, saying that there is nothing to fear because we Chinese never can unite. Even the previous United States minister in a recent speech made the same sneering allusion. We will show by precept and example how fallacious an idea this is on the part of such Americans." Other speakers showed how little Japan by her unity and determination had beaten her huge opponent Russia, showing the world what Asiatics are able to do when thoroughly aroused. Can not China easily do the same? Can not China by a united front and firm determination obtain her desire, also, by the repeal of the Chinese exclusion treaty? At this stage of the proceedings the members of the Piece Goods Guild came forward and swore that beginning from the 20th of July they had decided not to buy any more American piece and other goods until the purpose in view of the nation had been properly obtained. The meeting was then asked for a show of hands that beginning from the next day no one present would purchase or contract for any more goods of American manufacture. Everyone present raised his or her hand. The meeting then separated. It may be stated that a discussion ensued near the end of the meeting as to what should be done with regard to such American goods as are still in the hands of merchants and traders here. It was unanimously declared that everyone present would do his best to assist by every means in his power to get rid of their goods, so that no one need lose by the boycott.

*The Acting Secretary of State to Minister Rockhill.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, August 5, 1905.*

(Mr. Adee instructs Mr. Rockhill to notify the Chinese Government that under the provisions of article 15 of the treaty of 1858 it will be held responsible for any loss sustained by the American trade on account of any failure on the part of China to stop the present organized movement against the United States.)

*Minister Rockhill to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, August 12, 1905.*

(Mr. Rockhill reports that he has complied with the instructions contained in Department's telegram of the 5th instant and that he has formally notified the Chinese Government of its responsibility.)

*The Acting Secretary of State to Minister Rockhill.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, August 12, 1905.*

(Mr. Loomis informs Mr. Rockhill that the protests against the boycott filed in the Department are increasing and are becoming more emphatic. Instructs him to make a thorough investigation of the situation personally and through our consuls, and to take as strong action as is deemed necessary.)

*Minister Rockhill to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, August 15, 1905.*

(Mr. Rockhill reports that Shanghai and Canton are the only cities which are seriously affected by the boycott; that in all other places conditions are normal.)

*Minister Rockhill to the Secretary of State.*

No. 60.]

AMERICAN LEGATION,  
*Peking, August 17, 1905.*

SIR: In further confirmation of my cable dispatch of the 12th instant, informing you that I had, under the authority given me by the Department, informed the Chinese Government that the United States would hold it directly responsible for all losses our trade or other

interests may have incurred or may hereafter incur on account of its failure to protect us in the rights guaranteed us under Article XV of our treaty of 1858. I inclose herewith copy of the note addressed to Prince Ch'ing.

I also informed our consuls-general at Shanghai, Canton, and Chefoo of what I had done, and authorized them to use this information as they deemed necessary and expedient.

Under date of the 14th instant I again addressed a note to Prince Ch'ing, demanding that the prime mover in the boycott, a man by the name of Tseng Shao-ching, president of the Fu-Kien Merchants' Guild of Shanghai, and holding the rank of prefect (taot'ai), be deprived of his rank and otherwise punished.

On the same date I also addressed a letter to the foreign office, declining to further discuss a tentative draft of treaty for regulating the coming of Chinese to the United States, to be submitted to you, until the present campaign of intimidation was completely put an end to.

I have not at this date received replies to any of the above communications, but will probably within the next few days.

Our consul-general at Shanghai tells me he has informed the public of my note of the 14th instant to the foreign office, and that it had produced an excellent effect. I inclose a Shanghai editorial on this matter, also one from Chefoo, showing that it has also been well received there.

I beg that the Department will not attach importance to the statements being made in the ports and in the United States press that the Japanese Government has had anything to do with encouraging the present anti-American movement. The conduct of the Japanese Government has been not only friendly throughout, but their foreign office has done all in its power to arrest the movement and control the Japanese controlled papers published in China.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
Peking, August 7, 1905.

YOUR HIGHNESS: I had the honor in interviews with you in the last two months of drawing your earnest attention to the very serious nature of the movement then being openly organized in Shanghai, Canton, and other large cities of China to interfere with, and, if possible, completely impede American trade as a means of intimidating the United States Government, which is seeking to meet with your wishes for a new treaty regulating the coming of Chinese into the United States and for forcing upon us a repeal of our laws concerning the exclusion of Chinese laborers.

In several communications which I addressed to you I also insisted on the danger which might result from failure on the part of the Imperial Government to arrest the movement, which, if carried into effect, would greatly disturb and possibly cause serious loss to trade, breed a spirit of enmity between the peoples of our respective countries, and perhaps even result in acts of violence.

In conversations with His Excellency Na-tung I have also on several occasions dwelt on the growing gravity of the situation in Shanghai, Canton, and Amoy, and urged on him, as I had on you, that the Imperial Government should take prompt and radical measures for putting an end to the ever-increasing menace to our trade and the perfect cordiality and friendliness which characterized our relations so markedly.

I was answered by your note of July 1 that the high provincial authorities had been urged by you to use their influence with the people to dissuade them from the contemplated organized interference with our trade, but you also stated therein, much to my astonishment:

"My board finds upon investigation that this movement has not been inaugurated without some reason, for the restrictions against the Chinese entering America are too strong, and American exclusion laws are extremely inconvenient to the Chinese. The Coolie immigration treaty has been abrogated, but, though the treaty is null and void, the exclusion restrictions are still in force. The great inconvenience suffered by Chinese merchants has thus led to this movement, but if the restrictions can be lightened by your government and a treaty drawn up in a friendly manner then this agitation will of its own accord die out."

I was constrained to conclude from this passage that the movement had a certain amount of sympathy from your highness's government. It is also to be presumed that the orders you informed me had been given out to the provincial authorities in this manner were not of such an emphatic nature as the gravity of the situation required, for the movement went on openly under the guidance and active participation of high officials, and the organization, with the help of threats of violence against the lukewarm and by the use of other methods of pressure, developed rapidly and has now been put in force, especially at Shanghai, Canton, and Amoy.

Recently, on the 24th of July, in an interview with His Excellency Na-tung, when calling his attention to an outrage committed on the premises of our consulate at Amoy on the 18th of July (the day on which the boycott against American trade was put in operation at Shanghai and Amoy), I urged in the most pressing manner that proclamations should be issued in all localities which had taken up or might later take up this movement to effectively put a stop to it. He promised to confer with you and to urge the adoption of this course; but I have heard nothing from the Waiwu Pu on the matter, neither have I learned that proclamations or any general measures had been taken, either by the Imperial Government or the provincial authorities, adequate to arrest the trouble in time. I must except, however, the Province of Chihli, where measures adopted by the provincial high authorities appear to have arrested it before it could be put in force.

Your highness must be perfectly aware that the prime movers in the agitation are men holding high official positions. I need only cite among them Taot'ai Tseng, the president of the Chamber of Commerce of Shanghai, who has given much time and money to strengthen and develop the movement and has done probably more than any other individual to intensify the feeling of hostility toward my government and people by his false and malicious statements in his eagerness to bring about the boycott. Other officials could be named who, in Shanghai and elsewhere, have taken active part in this campaign of slander and falsehood, but it seems needless at this time to do so. I only refer to the active participation of officials in the movement to show how easy it would have been for the central government to have had stringent orders for the suppression of the movement carried out, if it had been earnestly desirous of doing so.

The President of the United States, justly surprised at the extraordinary supineness the Imperial Government has shown in this matter, which agrees so little with the friendliness he thought he had reason to expect of it, directs me to inform your highness that the Government of the United States will hold it directly responsible for any loss our interests have sustained or may hereafter have to bear through the manifest failure on the part of the Imperial Government to stop the present organized movement against us, which the President considers is allowed to continue in open violation of the rights guaranteed to us by China in Article XV of our treaty of 1858.

I trust that your highness will favor me with an early reply which I may transmit to the President.

I avail, etc.,

W. W. ROCKHILL.

[Inclosure 2.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
Peking, August 14, 1905.

YOUR IMPERIAL HIGHNESS: In the note which I had the honor to send to your highness on the 7th instant in reference to the agitation now being carried on in many cities of the Empire against the Government of the United States and the commercial and other interests of our people, I took occasion to draw your attention to the active operation of persons holding official rank in the movement.

While I have not yet completed the list of officials who have shown pernicious activity in the movement, which list I shall have the honor in due course of submitting to your highness, I have again to bring to your attention the particularly violent and open hostility against American interests of the head of the Fu-Kien Merchants' Guild in Shanghai, a man by the name of Tseng Shao-ching, holding the rank of taot'ai. This person, as I stated in my former note of the 7th instant, is one of the prime movers in this unlawful movement, and I have

therefore to demand that he be at once deprived of his official rank as a proof of the displeasure his conduct has given the Imperial Government in his attack against a friendly government, and otherwise punished as your government may deem the gravity of his offense justifies, and my government is willing to accept as partial reparation therefor.

I avail, etc.,

W. W. ROCKHILL.

[Inclosure 3.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, August 14, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your note of August 7 with regard to the new treaty of immigration. In reply I have the honor to state that in view of the present agitation being carried on in Shanghai and elsewhere against the Government and people of the United States for the purpose of influencing the negotiations to which your note refers, I have been directed by my government to cease any further discussion of the matter. When the Imperial Government has taken such action as is necessary to effectually stop the present unlawful attempt to interfere with our treaty rights my government will consider whether the negotiations can be resumed.

I avail, etc.,

W. W. ROCKHILL.

[Inclosure 4.]

[North China Daily News, August 12.]

*President Roosevelt and the boycott.*

The boycott has extended so far beyond the ideas of its original promoters, has become so irresponsible, and is calculated to be so damaging, not only to Americans, but to all foreigners in China and their trade and prosperity, that the United States Government at any rate has determined to take a firm stand, and Mr. Rockhill, the American minister at Peking, has been directed by President Roosevelt to notify the Chinese Government that that government will be held directly responsible for the full observance of Article XV of the United States treaty of Tientsin, 1858: "At each of the ports open to commerce, citizens of the United States shall be permitted to import from abroad and sell, purchase, and export all merchandise of which the importation is not prohibited by the laws of the Empire."

The United States Government holds that the boycott, by its interference with trade, is a breach of this article and proposes to hold the Chinese Government responsible for that breach. It is to be hoped that the government will act promptly, for it is impossible to say how widely and deeply the boycott will extend if it is not stopped. Antiforeign proclamations are already appearing at the river ports full of lying charges and misstatements, and we know by experience how small a pretext will start the predatory classes in China into action. There is besides the certainty of a very serious financial crisis here if the boycott is not stopped in which natives will suffer at least as much as foreigners.

In his recent instructions as to the carrying out of the Chinese-exclusion act President Roosevelt has done everything possible to satisfy the complaints of the Chinese, and it is now the duty of the latter to wait and see the text of the new treaty. The Chinese Government, blind as it is, must be able, surely, to realize the danger of antagonizing the United States, as well as all other powers that participate in the foreign trade of China.

A scrutiny of the dates in the Wuhu proclamation published yesterday in these columns is decidedly interesting and suggestive. The proclamation was issued on the 30th ultimo, and its writer says that he received his dispatch from the governor on which it is founded on the 13th ultimo, so that it took him seventeen days to make up his mind to issue the proclamation. But the more important question is: Was or was not a similar dispatch sent to the taot'ai here nearly a month ago? And if it was sent why has the taot'ai done nothing to discourage the boycott? It will have to be discouraged now, and none will be better pleased at its total suppression than the Chinese merchants in Shanghai, who, like Frankenstein, have created a monster which has got beyond their control.



[Inclosure 5.]

[Chefoo Daily News, August 13, 1905.]

Chinese merchants in Chefoo have acted wisely in moving slowly in the boycott of American products. The wisdom of their action lies in the probability that they have avoided serious difficulty with a powerful nation. Mr. Fowler, American consul-general, yesterday notified the taot'ai that by direction of the President of the United States the American minister has notified the Chinese foreign office that the Government of the United States will hold it directly responsible for any loss which United States trade may have sustained or may hereafter be subjected to by any failure on its part to protect American trade in the full enjoyment of the rights and privileges guaranteed the United States under the provisions of Article XV of the treaty of 1858 between the United States and China. Mr. Fowler has also notified the taot'ai of this, so that it will be on record.

Thus is the position of the United States with reference to the attempted boycott fully defined by President Roosevelt. There can be no mistaking the words of the President's message. He is turning on the screws and dealing with the silly movement in exactly the way it should be dealt with.

The article of the treaty mentioned is as follows:

"At each of the ports open to commerce citizens of the United States shall be permitted to import from abroad and sell, purchase, and export all merchandise of which the importation or exportation is not prohibited by the laws of the Empire. The tariff of duties to be paid by citizens of the United States on the export and import of goods from and into China shall be the same as was agreed upon at the treaty of Wanghi, except so far as it may be modified by treaties with other nations, it being expressly agreed that citizens of the United States shall never pay higher duties than those paid by the most favored nation."

The boycott never assumed tangible proportions in Chefoo. Many of the merchants here had great pressure brought to bear upon them in an effort to induce them to join the movement, but they acted wisely and waited. According to their own statements they were bolstered up in their position, which has been somewhat wavering up to date, by the determined stand of the American consul-general here, who frankly told them two weeks ago that if they joined the movement they would have more to answer for to the United States authorities than to the boycott agitators if they did not listen to the latter. They will now be able to see wherein they acted the better part unless, perchance, they choose to defy the military and naval power of the American Republic. Casting aside the latter possibility, the boycott in Chefoo and vicinity is dead and in its coffin.

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*Minister Rockhill to the Secretary of State.*

No. 61.]

AMERICAN LEGATION,  
*Peking, August 17, 1905.*

SIR: In further reference to my telegram of the 15th instant, reporting on the general situation in China resulting from the boycott of American trade, as directed by you, I have the honor to state as complementary thereto that my report was based on the reports received nearly daily from our consular officers. I need not, I think, detail the latest reports to you, as I am advised by our consuls that they are regularly reporting to the Department on conditions in their districts. Briefly stated, my reports show that at Niuchwang, Tientsin, Chinkiang, Hankow, Hangchow, Fuchau, and Nanking nothing has occurred of a nature to disturb trade or cause undue apprehension.

At Chefoo the boycott has caused some agitation, but nothing at all serious has occurred. The same may be said of Amoy, though the agitation there has, it would seem, been more serious.

At Canton, as was to be feared, the agitation has been great, and the boycott carried out to a certain extent, but it has not the full and hearty support of the mercantile classes.

\* \* \* \* \*

The situation is only serious at Shanghai. Our consul-general reported to me that while American trade was suffering heavily, and

it was feared that it would take it a long time to regain the ground lost during the boycott, he saw signs that the Chinese were weakening as the possible direct losses to them became more apparent. The leader of the movement, Tseng Shao-ching, was chiefly depending for keeping up the agitation on the students, the most violent of whom are those who have studied abroad and in whose hands the movement is becoming an antforeign one. Tseng has no longer the influence he appears to have had with the merchants, as it was against the latter's wishes that the recent decision was reached to cancel contracts for all classes of American goods. Great anxiety is felt on account of this last move, which may bring bankruptcy to many Chinese and large losses to the American and other foreign firms dealing in American goods.

This apprehension has grown so great that the foreign chamber of commerce got the consular body at Shanghai to telegraph on the 11th instant to the dean of the diplomatic corps to take action to "stop the action of the agitators and to pacify popular opinion. \* \* \* " The diplomatic corps seems not disposed to act on this telegraphic request, but to await full reports by the respective consuls on the situation.

The viceroy at Nanking appears to be waking up to the gravity of the situation and has promised to take action. The viceroy at Fuchau has also shown in the Amoy affair a willingness to take strong steps to arrest the agitation. The viceroy at Canton has not so far done much to put a stop to the movement, but, judging from the little headway the boycott would seem to be making there I hope the situation will not grow more serious.

The inclosed translation of the proclamation recently issued at Wuhu shows probably the nature and scope of the instructions sent out by the foreign office here at my request. If I am correct in this belief the instructions were, as I surmised, inadequate to meet the situation, but it will slowly awaken to the proper comprehension of its duties.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure.]

[From the North China Daily News, August 11, 1905.]

*Notes of native affairs.—The American boycott.*

We have received a copy of the following proclamation from Wuhu, which we translate, the contents of which will explain themselves. We hope our Chinese fellow-residents will carefully weigh the matter, and now that they have gained the desired attention to their wants on the part of the American Government, press, and people, they should follow the advice of the Waiwu Pu, as stated in this proclamation—namely, quietly and patiently await the result of that board's deliberations before proceeding further with a movement that has become so injurious to all concerned.

"PROCLAMATION.

"Ch'iao, wearing the brevet second-grade red button, and expectant taot'ai of Anhui Province and chief commissioner of the Wuhu bureau of commerce, issues the following proclamation for the information of all concerned:

"On the 13th of July I received a dispatch from his excellency the governor, stating that the Waiwu Pu, having received telegrams from Chinese merchants of various ports stating that they had inaugurated a boycott on American goods as a means of protesting against the unjust clauses of the new exclusion treaty and requesting the Waiwu Pu not to sign the new treaty as it stood, the said Waiwu Pu had replied that the draft of the new treaty had been drawn up by Minister Liang-Cheng in Washington, who sent a draft to the American foreign office, but that it had not yet been settled upon. Furthermore, United

States Minister Rockhill, who had arrived in Peking, had in a conference with the Waiwu Pu regarding the new treaty spoken in a friendly and affable manner, nor was there any indication of coercing our government to sign the draft of the new treaty as it stood. Moreover, the said United States minister had signified his willingness to telegraph to his government to change for the better any of the objectionable clauses in the proposed new treaty. It is, however, feared that the Chinese merchants in question may have acted in a moment of impulse, although it is recognized that the step they have taken in unanimously proposing the boycotting of American goods and manufactures either through the columns of the press or by expresses was inspired by just anger at the treatment of their fellow-countrymen entering the United States. There is cause for apprehension, however, that evil characters may take the opportunity to create disturbances and influence the ignorant masses to break the peace. In view of this, therefore, the Waiwu Pu states that it is most important that steps be taken to exhort everyone to be patient and quietly await the result of the said board's deliberations on the subject. His excellency the governor, having sent a reply by telegram to the Waiwu Pu, now instructs the bureau of commerce to issue this proclamation to inform all concerned that as the new treaty is still being deliberated upon by the Waiwu Pu and that nothing definite has as yet been decided, all gentry, merchants, and literati are exhorted to wait patiently for the instructions of the Waiwu Pu and cast away all doubts and suspicions, and they are also further asked to exhort the laboring classes and common people among them to await the result of the deliberations of the Waiwu Pu in the same manner and refrain from listening to the evil influences of the rowdy element, and thereby avoid creating disturbances which will only end to their own detriment. Let all respectfully obey.

An important proclamation.

Kuanghsü, XXXI year, 28th day, 6th moon (July 30, 1905).

*Minister Rockhill to the Secretary of State.*

No. 62.]

AMERICAN LEGATION,  
Peking, August 18, 1905.

SIR: In continuation of my previous dispatches I have the honor to inform you that yesterday afternoon His Excellency Chü Hung-chi, member of the grand council and senior minister in the foreign office, (Waiwu Pu), called on me to discuss my recent dispatch (see my No. 60 of the 17th instant) and in reference to China's failure to suppress the boycott which I had insisted was a conspiracy in restraint of our trade carried on under official guidance and with the sympathy of the central government.

He assured me that the foreign office and the board of commerce had on the 16th instant telegraphed to the provincial authorities to stop the boycott, and that additional telegrams were sent the following day after receipt of my note. The Prince Ch'ing and the grand council were most anxious that this agitation should be at once stopped. Proclamations by imperial order would be shortly put forth, but they feared to do so at once as it might lead to trouble. A little time must be allowed before this final step could be taken.

His excellency said that the government now fully realized the gravity of the movement, and that it was greatly disturbed that we could think it was supported in anyway by governmental sympathy, for the Chinese Government was solely animated by the strongest feelings of friendship and gratitude to the United States.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

*Minister Rockhill to the Secretary of State.*

No. 70.]

AMERICAN LEGATION,  
*Peking, August 24, 1905.*

SIR: In further reference to the subject of the present boycott, I inclose herewith an editorial from the North China Daily News, of Shanghai, a British paper, which expresses very closely, and much better than I could hope to do, the views of the best foreign element in China on the danger of this movement, which up to a certain point had the sympathy of many Americans, as well as persons of other nationalities.

I am, etc.,

W. W. ROCKHILL.

[Inclosure.]

[Extract from North China Daily News, August 17, 1905.]

*The boycott.*

We asked the other day whether the Chinese merchants here did not think the boycott had gone far enough. Their answer practically is that it has gone not only far enough but a great deal too far, for it has got beyond their control altogether, the reins having been taken up by a crowd of irresponsible students and talkers, who are full of patriotism because they have nothing to lose but their heads, which in a sense they have lost already. The boycott has spread so dangerously in the country, urged on by inflammatory posters and pictures and pamphlets in which Americans are reviled almost in the fashion of Chou Han, and terrible stories are told of the cruelties practised on Chinese immigrants at American ports and other places, that we understand that unquestionably English goods are now being returned from the country as unsaleable, because they were imported here by a firm supposed to be American. We are glad to know that the Waiwu Pu has telegraphed orders to his excellency Chou Fu, the viceroy at Nanking, to use every effort to suppress the boycott in his jurisdiction. The diplomatic body generally has taken up the question, and when our taot'ai returns he will be asked to explain why it is he has not ordered the issue here of the anti-boycott proclamation similar to that issued at Wuhu, which the magistrates at Sungkiang, which is within his honor Yuan's taot'aiship, have put forth there. We understand that the Chinese merchants here have asked the general chamber of commerce to assist them in undoing the work they so imprudently inaugurated, but the movement has become so general now that the central government, through the provincial authorities, must put it down. Peking must be made to realize the gravity of the movement, which from being anti-American is becoming antiforeign and antidynastic. His excellency Yuan Shih-k'ai has suppressed it so thoroughly in his jurisdiction that the Chinese merchants at Tientsin are now ordering from America direct goods which would otherwise have been imported from Shanghai, and the Japanese administration at Niuchwang will have none of the boycott on any account. Our taot'ai when he comes back must be made to understand that unless he suppresses the boycott here it will infallibly bring on the most serious financial crisis that Shanghai has experienced, with heavy losses to foreign, and losses that will mean ruin to native, merchants and bankers. A very heavy responsibility rests on Viceroy Chou Fu. What Yuan Shih-k'ai has done he can do, and he is expected to do it promptly, every day's delay increasing the danger. Two thoughtful letters on the boycott will be found in our columns to-day, both written by American citizens. Mr. Grafton repeats what we have said more than once, that the threat of the boycott was effective, as the American papers show, in making the Americans realize the injustice that has been done for years by "asinine immigrant inspectors;" but as soon as President Roosevelt and the American people understood how the provisions of the exclusion act were being abused by the inspectors, strict injunctions were issued to these inspectors to change their attitude altogether. If the former treatment of the exempt immigrants justified the threat of the boycott, the present position does not justify for a minute the dangerous antiforeign complexion that the boycott has now assumed, as we are sure Mr. Grafton himself would now concede.

The letter signed "Onlooker" gives a very forcible yet temperate presentation of the other side of the question. That there has been a great deal of fraud in the past on the part of the Chinese is undoubted, but there is unfortunately reason to believe that in many cases these frauds were connived at by American officials on this side of the Pacific. It is important, too, for the Chinese who are now raging against their best friends, the Americans, to remember that, as "Onlooker" points out, "while the charges of harsh, humiliating, and discrimi-

nating treatment of the Chinese in entering the United States are, in many cases, well founded, the Chinese have as much liberty in the country, after they once pass the custom-house as they would have in any other country in the world—much more than they enjoy in their own country." "Onlooker" goes on to remind the Chinese—and it ought not to be necessary to remind them—of what the Americans, as a people and as individuals, have done for their elevation. An enormous stream of American money, freely sent without any idea of putting the Chinese under an obligation, pours steadily into China for the maintenance of schools, hospitals, and other charitable objects. Not only is this very boycott in its methods the fruit of American teaching, but many of its hotheaded promoters and supporters have received their education in American schools, and are now biting the hand that fed them. "I will not dwell," says our correspondent, "on the American Government's stand for the preservation of China's integrity while most of the world was planning the partition of the Empire, nor on the many other acts of constant friendship—contemplated return of Boxer indemnity, for instance—that the great Republic has shown to this country." Indeed, as we have said already, no foreign power has been a better friend to China in the past than the United States has been, and that hundreds, or rather thousands, of Americans in China are showing themselves everyday.

The boycott in the form it has now assumed is a phenomenon of madness that must be crushed by the power of the government, whose sincerity will necessarily be judged by the result of its efforts to crush it; and it must be crushed promptly, or injury will be done which it will take months or even years to repair.

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*Minister Rockhill to the Secretary of State.*

[Telegram.—Pharaphrase.]

AMERICAN LEGATION,  
Peking, August 26, 1905.

(Mr. Rockhill reports that the foreign office has informed him that the Chinese Government assumes no responsibility for the boycott; that the movement was started by the traders; and that it has taken action as a proof of friendship. The local authorities have again been instructed by telegraph to publish proclamations, to urge the people to attend to their own private affairs, and if any disturbances occur to stop them.)

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*Minister Rockhill to the Secretary of State.*

No. 76.]

AMERICAN LEGATION,  
Peking, August 26, 1905.

SIR: In further confirmation of my cable dispatch to the Department of this date in reference to the present situation as affected by the boycott, I would say that my reply is based on my most recent reports from our consular officers.

Under date of August 18 Consul-General Rodgers writes me from Shanghai that the taot'ai of Shanghai had that day informed him that he would take immediate steps to end the agitation by laying strong injunctions upon all classes and suppressing literature, etc. Mr. Rodgers adds:

I think I am justified in thinking that the agitation is gradually subsiding, since there is less talk and more disposition to use American goods.

Consul-General Lay, under date of August 12, writes me:

The viceroy has issued a proclamation at last. It is good as far as it goes, but I don't believe it will completely wipe out the boycott agitation. \* \* \* He considers it best to at first appeal to the "boycotters," and if they continue to boycott he may issue orders later to suppress it. \* \* \* I think the agitation will die in time. The movement can only affect our trade here to a small extent.

From Nanking, under date of August 16, the vice-consul in charge sends me a dispatch from the viceroy (in whose jurisdiction Shanghai lies), stating that he has given instructions to all the customs taot'ais under his jurisdiction to enjoin the merchants and people through the heads of their guilds to cease posting placards, uttering unfriendly remarks, holding mass meetings, distributing tracts, etc.

None of our consuls at ports other than those mentioned above have reported anything of a particularly disquieting nature within the last fortnight. Mr. Fowler, our consul-general at Chefoo, having informed me that the native staffs of the maritime customs, post-office, and telegraph had issued strongly-worded boycott circulars—that this attempt to extend the boycott had originated with the staff of the service at Shanghai—I called the matter to the attention of the foreign office and the inspector-general of customs and post-offices. To-day I am informed by the office of the latter that strongly-worded circulars of disapproval have been issued and the commissioners of customs directed to strictly prohibit any similar actions of the Chinese staff.

The agitation having been taken up at Tsing-tao (Kiao Chou), I requested the German minister to take such action as he felt at liberty to arrest it. He informed me yesterday that he had asked the governor of Kiao Chou to suppress it in every shape and form.

At Niuchwang the Japanese authorities have sometime since taken measures to prevent its spreading in that locality.

In Hongkong the colonial authorities have, it is reported, broken up public meetings held for boycott purposes.

The most important step yet taken to break the boycott was that of the Shanghai piece-goods dealers, who on the 22d instant telegraphed to Viceroy Yuan at Tientsin requesting him to take steps to prevent the spreading of the agitation to his province and to encourage the free circulation of trade. By this means they could dispose of their large stock of American piece goods on hand, as well as those which they had contracted for in America.

The viceroy promptly took the action requested, "gave orders to all officials under his jurisdiction that trade be carried on as usual," and ordered the taot'ai of Tientsin to notify the public to the same effect. I inclose herewith a copy of the proclamation issued by the latter official. Similar ones have been posted throughout the province.

I think that I am not going too far in thinking that this step practically breaks the boycott so far as our piece-goods trade is concerned. Consignments of piece goods for Shanghai will hereafter be shipped direct to Tientsin instead of being, as they are under usual conditions, forwarded there from Shanghai as a distributing point.

From previous dispatches, both from this legation and from the consul-general at Shanghai, the Department will have learnt that the agitation is now being carried on not by the merchant classes, but by irresponsible persons, mostly of the student class, under the lead of a few Chinese merchants and very likely by a few foreigners.

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I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

[Peking and Tientsin Times, August 25, 1905.]

*Important proclamation by the Tientsin prefect.*

Proclamation is hereby issued to notify the public that on the 22d, seventh moon (August 22), I, the prefect, received instructions from Viceroy Yuan to the effect that the Shanghai piece-goods dealers had telegraphed him, stating:

"On account of the boycott movement at Shanghai it was agreed not to order any goods from America. But the movement of not buying American goods has been much discussed in this and other ports, so that the merchants in the interior have not dared to order any goods from us. All the goods in stock can not therefore be disposed of. We have ordered many goods from America through the American merchants, and we are responsible for them on arrival. If we take delivery of these goods, the trade in the south being already stopped, we can not sell them.

"In addition we have already large stocks in hand. Several tens of millions of taels of goods will be on our hands, and no money can circulate. There will be great danger of our being ruined, and the whole Shanghai market will be upset. We are greatly alarmed at this prospect. In the northern provinces there is a better chance, but we have ascertained that some students have gone north to try and stir up an agitation there. If they succeed, the danger to trade will be much increased. We understand that your excellency sympathizes with the difficulty of the merchants in every way, and the Tientsin market is very quiet. We are grateful to you for that. But in Manchuria, Shantung, and other parts of the north there may be agitators at work in regard to this movement. We beg you, therefore, to give orders to all the officials in your jurisdiction to stop the movement and to encourage the free circulation of trade, in order that the merchants in the south may be relieved. We earnestly await your attention to this."

The viceroy on receipt of the petition gave orders to all officials under his jurisdiction that trade be carried on as usual. In addition he ordered me, the prefect, to notify all the people that they must carry on the trade as usual.

I, the prefect, on receiving the instructions, do hereby notify the public that the merchants of Tientsin must not injure the trade by being misled by this boycott movement. The chamber of commerce has been also notified to this effect and directed to use its influence with the people, which it has done by the issue of public notice. The trade here, therefore, is quiet at present, and the market is increasingly prosperous. But having received the above instructions, I am in duty bound to issue this and exhort you to continue as you are. Let the condition of the Shanghai market be a warning to you, and you must on no account follow the same example and ruin the trade of this post.

LING FU-PENG, *Prefect.**Minister Rockhill to the Secretary of State.*

No. 77.]

AMERICAN LEGATION,  
*Peking, August 29, 1905.*

SIR: I have the honor to inclose herewith a translation of a note which I received on the 26th instant from Prince Ch'ing regarding the attitude of the Chinese Government in re its responsibility for the boycott in reply to three notes which I had addressed to him on the 7th and 14th instants, copies of which I sent you in my dispatch No. 60, of the 17th instant.

I also inclose copy of the note which I sent Prince Ch'ing under date of the 27th instant in reply to his.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Prince Ch'ing to Minister Rockhill.*

I have the honor to acknowledge the receipt of your excellency's two dispatches of the 7th and 14th instant, in which you call attention to the movement being openly organized in Shanghai, Canton, and other cities in China, to interfere with American trade. Your excellency stated in these dispatches that the United States Government will hold China directly

responsible for any losses to American interests; that you were obliged to demand that one Tseng Shao-Ch'ing, a member of a Shanghai commercial guild, be deprived of his rank and otherwise punished; that as to the new treaty of immigration, when the Chinese Government shall have put an end to the boycott, negotiations in regard to said treaty may be resumed.

In reply I have the honor to state that this idea of a boycott of American goods came directly from the trades people. It did not come from the Chinese Government by any means, and the Chinese Government certainly can not assume the responsibility.

As to Tseng Shao-Ch'ing, he is merely a member of a commercial guild, and we can not enlarge upon his offense and deal severely with him for fear of exciting still more trouble and disorder. But the mutual friendship of our two governments is very sincere; we have never had any disagreements at all. So China considers this a very important matter, and at the very first orders were sent out to crush the movement on account of the great friendship of our two countries. Then when the dispatches were received from your excellency containing instructions from your government, I, the prince, and my ministers again sent telegraphic instructions in the matter to the superintendent of trade for the south and the viceroys of the Min Cho and Liang Kwang provinces, directing them to issue proclamations explaining the matter to the trades people; also to order the local official to consult with the especially enlightened and upright gentry, and by explanations exhort the people to carry on their businesses in the usual manner, everybody quietly attending to his own affairs; if any more wild rumors were spread around, relying upon which people raised any disturbance, then it would be their duty to make careful investigation immediately and take measures to put a stop to the trouble; this is all a matter of record.

It is my opinion that the reason of all this boycott affair lies in the coolie immigration treaty. My board has already exhorted all merchants to carry on their business as of old and ordered that the matter be thoroughly inquired into and stopped. So the result must be that the people will not continue to tread in their former paths. If we can at an early date take up the friendly discussion of the treaty and decide upon the changes therein the Chinese will not have any grievance with regard to harsh treatment and everybody will be pleased and glad to submit. American commercial interests in China will increase daily, and all this is just what our two countries hope for.

It becomes my duty to send this dispatch to your excellency with the request that you transmit the information contained therein to the Department of State.

A necessary dispatch.

Kwanghsü, XXXI year, 7th moon, 26th day (August 26, 1905).

[SEAL.]

[Inclosure 2.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, August 27, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your highness's reply to my three notes of the 7th and 14th instant in reference to the attempt now being made in Shanghai and other cities of China to restrain our commerce in those places and throughout the Empire generally.

In reply I would say that your highness misunderstands me if he thinks I charged the Imperial Government with having started the movement. I did say, however, that the movement was encouraged by persons having official rank, and that, to judge by the words of your highness in your note to me of the 1st of July, I was constrained to believe it had a certain amount of your sympathy.

My government is emphatically of opinion, however, that it has been and still is the duty of the Imperial Government to completely put a stop to this movement, which is carried on in open violation of solemn treaty provisions and of the laws of China, and is an unwarranted attempt of the ignorant people to assume the functions of government and to meddle with international relations.

This agitation has been carried on and strengthened by grossest falsehoods against the Government and the people of the United States, and to the great detriment and danger of Americans residing in China whom the Imperial Government is bound by treaty to "defend from insult or injury of any sort."

I have had on numerous occasions to explain to your board that the Government of the United States was most desirous to meet, so far as the general interests of our country permitted, the wishes of the Imperial Government concerning the coming of Chinese subjects to the United States other than those of the laboring classes. So far as this can be done without the action of the Congress of the United States the government has already done it, as your excellency is aware, by the copy of the President's order of June 24 last, which I had the



honor to informally communicate to you a month ago at least and a copy of which was given the Chinese minister at Washington for the information of your government. Can anything be clearer than the President's words in this order?

"Under the laws of the United States and in accordance with the spirit of the treaties negotiated between the United States and China all Chinese of the coolie or laboring class—that is, all Chinese laborers skilled or unskilled—are absolutely prohibited from coming to the United States; but the purpose of the Government of the United States is to show the widest and heartiest courtesy toward all merchants, teachers, students, and travelers who may come to the United States, as well as toward all Chinese officials or representatives in any capacity of the Chinese Government. All individuals of these classes are allowed to come and go of their own free will and accord and are to be given all the rights, privileges, immunities, and exemptions accorded the citizens and subjects of the most favored nation.

"The President has issued special instructions through the Secretary of Commerce and Labor that while laborers must be strictly excluded, the laws must be enforced without harshness, and that all unnecessary inconvenience and annoyance toward those persons entitled to enter the United States must be scrupulously avoided. The officials of the Immigration Department have been informed that no harshness in the administration of the law will for a moment be tolerated and that any discourtesy shown to Chinese persons by any official of the government will be cause for immediate dismissal from the service.

"Unfortunately in the past it has been found that officials of the Chinese Government have recklessly issued thousands of such certificates which were not true, and recklessness has also been shown in the past by representatives of the American consular service in viséing these certificates. The purpose of the government is to make these viséed certificates of such real value that it is safe to accept them here in the United States. This will result in doing away with most of the causes of complaint that have arisen. The Chinese student, merchant, or traveler will thereby secure before leaving China a certificate which will guarantee him against any improper treatment."

The action of the President of the United States is in all matters limited by the laws and statutes, as your highness knows. Pending further action of Congress the President can not take any step beyond that which he took when he issued these orders, which show his spirit of justice and of friendliness to China and his determination that "the widest and heartiest courtesy be shown your people."

But notwithstanding this your government has allowed the agitation to continue to the great pecuniary loss of your own people, as well as mine. Why have you not told them that the Government of the United States has already taken such steps as it was able to take at the present time and that your government, trusting in the justice of the President, of the Government, and of the people of the United States, commanded the people to stop their insulting agitation and to await the further action which the two governments may find it possible to take to remove all causes of misunderstanding between the two peoples. This would have shown real friendship and a proper appreciation of the President's action and clearly expressed wishes. It would not have been necessary for the President to tell your government through me of his astonishment and dissatisfaction at the inadequate means it had until now taken to end this hostility to us, nor would he have had to doubt the friendliness of China toward us.

As to the punishment of the ringleader of the agitation, Tseng Shao-ching, I note your highness's remark that you can not deprive him of his official rank and punish him as his offense merits "for fear of exciting still more trouble and disorder." This recognition of his guilt by your highness is still further reason for me to insist with your highness that he should unquestionably be punished not only for his own offense, but as a clear indication of the displeasure which his conduct has given the Imperial Government, and a government with which you wish to keep the closest relation of friendship.

I avail, etc.,

W.W. ROCKHILL.

*Minister Rockhill to the Secretary of State.*

No. 79.]

AMERICAN LEGATION,  
Peking, September 1, 1905.

SIR: In continuation of my dispatch No. 77 of the 29th ultimo, I inclose herewith a translation of an imperial edict published yesterday, condemning boycotting of American goods and enjoining on the viceroys and governors the duty of taking effective action to stop it and prevent further agitation.

I think the edict will produce very favorable effects and will force the various provincial authorities to take stronger action than hereto-

fore for the suppression of the agitation, which has shown signs of waning for the last ten days, as you will have noted by my recent dispatches on the subject.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Imperial edict of August 31, 1905.*

A censor, by the name of Wang Pu-ying, has memorialized the Throne to the effect that the boycott movement against American goods which is being agitated by merchants and laborers in various provinces is becoming too violent. He requests, therefore, that orders be given for special measures for the protection of the public interests.

In regard to this matter the prince and ministers of the Waiwu Pu, in personal memorials relating to the coolie immigration treaty, have previously said that Minister Liang and the Waiwu Pu had discussed the matter frequently with the American Government and the latter had promised to give courteous treatment to all Chinese merchants, teachers, students, and travelers, and had signified also their willingness to take the matter up and give it just consideration at the next session of Congress. This is all of record.

Now the above-mentioned censor, in his memorial, says that the public feeling is greatly stirred up and there is too much wild talk, so it is hard to guarantee there will not be evildoers who will grasp the opportunity to carry out their wicked schemes to the detriment of the public interests. Such being the case, we must make a special proclamation in order to correct the misunderstanding and allay the general suspicion. The deep friendship of the United States and China is of long standing; the two countries have never before been placed in a position like this. The American Government has promised to discuss the coolie immigration treaty on friendly terms. The proper thing to do, then, is to await the action of the Waiwu Pu in the matter, who will discuss the changes to be made and deal with the whole affair in a friendly way. It is not right to forbid the use of American goods and take such hasty action. It is both harmful to our friendly relations with the United States and it is the cause of serious losses to Chinese merchants and laborers. The Waiwu Pu has repeatedly telegraphed to the various viceroys and governors, directing them to explain the matter clearly to the people and tell them to carry on their business as usual.

Be it known once more, then, that the viceroys and governors will be held responsible for effective action in the matter. Let them exhort the people and from time to time make thorough inquiries into the trouble, that all may live in peace and happiness. Let them not fail to comply with these imperial orders solemnly enjoined upon them by the Throne. If there be any who in their ignorance fan the flame of disturbance, let these be immediately arrested and dealt with, that unfortunate results may be forestalled. Let this be known throughout the Empire.

Respect this.

*Minister Rockhill to the Secretary of State.*

No. 84.]

AMERICAN LEGATION,

*Peking, September 5, 1905.*

SIR: I have the honor to inclose herewith a translation of a note which I received yesterday from Prince Ch'ing in reply to mine of the 27th of August, copy of which I transmitted to you in my dispatch No. 77 of August 29.

\* \* \* \* \*

The statement made by the prince "that hereafter all classes of Chinese will certainly be able to go to America without receiving any illtreatment" might be thought to show a complete misunderstanding of the formal and often-repeated declarations we have made him that the coming of Chinese laborers to the United States is absolutely prohibited. Read, however, in conjunction with the clear terms of my note of August 27 and his own statement in the first lines of this note, there is no doubt that he perfectly understands the position of our government.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Prince Ch'ing to Minister Rockhill.*

I have the honor to acknowledge the receipt of your excellency's dispatch of August 27, in which you said that the Government of the United States was most desirous to meet, so far as the general interests of your country permitted, the wishes of the Imperial Government concerning the coming of Chinese subjects to the United States, other than those of the laboring classes. Your excellency then quoted from the President's order of June 24 last (a copy of which order you had previously sent to my board), making it clear that "the purpose of the Government of the United States is to show the widest and heartiest courtesy toward all merchants, teachers, students, and travelers who may come to the United States," and you assured me that the President could not take any step beyond the issuance of these orders until further action of Congress on the matter, as his action is limited by the laws and statutes of the United States. Your excellency then further stated that notwithstanding all this my government has allowed the agitation to continue, to the great pecuniary loss of our people, as well as yours, and you asked why the Chinese Government had not taken such action as would have shown the people the real friendship which we have for the United States.

I have the honor to state that upon the receipt of this dispatch from your excellency I made inquiry into the boycott matter and found that an imperial edict had recently been issued, and a copy of it had been sent to you by my board. From this it is evident that the Chinese Government has taken thorough action in the matter, to the end that neither Chinese nor American citizens may suffer pecuniary losses.

Your excellency has said that the President can not take any further step in the matter until Congress has taken some action, and I may say that the Chinese Government has great confidence that the President will certainly take some such further action later on. Word has already been sent to the various viceroys and governors directing them to inform their people that both the President of the United States and your excellency have a deep feeling of friendship for China in your hearts, and that hereafter all classes of Chinese will certainly be able to go to America without receiving any ill treatment.

But now that the date of the next opening of Congress is not far distant we ought to take up again the discussion of the coolie immigration treaty, in order to have it all ready for their consideration and approval.

It becomes my duty to send this dispatch to your excellency, that you may inform the Department of State of the matter, and I desire to state that a reply hereto would be appreciated.

A necessary dispatch.

Kuanghsü, XXXI year, 8th moon, 6th day (September 4, 1905).

[SEAL.]

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*The Acting Secretary of State to Minister Rockhill.*

No. 54.]

DEPARTMENT OF STATE,

*Washington, September 25, 1905.*

SIR: In a letter from Herzig Brothers, of New York, dated the 14th instant, the Department is informed that, although the newspaper cables state that the Chinese boycott against American products has ceased in China, they are advised by cables received on the 13th instant from China that the boycott against ginseng root is still in effect.

The Department has answered the letter by saying that the Department has received a dispatch, No. 39, of August 24, 1905, from the American consul-general at Shanghai, in which he states that the tao'ai of that province is bringing pressure to bear for the suppression of anti-American meetings, which, it is hoped, will practically end the boycott in the cities, although it may take some time to eliminate it from the minds of the people in the interior.

I am, etc.,

F. B. LOOMIS.

*Minister Rockhill to the Secretary of State.*

No. 105.]

AMERICAN LEGATION,  
*Peking, September 27, 1905.*

SIR: In continuation of previous correspondence about the boycott of American goods, I have now the honor to transmit copies of two more notes which I have in the last few days addressed to Prince Ch'ing on this matter.

My note of September 23, asking again for the punishment of Tseng Shao-ch'ing, the ringleader of the boycott movement at Shanghai, was written because I had reason to believe that the government now felt itself strong enough to deal with this person who was in great perturbation at my pressing for his punishment. Our consul-general at Shanghai had furthermore asked me to call attention to this attempt to revive the agitation in that city.

My note of the 26th instant was based on the recent dispatches and telegrams from our consul-general at Canton.

I inclose also a copy of a note received from Prince Ch'ing transmitting a telegraphic reply from the viceroy of Canton to the communication addressed to him at my oral request about a week ago.

I am disposed to believe that the explanations therein made by the viceroy of his apparent dilatoriness are to a certain extent true; the fear that if he adopted radical measures for at once stopping the movement in the excitable and turbulent city of Canton uprisings might take place is a natural and reasonable one. I think that the agitation will gradually die down.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.]

*Minister Rockhill to Prince Ch'ing.*AMERICAN LEGATION,  
*Peking, September 23, 1905.*

YOUR IMPERIAL HIGHNESS: I have the honor to transmit herewith a copy of the "Sin Wan Pao" newspaper of September 14, 1905, containing an open letter from Taot'ai Tseng Shao-Ch'ing of Shanghai, in which the writer openly declares that the boycott of American goods will be continued, notwithstanding the express orders of Their Majesties in the edict of August 31, last, and the proclamation and orders of the viceroy of the Liang Kiang Provinces.

This Tseng is the man whose punishment I requested of your highness in my note of August 14, as the ringleader of the anti-American agitation in Shanghai, and as the man who more than any other had created hostility against us. I urged on you his severe punishment, beginning with the deprivation of his official rank, because I was well aware that persons holding rank by purchase can be as readily punished for their offenses by your government as those holding substantive rank.

With the text of the imperial edict of August 31 before me it is quite unnecessary that I should show in what this man has offended again. He incites your people to violate the treaties between China and the United States, and he scoffs at the imperial commands.

I trust that your highness will see your way to finally comply with my oft-repeated request concerning this man, and that an exemplary punishment will be inflicted upon him—such punishment as is due to the United States and to the dignity of the law in China.

I also desire to renew, etc.,

W. W. ROCKHILL.

[Inclosure 2.]

*Minister Rockhill to Prince Ch'ing.*AMERICAN LEGATION,  
Peking, September 26, 1905.

YOUR IMPERIAL HIGHNESS: Several times of late I have had the honor to call the earnest attention of the board of foreign affairs to the very inadequate measures adopted by the viceroy of the Liang Kuang to put an effectual stop to the agitation in Canton against American trade.

In a proclamation which the viceroy issued a few days prior to the publication of the imperial edict of August 31, he confined himself to telling the people that they must wait until December of this year before putting their boycott into effect. In other words, he approved the plan, but objected to the time for its being put in operation.

Since then the viceroy has, it is true, published the imperial edict, accompanying it with a few tame admonitions but so evidently lacking in earnestness that no one in Canton entertains any doubt that his excellency is in full sympathy with the movement.

Meetings of the agitators are still being held, though the general public is excluded. The native press continues to urge the boycott, and the Chinese employees of our consulate are threatened, as are also would-be purchasers of American goods. In other localities in the viceroy's jurisdiction the state of affairs is no better, as, for example, in Swatow and Wuchow.

The imperial edict of August 31 directs the viceroys and governors to order the people to preserve the peace and to carry on their business as usual, and the said viceroys and governors are made responsible for the effective execution of the edict and commanded to severely punish those who incite the people to lawlessness, yet people are not allowed to carry on their business as usual, and those who are threatening the law-abiding and fomenting disturbance are allowed to go unpunished. It is plain, therefore, that the viceroy is not complying with the edict, and I must insist that your imperial highness's government, to which he is amenable, and which has placed upon him the responsibility of making the edict effective, shall take such additional measures as may be necessary to secure prompt obedience of the imperial will and proper respect for the treaties between the United States and China.

I avail, etc.,

W. W. ROCKHILL.

[Inclosure 3.]

*Prince Ch'ing to Minister Rockhill.*

I have the honor to acknowledge the receipt, on the 15th of the eighth moon of the XXXI. year Kuanghsü (September 13, 1905), of your excellency's dispatch, saying that the American consul-general at Canton had telegraphed to the effect that the boycott of American goods in protest against the immigration treaty was still continuing and causing trouble, that the local authorities were not taking any energetic measures to carry out the imperial edict which forbade (the boycott), and that several agitators who had been arrested upon the complaint of the American consul-general had been released after a secret trial; that employees of the consulate were being threatened, and that he feared that further delay in suppressing the boycott might lead to violent disturbances.

Your excellency has requested that more efficient measures than had yet been adopted should be promptly taken to put down the agitation and protect American citizens and their employees at that port.

Immediately upon receipt of your dispatch my board telegraphed to the viceroy of the Two Kuang, directing him to make a thorough investigation at once, take needed action, and report by telegraph.

I have now received his reply, as follows:

"Regarding the protest against the immigration treaty by the merchants of Kuangshi, upon the receipt recently of the imperial edict I at once directed the prefect and district magistrates to go in person to the hall of assembly and read the edict to the company and exhort and induce the merchants to disperse in obedience to the edict and await the negotiation of a fair arrangement by the board of foreign affairs and the American Government.

"For ten days past all meetings and addresses have been entirely stopped.

"Sometime ago, when the daughter of the President came to visit Canton, some persons posted anonymous placards in the streets, containing slanderous expressions, and I received a request from the American consul that two members of the boycott league, Ma Ta-ch'en, and P'an Hsin-ming, said by him to be slippery fellows, might be dealt with. Thereupon I directed the prefect and district magistrate to arrest them and bring them to court, and keep them under surveillance. On examination, Ma Ta-ch'en acknowledged that he had ordered the committee to appropriate funds for the printing of anonymous placards. P'an

Hsin-ming knew nothing of the circumstances. They are still held in the custody of the district magistrate, and there has been no secret trial or release. As to the statement that the employees of the American consulate had been repeatedly threatened, sometime since I received from the American consul a copy of an anonymous letter which urged the employees of the consulate to resign their positions, and I presume that it is to this that reference is made. I have already directed an investigation to be made, but the author has not been discovered. The general opinion outside, however, is that the letter in question was fabricated by the employees of the consulate themselves, that they might take advantage of it to make representations.

"In a word, the protest against the American treaty originated among the merchants of the whole province, who were righteously indignant at the persecutions endured. The local authorities have been able only to take measures to suppress it gradually, and at present the agitation is little by little quieting down. If more hasty measures were to be taken, they would stir up a revolution, and it would be more difficult than ever to ward off calamity.

"In obedience to your telegram I have again issued a proclamation instructing the people, and have directed the officials in my jurisdiction to give protection according to the treaties. In addition to this, I beg that you will carefully explain the situation to the American minister in Peking, by which I shall be obliged."

As in duty bound I forward this reply for your excellency's consideration.

A necessary dispatch:

Kuanghsü, XXXI year, 8th moon, 28th day (September 26, 1905).

[SEAL.]

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*Minister Rockhill to the Secretary of State.*

No. 112.]

AMERICAN LEGATION,  
Peking, October 4, 1905.

SIR: In continuation of my No. 105 of September 27, transmitting copies of correspondence with our consul-general at Canton and with the foreign office, concerning the boycott, I now have the honor to inclose herewith copy of a note which I addressed to the foreign office, under date of October 3, on this matter.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
Peking, October 3, 1905.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of the note which your highness sent me under date of the 26th September in reply to that which I addressed to you on the 13th of the same month calling your attention to the inadequacy of the measures taken by the viceroy of the Liang Kuang for arresting the agitation in his province against American interests.

In his reply to you the viceroy makes the following statement:

"Upon the receipt recently of the imperial edict I at once directed the prefect and district magistrate to go in person to the hall of assembly and read the edict to the company, and to exhort and induce the merchants to disperse in obedience to the edict, and await the negotiations of a fair arrangement by the board of foreign affairs and the American Government."

With this perfunctory action the viceroy appears to have considered that his duty in the matter has been discharged, for the consul-general of the United States in Canton has reported that careful search through the city has shown that only a few copies of the edict have been posted in the city of Canton, and none in the other cities of the Liang Kuang in which he had had search for them made. In his correspondence with the consul-general of the United States the viceroy has persistently ignored every representation or request made him concerning the inefficiency of the measures adopted by him. The losses and embarrassment suffered by trade on account of this unlawful agitation are as great now as before the publication of the imperial edict, and they bid fair to increase steadily.

In the above-quoted communication from the viceroy to your highness, the writer says further that:

"The local authorities have been able only to take measures to suppress it gradually, and at present the agitation is little by little quieting down. If more hasty measures were to be taken they would stir up revolution, and it would be more difficult than ever to ward off calamity."

Admitting that the authority of the viceroy must be exercised with caution among a turbulent and excitable people like those of the Liang Kuang Provinces, and admitting, further, that the viceroy is thoroughly in earnest in carrying out to the letter the imperial commands, it is inconceivable, however, that he should allow the impression to become general, as it undoubtedly has, that he is only desirous of having the people bide their time before putting the boycott into effect. In my note of the 26th September I had occasion of calling your highness's attention to this extraordinary argument of the viceroy. He seems not to have changed his views, although now even a greater responsibility rests on him than before.

I have once more to most strongly urge on your highness the pressing necessity of orders being given to the viceroy which will compel him to take measures for the complete termination of this boycott. The Government of the United States can not for a moment admit that the Emperor's representative in the Liang Kuang Provinces is unable to suppress the agitation, and any delay on his part to do so will inevitably be understood by my government as a flagrant manifestation of hostility by an agent of your government, for whose shortcomings the Imperial Government must be held responsible.

I avail, etc.,

W. W. ROCKHILL.

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*Minister Rockhill to the Secretary of State.*

No. 139.]

AMERICAN LEGATION,  
*Peking, November 4, 1905.*

SIR: In continuation of my dispatch No. 112 of October 4, I inclose herewith copy of a note which I addressed to the minister of foreign affairs on the 30th of October, again calling his attention to the dilatoriness of the Liang Kuang viceroy in regard to the stopping of the anti-American agitation in the Province of Kuang-tung.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
*Peking, October 30, 1905.*

YOUR IMPERIAL HIGHNESS: On the 6th instant I had the honor to receive a dispatch from your imperial highness in reply to mine of the 3d instant with regard to the inefficiency of the measures taken by the viceroy of the Liang Kuang to suppress the boycott of American goods in his jurisdiction.

Your imperial highness states that orders were sent to the viceroy on the 26th of September directing him to require the officials under him to obey the imperial edict and use every effort to stop the boycott; that you were awaiting a reply to these orders and would send me a copy of it upon its receipt.

I have the honor to call the attention of your highness to the fact that twenty-four days have now elapsed since your last communication and that no copy of the viceroy's reply has been received at this legation, and that more than a month has passed since the orders mentioned were sent to the viceroy. Surely no such length of time is required to obtain from his excellency an acknowledgment of the orders and a statement that he will comply with them.

The condition of affairs in Kuang-tung as regards American trade shows either his utter incapacity or his unwillingness to deal with the question, and I must insist that the Imperial Government, which is responsible for the execution of the treaties with the United States, shall take more vigorous measures to secure the enforcement of the imperial decree. I trust that your imperial highness will favor me with an immediate reply, giving assurance that such measures are being taken. Negligence to enforce the imperial orders can only breed disrespect for them and may lead to serious disorder.

In this connection it becomes my duty to state that I am in receipt of a communication from the President of the United States, saying that the American Government desires to act justly toward China, but at the same time can not tolerate any injustice from China.

Trusting that your imperial highness will see the importance of prompt action in this serious condition of affairs;

I avail myself, etc.,

W. W. ROCKHILL.

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*Minister Rockhill to the Secretary of State.*

No. 146.]

AMERICAN LEGATION,

*Peking, November 10, 1905.*

SIR: In continuation of my dispatch No. 112, of October 4, I have the honor to inclose in translation copy of a dispatch received from Prince Ch'ing informing me of the measures which the viceroy of Liang-kuang has telegraphed him he has taken to suppress the boycott and anti-American agitation in the Province of Kuang-tung.

I shall continue to press the Imperial Government for further action on every specific case which is brought to my attention. What I fear the most in the interior is the distribution of inflammatory placards, which, as has been shown in the past, it is very difficult to put a stop to.

I have no means of knowing whether the viceroy's statement that the boycott does not extend beyond Canton, Swatow, and Wuchow is true, but I am disposed to think he is right. As to the anti-American feeling, that is quite a different matter. The massacre at Lien Chou may have a very quieting effect.

I have, etc.,

W. W. ROCKHILL.

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[Inclosure.]

*Prince Ch'ing to Minister Rockhill.*

In the matter of the boycott of American goods in protest against the immigration treaty by the merchants of the Two Kuang Provinces, I already had the honor on the 8th instant to inform you of the issue of a proclamation by the viceroy at Canton and of his method of dealing with the matter, as the records will show. I am now in receipt of another telegram from the viceroy at Canton, as follows:

"I have already repeatedly issued emphatic proclamations making known the recent imperial edict, and have issued general instructions to my subordinates to make earnest efforts to persuade the merchants to conduct trade as usual and to strictly forbid the holdings of meetings, the making of speeches, and the posting of placards opposing the treaty and preventing others by threats from buying or using American goods. I have already several times reported to you by telegraph the facts as to my action in this matter, as the records will show.

"In this matter the merchants have been aroused to patriotic zeal, and it is scarcely possible all at once to check the wind and tide. However, it is only at Canton, Swatow, and Wuchow that the movement exists. At other places inland, which are not ports of international trade, the sale of American goods does not amount to much. The people simply know them as foreign goods and do not distinguish them as coming from any particular country. I have repeatedly had reports from local authorities inland in my jurisdiction saying that there are no meetings being held to promote a boycott of American goods.

"As to Canton and the other ports mentioned, I have repeatedly issued admonitions, and all meetings of the people and speechmaking were stopped long ago. I have also directed my subordinates to investigate the matter of printing and circulating placards and to seize them. An investigation of the present condition of affairs shows that in the Two Kuang Provinces the movement in opposition to the treaty is gradually subsiding."

As in duty bound, I send this dispatch for your excellency's information.

A necessary dispatch.

Kuanghsü, XXXI year, 10th moon, 13th day (November 9, 1905.)



*The Secretary of State to the Chinese Minister.*

DEPARTMENT OF STATE,  
Washington, November 14, 1905.

DEAR MR. MINISTER: With relation to the subject of the anti-American boycott, which we have discussed on several occasions, I beg to inform you that the American consul-general of Singapore telegraphs that the situation in that city has assumed a very serious aspect; that threatening anonymous letters are in circulation; that the Chinese trade is at a standstill; and that handbills are posted in all Chinese shops.

This report is significant, as showing how the adverse influences, fostered by the comparative immunity of the agitators in China, spread to other neighboring ports and threaten to become uncontrollable. We have long realized the gravity and even the danger of the situation and endeavored to bring your government to a sense of the perils involved in permitting the growth of the antiforeign sentiment, which, ostensibly limited to a single phase of China's relation to an outside power, is ready to overleap all bounds and to lead at any time to the recurrence of the dreadful atrocities of Lienchow. Surely the interest of China in checking these antiforeign manifestations at the outset can be hardly less vital than that of the United States and of other countries, when the lessons of the recent past and the possibilities of the future for untold evil are considered.

I am, etc.,

ELIHU ROOT.

*The Secretary of State to Minister Rockhill.*

No. 72.]

DEPARTMENT OF STATE,  
Washington, November 16, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 112, of the 4th ultimo, inclosing a copy of your note of the preceding day to the Chinese foreign office urging the pressing necessity of orders being given to the viceroy of the Liang Kuang Provinces which will compel him to take measures for the complete termination of the boycott in his jurisdiction.

Subsequent occurrences at Canton, the inefficiency of the viceroy's measures against the boycott, and the murder of the missionaries at Lienchow, which is obviously a fruit of the lawlessness that engendered and keeps alive the boycott, all justify the protest you made in your note of October 3. Its timely warning was unheeded and now the Chinese Government is placed in the position of having to do what it should have done at the outset, and to bear the onus of taking the necessary steps too late to save the lives of peaceable Americans.

I am, etc.,

ELIHU ROOT.

*Minister Rockhill to the Secretary of State.*

No. 156.]

AMERICAN LEGATION,  
Peking, November 25, 1905.

SIR: I have the honor to transmit herewith translation of a recent proclamation by the viceroy of the Liang Kuang Provinces, again ordering the people of these provinces to desist from boycotting

American goods and stirring up agitation against us. The date of the proclamation is not given, but inferring from the last paragraph it seems to have been after the massacre at Lienchow of the American missionaries on the 28th of October.

The language of the proclamation is vigorous and emphatic. It remains to be seen whether it will be enforced with "extraordinary severity" as promised.

The viceroy goes rather far in saying that the United States has consented to the revision of its harsh measures and is now at work negotiating with regard to this question. Certainly I have not said or done anything on the subject since I stopped in August last discussing the matter informally with the Waiwu Pu. Nevertheless the proclamation is a good one, and I hope it will powerfully tend to allay excitement in Canton Province.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Proclamation of the viceroy of the Two Kuang Provinces in re the boycott of American goods.*

Ts'en, by imperial appointment a junior guardian of the heir apparent, an official of the first grade, permitted to ride on horseback in the forbidden city, decorated with the yellow riding jacket, honorary president of the board of war, acting viceroy of the Two Kuang Provinces, holding also the post of governor of Kuangtung, and superintendent of the maritime and local customs, issues this proclamation:

I have received a telegram from the board of foreign affairs, saying:

"We have received a dispatch from the American minister to the effect that the viceroy of the Two Kuang Provinces is still failing to take effective measures to suppress the boycott agitation in his provinces in protest against the immigration treaty, and fails to cause the people to obey the imperial edict, and that he hopes we will favor him with an immediate reply, giving assurance that such measures are being taken as he has requested; that if negligence to enforce the imperial orders continues it will cause the people to disrespect the imperial edicts, and may lead to serious disorder; that he had received a communication from the President of the United States saying that the American Government desired to treat with China in justice, but, on the other hand, could not tolerate injustice from China, and that he trusted we would see the importance of prompt action in this serious condition of affairs.

"As to this matter of protesting against the immigration treaty, it is your duty to comply with the imperial edict by effectively urging and leading (the people). Now that the President of the United States has said that fair treatment will be given, we hope that you will at once obey the edict requiring you to conscientiously lead the way and earnestly labor to cause all to attend to their private affairs and avoid stirring up trouble. We trust also that you will promptly telegraph us in reply, detailing the measures which you are taking in the matter."

As to this matter of the merchants of the Two Kuang Provinces discontinuing the purchase of American goods in protest against the immigration treaty, I sometime ago received an imperial edict directing me to order the merchants that they must carry on business as usual and unite to preserve the peace, and that if any ignorant persons should sow suspicion and stir up trouble I must deal severely with them, so as to prevent the outbreak of disorder. This edict I had reverently copied and published it in full for the information of all. I also issued general instructions to all officers in my jurisdiction to earnestly exhort and lead the gentry, the merchants, and all the people and cause them to obey with trembling, and I directed that if any persons should be found guilty of sowing suspicions and creating trouble they should be promptly arrested and fined.

Afterwards I received a telegram from the board of foreign affairs stating that the American minister had sent them a dispatch to the effect that the boycott of American goods in Canton still continued and was creating trouble, and asking that this unjust agitation be suppressed. I thereupon issued another proclamation, giving careful warning, all of which the records will show.

I now find that although the holding of meetings and the making of speeches have been discontinued there is perhaps some reason to fear that ignorant persons may take advantage of the situation to stir up trouble, and it becomes necessary to again issue a stringent proclamation forbidding such action in order to give due weight to international relations.

I have issued general instructions to all officials in my jurisdiction to give obedience and directed that if any disorderly persons are found sowing suspicions and stirring up trouble, posting placards, or circulating pamphlets, trying by threats to keep others from buying or using American goods, they must be promptly dealt with as the circumstances may require, and in addition I now issue this proclamation and give due notice to the merchants and people of the whole province that they must comply with it.

You ought to know that China and the United States have for a long time maintained friendly relations. As to the immigration treaty, the President of the United States has already consented to the revision of its harsh clauses, and has also consented to the fair treatment of Chinese going to the United States. The governments of the two countries are now at work negotiating with regard to this question. You merchants and people must tremblingly obey the imperial edict and carry on trade as usual, joining together to preserve the peace. Should there be any presumptuous persons daring still to fan the flame of agitation, sowing disobedience to the imperial edict, and disturbing the peace, they must be promptly arrested and punished.

As to the mission stations and the missionaries of various countries, their purpose is to exhort men to do good, and imperial edicts have repeatedly been issued commanding that they be given thorough protection. If any disorderly persons avail themselves of any pretext to create enmity toward the missions and make a disturbance so as to embroil the missions or missionaries in difficulty, they are to be regarded as no other than rebels and shall be punished with nothing less than punishments of extraordinary severity, so as to manifest the terror of the law. What I, the viceroy, have said that I will do. Let everyone obey with trembling and not disregard this special proclamation.

Issued Kuanghsü, XXXI year, 10th moon, — day (October–November, 1905).

#### MINING REGULATIONS IN CHINA.

*Minister Rockhill to the Secretary of State.*

No. 153.]

AMERICAN LEGATION,  
Peking, November 24, 1905.

SIR: Referring to Mr. Conger's dispatch to the Department No. 1759 of December 8, 1904, in which he acknowledged the receipt of Department instruction No. 838, of September 2, 1904,<sup>a</sup> with the report inclosed therein of the Acting Director of the Geological Survey embodying proposed amendments to the Chinese mining regulations, Mr. Conger said that it seemed to him impossible to accomplish anything in the line of having the regulations amended at that time.

After carefully considering the question of securing the revision of the mining regulations issued by the Chinese Government in March, 1904, and ascertaining that my British colleague, under instruction from his government, was pressing the matter, I decided, under the previous instructions of the Department given Mr. Conger, to take the matter up with the Waiwu Pu and to urge upon it a prompt consideration of the question.

I inclose herewith copy of the note which I have addressed to the foreign office on this matter.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

*Minister Rockhill to Prince Ch'ing.*

YOUR HIGHNESS: In a note written April 15, 1904, my predecessor, Mr. Conger, had the honor to call your highness's earnest attention to the fact that the revised mining regulations which had received the imperial approval on the 17th of March, 1904, could not be accepted by the Government of the United States as satisfactory or as fulfilling the provisions of Article

VII of the treaty of 1903. This article specifically states that China shall "recast its present mining regulations in such a way as, while promoting the interests of Chinese subjects and not injuring in any way the sovereign rights of China, will offer no impediment to the attraction of foreign capital nor place foreign capitalists at a greater disadvantage than they would be under generally accepted foreign regulations."

The regulations of March 17, 1904, were not in harmony with these provisions of our treaty, and Mr. Conger therefore felt constrained to make known to your highness the disappointment which our government would feel at their being put into force.

Eighteen months have now elapsed since Mr. Conger wrote to your highness on the subject in the hope that the Chinese Government would revise the regulations in question and make them practicable for industrial and commercial purposes. As, however, no amended regulations have, so far as this legation is aware, been issued since those of March, 1904, I trust that your highness will pardon me if I revert to this important subject and submit in detailed form the objections which my government finds to these regulations.

The regulations of March 17, 1904, are 38 in number. Our principal objections refer to numbers 3, 4, 16, 24, and 29.

Regulation No. 3 is objectionable in that it does not specifically provide the proceeding necessary to obtain a permit to prospect or mine upon private property in a case where it is impracticable to obtain the owner's consent. This, in a country so densely populated as China, is a question of great importance.

Regulation No. 4, subdivision (b), in that it requires applicants for permits composed of Chinese and foreigners to disclose the exact number of shares held by the foreigners, appears to be framed with the evident intention to prevent the operative control of any mining undertaking or enterprise by foreign capitalists, such as is contemplated by the treaty, and thus tends to discourage instead of to attract foreign capital.

Regulation No. 16 prevents practically the issuance of a permit to prospect or work a mine in China in any case where a majority of the stock is owned by foreigners. It is believed by my government that the conditions insisted upon in this regulation constitute impediments such as would cause a foreign capitalist to decline to embark his means in any enterprise hampered by such unsatisfactory conditions.

This regulation again distinctly repels rather than attracts foreign capital, and is therefore not in harmony with treaty stipulations.

Regulation No. 24, wherein it is provided that the applicants must commence operations within six months from the date on which the permit shall have been granted, does not meet the conditions under which foreign capital is placed. Necessarily in the beginning the mines to be operated would be far from base, and six months would be too short a time for the commencement of operations on the ground.

Regulation No. 29 is extremely vague and objectionable in that every important contract necessary in the practical mining operations is to be delayed and impeded by the submission thereof to the board of commerce for its action thereon, and possibly its nullification.

There are many other objections which my government has noted in these regulations. I attach to this note a detailed list of them,<sup>a</sup> calling your earnest attention to the fact that, whereas the regulations of 1903 are based on those of 1898 and 1902, comparison shows that the features which most obviously contravene the treaty of 1903 are taken therefrom and the modifications made are nearly everywhere contrary to the spirit of this treaty rather than in accord with it.

This matter is one of great importance, and the Chinese Government itself has recognized "that it is advantageous for the country to develop its mining resources and that it is desirable to attract foreign as well as Chinese capital to embark in mining enterprises." I feel therefore convinced that your highness will give the views of my government prompt and careful consideration, and, since the object of such regulations is to attract and not repel foreign capital and enterprise, take steps at an early date to have the mining regulations for the Empire made to thoroughly harmonize with the provisions of your treaty with us of 1903.

I avail myself of this opportunity, etc.,

W. W. ROCKHILL.

*Minister Rockhill to the Secretary of State.*

No. 177.]

AMERICAN LEGATION,  
*Peking, December 23, 1905.*

SIR: I have the honor to inclose for the information of the Department a copy of a translation of certain new mining regulations adopted by the Chinese Government by which provincial bureaus of inspection

are established. I beg to call attention particularly to a clause in Regulation VII, which provides that mining lands belonging to private individuals may be sold only to natives of the district in which such lands are located. As this provision is in direct conflict with Article VII of our last treaty with China, I have addressed to the Chinese foreign office a protest against the enforcement of said regulation, and I have the honor to inclose a copy of my dispatch relating to the matter.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1.—Translation.]

[From Peking and Tientsin Times, December 14-16, 1905.]

*Mining regulations establishing provincial bureaus of inspection, approved by imperial rescript November 27 1905.*

MINING INVESTIGATION OFFICE.—RULES AND REGULATIONS.

The board of commerce has drawn up 24 articles for the investigation of mines and mining interests in the provinces, which are to be in cooperation with those mining regulations sanctioned by imperial order some time ago.

1. As the establishment of mining investigation offices is ordered by imperial command, the viceroys and governors of the provinces should take up the matter without delay. All offices in connection with mining, such as k'uang-wu, tsang chü (general bureaus of mines), ch'a k'uang kung sô (offices for inspection of mines), and others established previous to this should be converted into mining investigation offices for the sake of uniformity.

2. The Tartar generals, viceroys, and governors should select and recommend officials of experience and uprightness, who are qualified to be directors, assistant directors, and engineers, to the board of commerce for appointment as consulting members of the board in mining matters.

3. As soon as such consulting members have been appointed, they should begin to make surveys at once, with the assistance of mining engineers, and fill the report forms issued by the board of commerce. Officials who have made improvements in existing mines or developed new mines affecting the increase of revenue and benefiting the people will be recommended by the board for reward. Those who have failed to perform their duties or participated in private working or sales, if discovered, will be impeached and dealt with as a warning to others.

4. All existing mines, whether under the management of officials, the people, or Chinese and foreigners in cooperation, should be thoroughly investigated and all particulars should be filled in on the forms provided from year to year, and forwarded to the board with samples and memorandums. In addition there are two important points to be investigated:

(a) The way of levying and the amount of taxes levied with a comparison from year to year.

(b) The area of land and its ownership. In case the mines are owned or leased by foreigners, the area must be properly defined according to the regulations and agreement; plans and memorandums must be provided and forwarded to the board for reference.

Other methods which are capable of doing away with evils, recovering rights—i. e., of government—and benefiting the revenue should also be adopted and reported to the board as well as to the viceroy or governor of the province.

5. The Tartar generals, viceroys, and governors should instruct the magistrates to issue proclamations calling for reports of the location of mines. Anyone knowing the location of minerals should report to the office either in person or through the magistrate. The board of commerce should also be notified when natives are privately working the minerals which the local officials have taken no notice of, even after being informed by the gentry and merchants.

6. When the office has been notified of or has discovered the whereabouts of minerals, samples should be obtained first for analysis, then a survey by engineers should follow, and report with maps, etc., be sent to the board of commerce.

7. When minerals are found on government property the office should notify the local officials in accordance with the memorial passed on the 27th day, seventh moon, thirty-first year, and jointly issue a proclamation prohibiting the people from effecting private sales. Property belonging to the people is only allowed to be sold to a native of the same district in the presence of the official and witness, and the transfer is allowed only after satisfactory investigation that everything is in legal form. The local officials will be held responsible for any improper sales.

8. All persons guilty of mining without authority, of illicitly selling mining properties, or transferring to others on his own authority, his permit to mine, as well as those rowdies who may oppose mining operations under the pretext of injury to the feng-shui or to the dragon influences, shall be reported at once to the board of commerce by the bureau of inspection as soon as the facts are known; and report of the same shall at the same time be made to the Tartar general, viceroy, and governor of the province concerned, who shall instruct the local authorities to severely punish the said persons, showing no clemency whatever.

9. Should foreign mining engineers be employed, their powers must be limited in their contracts, and the agreement should only be signed after the approval of the board. If a foreign engineer is to go inland for mining affairs, the Tartar general, viceroy, or governor of the province should instruct the magistrates to accord him due protection. But the said engineer must behave himself and be attentive to his business. If he fails to control himself, and is so reported, the office should dismiss him. Traveling and other expenses should be provided by the office, and no supply should be called for from the local officials, nor trouble be given to the merchants and people. He should leave the place as soon as the work is done.

10. Merchants and people who require the service of a mining engineer from the office should provide for all the expenses according to the distance and time, and particulars of the result must be recorded for reference of the office and reported to the board.

11. The expenses of the mining investigation office should either be defrayed from the mining tax or a special fund, which should be arranged by the Tartar general, viceroy, or governor of the province, but on economical lines. An annual report of the accounts, showing the amount of grant, expenses, and names of the staff should be submitted through the provincial authority to the board of commerce.

12. The consulting member of mining affairs of the province being in direct communication with the board of commerce, all investigations of mining matters ordered by the board, either directly or through the high officials, should be reported to the board at once or at latest within three months.

13. A laboratory should be attached to each mining investigation office, consisting of a room for analysis and furnace for smelting, and necessary apparatus. All minerals should be carefully assayed previous to the survey, so as to save trouble.

14. For the purpose of investigating, excavations are necessary, and if the land belongs to the people the owner should be notified to this effect, and no resistance should be offered on his part. Should any damage be done to his products, he will be indemnified by the office. The runners must not trouble the people.

15. When the gentry, merchants, literati, or people of the province apply, in accordance with the mining regulations, for permission to work a certain mine, the office should at once depute officials to make investigation together with the local officials and report the particulars to the board. At the same time formal request for consideration must be made through the Tartar general, viceroy, or governor of the province. If the mine is to be worked by officials, the plans, memorandums, and other particulars should also be reported to the board for reference, and no omission should be made.

The above fifteen rules are for the administration of the office.

The following nine rules are connected with the actual investigations in the field:

16. When a mining district is under investigation, a map of the district and the location of the mine, its distance from the city, and its neighboring town, its area, and how much belongs to the government and how much to the people, must first be made, and a report whether there is or not any irregularity in the title deeds. If the land is owned by the people, the title deeds must be examined in the presence of the local official as evidence; all the points must be distinctly recorded, plans and memorandums prepared and kept for reference.

17. The nature of the land must be fully noted, with height above sea, also whether there is any spring near the mine, and, if any, at what depth from the surface of the ground water is reached, and its quantity. Reports on these points should be made to the board of commerce.

18. Notes concerning the depth of the shaft necessary to work the mineral, its description, origin, direction, number of seams, distance between them, and their dimensions should be taken and reported to the board of commerce.

19. The geological character of the soil in which the mineral deposits lie must be fully described and reported to the board of commerce. When any names of stones and ores can not be represented in Chinese, foreign languages may be used instead.

20. Minerals and ores obtained must be assayed to find out the percentage of pure metal and other substances composing them, which should be noted and reported to the board.

21. Special attention must be drawn to the line of transportation, whether by water or land, good or bad, distance from the mine to the market, cost of transportation; whether there is or not any large river in the neighborhood of the mine, and by what means a light railway or steam launch could ply. All the above points should be taken into consideration and reported to the board of commerce.

22. At the time of investigation the following three classifications should be observed: If the mineral is of best quality, transportation convenient, sale prospects large, coal or other fuel procurable, and machinery can be put up at the spot for working, the mine may be put down as first class. If transportation is inconvenient, coal or fuel scarce, as second class; and if the mineral lies at great depth and is largely alloyed with other substances, as third class. Estimates of cost of working various ores and their comparison should be carefully noted, and remarks made on the plan which kinds may be worked at once and which otherwise. These points should all be reported to the board of commerce for decision.

23. Notes should be taken which mines require native methods and which mines require machinery for their working. Native methods should only be applied to mines where the mineral lies near the surface, the stone is soft, and water scarce, labor cheap, capital small, and there is less mixture of other substances. Machinery should be employed on mines of which the conditions are the contrary. A careful investigation should be made and reported to the board.

24. Mines which have been worked by the people privately and those which have stopped working through lack of success should be thoroughly investigated, so as to find the number of pits, their depth, whether they were stopped on account of flood in the mine, or insufficiency of capital, or other cause. All the particulars should be noted in the form of plans and memorandums and reported to the board of commerce.

Any point which is not provided for here should be dealt with according to the mining regulations passed by the board of commerce. The Tartar generals, viceroys, and governors of the provinces should instruct the officials in charge of the offices and local officials to put in force these rules.

These have been approved by imperial rescript.

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[Inclosure 2.]

*Minister Rockhill to Prince Ch'ing.*

AMERICAN LEGATION,  
Washington, December 23, 1905.

YOUR IMPERIAL HIGHNESS: I have the honor to call the attention of your imperial highness to Rule VII of the new mining regulations approved by imperial rescript on November 27 last, by which provision is made for the establishment of provincial bureaus of inspection.

In the article to which reference has just been made it is stated that "property belonging to the people may be sold only to a native of the district in which it is located."

I need hardly remind your highness that this clause of the regulation is in direct conflict with the provisions of the treaty of 1903 between the United States and China, wherein it is distinctly stated that China "will permit citizens of the United States to carry on in Chinese territory mining operations and other necessary business relating thereto," etc. and that the new regulations to be adopted by China "will be imposed by China on its subjects and foreigners alike." It is further stated that the new rules "will offer no impediment to the attraction of foreign capital."

Inasmuch as this regulation forbids the purchase by foreigners of mining lands by private individuals, it prevents the investment of American capital in such lands and refuses to citizens of the United States the permission allowed to Chinese subjects to carry on mining operations in China except on lands belonging to the government.

I must therefore, on behalf of the Government of the United States, enter a protest against the enforcement of this clause of Rule VII, and against the violation thereby of the solemn treaty concluded by our two governments.

I avail, etc.,

W. W. ROCKHILL.

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## PEACE NEGOTIATIONS BETWEEN RUSSIA AND JAPAN.

[Printed under Russia, p. 807.]

## COLOMBIA.

### RELATIONS BETWEEN COLOMBIA AND PANAMA.

*Minister Russell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Bogotá, January 7, 1905.*

Mr. Russell reports that the Colombian Government desires to arrange with the United States a settlement of pending questions on the following terms:

First. The consent of the United States to submit the question of the independence of Panama to a plebiscite. If this is not agreed to, and if Panama should be recognized by the Colombian Government, then,

Second. An agreement to celebrate a treaty of friendship, commerce, and navigation with Panama.

Third. Settlement by arbitration of all questions not disposed of in said treaty.

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*The Acting Secretary of State to Minister Russell.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 9, 1905.*

(Mr. Loomis informs Mr. Russell that in view of the fact that the Government of Panama has been thoroughly established and has been recognized by the civilized nations of the world it is not now regarded as competent to submit to a plebiscite the question of its independence.

The celebration of a treaty of friendship, commerce, and navigation between Colombia and Panama will be pleasing to the President, as well as the settlement by arbitration of all questions not disposed of in said treaty.)

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### MESSAGE OF THE PRESIDENT OF COLOMBIA TO THE COLOMBIAN CONGRESS.

*Minister Russell to the Secretary of State.*

No. 29.]

AMERICAN LEGATION,  
*Bogotá, March 16, 1905.*

SIR: I have the honor to inform you that the National Assembly was opened here yesterday with much pomp and ceremony. The diplomatic corps in uniform marched with the President from the palace to the senate chamber through lines of the national troops drawn up on each sidewalk and sat in the diplomatic gallery through the reading of the President's message. I inclose herewith a copy of said message with the parts marked that are of interest to the United States, and translations thereof.

I am, etc.,

WILLIAM W. RUSSELL.



[Inclosure.—Translation.]

PRESIDENT'S MESSAGE.

[Extracts.]

Colombia's relations with all the countries with which she cultivates friendship are cordial, and from all of them the government has received, through the diplomatic representatives accredited in this capital, not only assurances of their kindly feelings toward us, but also the satisfaction with which they view the unanimous effort of the nation to put an end forever to the fratricidal strifes which for nearly a century have sapped its energies and to enter upon the paths of prosperity and grandeur.

For the purpose of settling pending boundary and commercial questions with Venezuela and Brazil diplomatic ministers have been accredited to these two Republics. The one appointed for Venezuela is already in Caracas, and the one who is to represent us in Brazil will leave shortly for his post.

We trust that our neighbors will recognize and grant the justice we ask of them, and in regard to Peru and Brazil we also trust that our rights will be recognized in that vast and rich region of the Amazon, explored and made known to the world by Colombians more than by any others, and of which exploring party I had the honor to be chief, as is shown in the report which, in the name of Colombia and as its representative, I presented to the Second International American Congress of Mexico. Said congress ordered a bronze tablet to be made in memory of my two brothers with this inscription:

"The delegates to the Second International American Congress assembled in Mexico in 1901 and 1902, to Nestor and Enrique Reyes, killed in the service of American civilization."

Pardon me for making reference to facts which concern me personally, but I consider very important this resolution of the International Congress of Mexico as a moral title of great value, which is in addition to the legal titles which Colombia holds to the land washed by the Putumayo and Caquetá, unknown deserts when my brothers and I explored them, and which to-day are known to the world and mapped, due chiefly to said explorations which were extended to the greater part of the immense tract washed by the Amazon and its tributaries.

There has been lately appointed a minister plenipotentiary to the Government of the United States, and who will soon leave for his post for the purpose of endeavoring to arrange pending questions with that country growing out of recent events on the Isthmus of Panama. Faithfully interpreting the national sentiment, the government believes that it is contrary to the interests of the Republic to postpone indefinitely the solution of these questions, and consequently the necessary instructions will be given to the minister who has been appointed to discuss said questions with a due regard, in the first place, to the honor and dignity of the country, and in the second place to its economical and material interests. If our minister, in whose patriotism and capacity the government has full confidence, should succeed in celebrating a treaty under such conditions, said treaty will be submitted to your consideration in accordance with the requirements of the constitution.

We should not lose sight of the fact that the opening of the Panama Canal will be an efficacious and powerful aid in every sense to the development and progress of the nation, as we are the most favorably situated to reap the benefits from this gigantic undertaking.

The departments of Cauca and of the Atlantic coast give proof of this assertion, in view of the great increase in their commerce during the works of the old French company from 1880 to 1888.

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**ARBITRATION OF BOUNDARY DISPUTE BETWEEN COLOMBIA AND EQUADOR.**

*Minister Russell to the Secretary of State.*

No. 30.]

AMERICAN LEGATION,  
Bogotá, March 20, 1905.

SIR: I have the honor to inclose herewith text and translation of a treaty concluded between Colombia and Ecuador for the settlement of their pending boundary dispute.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure.—Translation.]

*Treaty of arbitration as to boundaries between Colombia and Ecuador, signed by their respective plenipotentiaries in Bogotá, November 5, 1904.*

The Republics of Colombia and Ecuador, desirous of carrying out the provisions of article 26 of the treaty of July 9, 1856, in order to strengthen the bonds of friendship which happily unite them, have seen fit to celebrate a convention for settling their pending boundary questions, and for this purpose have named their respective plenipotentiaries, as follows:

Colombia, its envoy extraordinary and minister plenipotentiary in Spain, Don Julio Betancourt, invested with the functions of special plenipotentiary for everything in regard to boundaries; and Ecuador, its envoy extraordinary and minister plenipotentiary in Colombia, Gen. Julio Andrade.

Who, after having presented their full powers, which were found to be in due form, have agreed as follows:

## ARTICLE 1.

The Governments of Columbia and Ecuador submit to the absolute unappealable decision of His Majesty the Emperor of Germany and King of Prussia the pending question of boundaries between the two Republics.

## ARTICLE 2.

Both governments, through their plenipotentiaries, shall request His Imperial Majesty to accept immediately after exchange of ratifications of this treaty.

## ARTICLE 3.

Within fifteen months from the date on which the august arbiter shall notify the interested parties of his acceptance, the plenipotentiaries of the latter shall present the memorials containing the claims of their respective governments and the documents in support of said claims.

## ARTICLE 4.

After the termination of the above-mentioned fifteen months the interested parties can present no further memorials or documents, except those which the august arbiter may deem necessary to throw light upon the points at issue.

## ARTICLE 5.

The two governments interested agree that an ocular inspection shall be made of the territory in dispute if the august arbiter shall deem this necessary.

## ARTICLE 6.

Ecuador and Colombia acknowledge that the principal bases for a determination of their rights in this arbitration are as follows:

- (a) The Colombian law of June 24, 1824, in regard to territorial division.
- (b) The treaty of peace of September 22, 1829, between the old Republic of Colombia and Peru; and
- (c) The treaty of July 9, 1856, in so far as it is binding between the Republics of New Granada (now Colombia) and Ecuador; without prejudice to any additional historic-juridical antecedents which the parties in interest may see fit to cite and which are not at variance with the three above-mentioned bases.

## ARTICLE 7.

For the purpose of this arbitration Ecuador establishes the fact that the territory of the eastern section from the course of the river Napo to that of the Caquetat or Yapura is not included in the arbitration which Ecuador and Peru submitted to His Majesty the King of Spain by treaty of August 1, 1887.

## ARTICLE 8.

Before the arbitral award is given both parties can arrange, by direct negotiation, any or all of the points at issue, and if said negotiations become effective in the form of public treaties the august arbiter shall be notified and the arbitration shall be considered as concluded or shall be limited to the points not agreed upon.

## ARTICLE 9.

In the unexpected event that His Majesty the German Emperor does not accept the appointment as arbiter, the President of the United States of Mexico shall be chosen, and in no other particular shall the provisions of this convention be changed.

## ARTICLE 10.

The expenses of the arbitration shall be borne by Colombia and Ecuador equally.

## ARTICLE 11.

This treaty approved in accordance with the constitutional provisions in both Republics shall be exchanged in Bogotá or in Quito within as short a time as possible.

In virtue of which the undersigned plenipotentiaries have signed and sealed with their respective seals in Bogotá this 5th day of November, 1904.

[SEAL.]  
[SEAL.]

JULIO BETANCOURT.  
JULIO ANDRADE.

**SETTLEMENT OF THE CLAIM OF THE COMPAÑIA FLUVIAL DE CARTAGENA ET AL. AGAINST COLOMBIA.**

*Minister Russell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Bogotá, March 21, 1905.*

(Mr. Russell reports that the claim of the Compañia Fluvial de Cartagena et al. against the Government of Colombia has been settled by that government by an offer of \$475,000 in bonds, which was accepted by the agent of the companies.)

*Minister Russell to the Secretary of State.*

No. 34.]

AMERICAN LEGATION,  
*Bogotá, March 22, 1905.*

SIR: Referring to my cable of yesterday in regard to the settlement of the claim of the Cartagena company, I have the honor to state that the terms of the settlement were the very best that could be obtained, and the Government of Colombia has acted in a very fair and equitable manner in regard to this matter. The minister for foreign affairs when he authorized me to summon Mr. Ford, the general manager, to Bogotá, assured me that he intended to examine the question very thoroughly and make a definite offer of settlement. The negotiations have been conducted at the foreign office between the minister for foreign affairs, Don Climaco Calderón, Mr. Ford, the general manager of the companies, and myself. There has been no friction whatever during the discussions, and I must say that the Colombian Government has acted throughout with that spirit of fairness which resulted in an award so just and equitable to this American corporation. The bonds given are called *vales de extranjeros*, and their issue was authorized by law 27, of 1903, for the purpose of paying claims of foreigners arising from the last revolution, are redeemable at the custom-houses for the payment of duties to the extent of 8 per cent of the amount due, and bear interest at the rate of 6 per cent per annum.

I inclose for your information copy of a letter to me from Mr. J. T. Ford, general manager of the companies interested, which gives a detailed statement of the manner in which this claim was settled. I am especially pleased to place on record the fact that Mr. Ford, by his judicious and temperate attitude in the presentation and management of this matter, has greatly facilitated me in obtaining an amicable and equitable settlement of the claim in question.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure.]

*Mr. Ford to Minister Russell.*

BOGOTÁ, March 24, 1905.

DEAR SIR: In view of the successful termination of my business in the capital with results that I had not dared to hope for, when taking into consideration the delicate diplomatic relations that have lately existed between Colombia and the United States of America, I wish particularly to place on record in the name of the companies that I have the honor to represent my high appreciation of your distinguished ability in dealing with the case and your courteous treatment of myself throughout the negotiations so happily concluded for the settlement of a claim of such magnitude, which, from its peculiar nature, may be described as bristling with difficulties and which, with careless handling, would unquestionably have produced disastrous consequences to myself as the principal actor in the unfortunate incidents of the late revolution which gave rise to our claims and forced me often to protect the interests of my companies with a degree of vigorous warmth that had already earned for me unjustly the reputation of enmity to Colombia; but still more were the interests of our companies themselves threatened with serious injury in view of their connection with the relations between Colombia and the United States, and further delay might easily have been injurious also to Colombia. In these circumstances, therefore, I wish to forward to our companies an official confirmation from you of certain salient facts in connection with our settlement that will satisfy them as to the bona fides of the whole transaction from the point of view of all parties concerned, while it will serve as a matter of record in the remote event, not to be anticipated, of any hesitation on the part of future governments in Colombia to faithfully carry out the redemption of the bonds I have accepted in payment of the claim, when we could with perfect propriety again appeal to the Government of the United States for its good offices in protection of the rights of its citizens which in this instance it has so ably given.

The facts I allude to are as follows:

1. The claims of the companies I represent were placed in the hands of the State Department for collection through the diplomatic channel after some abortive attempts to arrive at a full settlement under a previous administration of the Colombian Government.

2. On your assuming the duties of American minister at Bogotá you were encouraged at the possibilities of the new administration of the President, General Reyes, to suggest, and, with his consent and that of the State Department at Washington, to summon me to Bogotá as representative of the companies with a view to further efforts toward an amicable settlement instead of forcing an arbitration, both costly and long drawn out, which, in view of the late results in Venezuela and the complications arising therefrom, it was in every way most desirable to avoid in the interests of all parties concerned.

3. Our companies in accepting this proposal did not therefore act independently of the State Department or take the matter out of your hands, but made use of your good offices to such an extent that you were personally a witness at every interview between myself and his excellency the minister of foreign affairs, Don Clímaco Calderon R. until the final conclusion of the settlement on the 21st of March, and that the Government of the United States, to the extent that these facts may show, has been throughout a party to the transaction.

4. That the terms of the settlement are as follows: \$475,000 American gold in bonds of the Colombian Government, issued under law 27 of 1903, bearing interest at the rate of 6 per cent per annum, and redeemable as cash payment of customs duties to the extent of 8 per cent of any or all such duties until finally liquidated.

5. That the settlement was for a sum en bloc, taking into consideration the possible depreciation in the value of the bonds to be received and with no admission whatever either by yourself or myself of the contentions often advanced by his excellency the minister of foreign affairs that the Government of Colombia was not responsible for the damages due to the acts of revolutionary forces after granting amnesty, notwithstanding the fact that on the part of the said minister the sum of the settlement as agreed by him may have been so divided from the items of the original claim papers in full.

6. That, furthermore, in view of such acceptance by me of a settlement without any payment in cash, it was agreed by the minister of foreign affairs that orders would be given to the respective departments that the previous obligations of the government for the payment of certain sums monthly to the company for delayed subvention bonds and balance outstanding for current and past services be faithfully continued or resumed in accordance with the terms of such previous agreements.

With due apologies for the length of this letter and hoping that you will comply with my request by a letter confirmatory of the above record of simple but important facts,

I have, etc.,

J. T. FORD,

*Legal Representative C. T. I. Co., C. M. Rwy. Co. and Cia. F. de C.*

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*Chargé Snyder to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Bogotá, July 11, 1905.*

(Mr. Snyder reports that a decree has been issued by the Government of Colombia prohibiting the receipt in custom-houses of *vales extranjeros*, which practically annuls the claims of citizens of the United States.)

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*Chargé Snyder to the Secretary of State.*

No. 78.]

AMERICAN LEGATION,  
*Bogotá, August 3, 1905.*

SIR: Referring to my telegram of July 11, 1905, regarding the decree of the Colombian Government refusing to further receive the *vales de extranjeros* in the custom-houses of the Republic, I have the honor to inform you that owing to the representations of this and the other interested legations said decree, in as far as it concerned the payment of *vales* and railroad exemption bonds, was revoked on the 26th of July by resolution No. 27 of the ministry of hacienda.

The matter, therefore, remains satisfactorily adjusted.

I am, etc.,

ALBAN G. SNYDER.

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*Chargé Snyder to the Secretary of State.*

No. 90.]

AMERICAN LEGATION,  
*Bogotá, October 10, 1905.*

SIR:

\* \* \* \* \*

I have the honor to inform you that in the past week, largely due to the personal efforts of the minister for foreign affairs, all matters at issue between the Cartagena companies and the Colombian Government were finally settled.

While the decree of the minister of finance regarding the non-receipt of the *vales de extranjeros* was revoked, as reported in my No. 78 of August 3, 1905, many inconveniences were put in the way of these companies by the customs officials of Cartagena and Barranquilla until an explicit order was sent from the ministry for foreign affairs that they cease.

Likewise, on the 7th instant, the last payment, then two months past due, was made by the government on the contract entered into about a year ago between said companies and the Colombian Government, through this legation, for the payment, in monthly installments, of the sum of \$50,000, due said companies for services rendered the government during the last revolution.

I am, etc.,

ALBAN G. SNYDER.

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**PRESENTATION OF CREDENTIALS BY THE COLOMBIAN MINISTER.**

*The Colombian Minister to Acting Secretary of State Loomis.*

[Translation.]

LEGATION OF COLOMBIA,  
*Washington, May 27, 1905.*

The chargé d'affaires ad interim presents his compliments to the Assistant Secretary of State in charge of the Department and has the honor to inclose a copy of the address which Dr. Diego Mendoza will have the honor to deliver upon his presentation to the President of the Republic.

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[Inclosure.—Translation.]

MR. PRESIDENT: I have the honor to place in Your Excellency's hands the letter of the President of the Republic of Colombia, which accredits me as his envoy extraordinary and minister plenipotentiary.

The circumstances under which it has devolved upon me to come and discharge near your government the duties of the mission with which I am intrusted will not offer insuperable obstacles to the settlement of the questions pending between the two countries, in reliance on Your Excellency's amicable and justice-loving cooperation and the sentiments of mutual friendship which unite the people of Colombia to the people of the United States.

I am glad to convey to Your Excellency on this occasion the wishes of the President of Colombia for your personal happiness and the prosperity of your country.

And with the hope that my acts will be received with good will by your government, I commend myself, most Excellent Sir, to the hospitality of the United States.

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*The Acting Secretary of State to the Colombian Minister.*

No. 1.]

DEPARTMENT OF STATE,  
*Washington, May 29, 1905.*

SIR: I have the honor to inclose herewith for your use a copy of the President's reply to the remarks made by you this afternoon on the occasion of the presentation of your letters of credence as envoy extraordinary and minister plenipotentiary of Colombia near this government.

Accept, etc.,

F. B. LOOMIS.

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[Inclosure.]

MR. MINISTER: I am glad to welcome you to Washington and to receive from your hands the letters whereby you are accredited to this government in the quality of envoy extraordinary and minister plenipotentiary from Colombia.

The United States has no other wish than to cultivate and maintain with Colombia the most cordial relations and to conduct its intercourse with that country with equity and justice; and I know of no existing circumstances that could affect my sincere desire to preserve and increase in all honorable ways the friendship and good understanding between the two governments and peoples. I count, Mr. Minister, on your cooperation to this end.

I beg that you will convey to President Reyes an expression of my thanks for his courteous message and assure him of my best wishes for his personal welfare and the happiness and prosperity of the Colombian people.

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**MURDER OF JOSEFF OTTO IN COLOMBIA.**

*Charge Snyder to the Secretary of State.*

No. 61.]

AMERICAN LEGATION,  
*Bogotá, June 29, 1905.*

SIR: I have the honor to inclose herewith copy and translation of a telegram just received by me in reference to the murder of one Joseff Otto, American citizen, in the town of Segovia, Colombia, together with copy of my note to the minister of foreign affairs on the subject.

I am, etc.,

ALBAN G. SNYDER.

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[Inclosure.]

*Chargé Snyder to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
*Bogotá, June 29, 1905.*

MR. MINISTER: I have the honor to inform your excellency that the following telegram was received by me last night, June 28:

SEGOVIA, *June 13,*  
REMEDIOS, *June 14, 1905.*

Mr. Joseff Otto, American citizen, was murdered on the 11th of this month. He was married less than a month and left properties and pending business. I advise you for legal effects. Please acknowledge receipt.

VESPASIANO ZEA J., *Alcalde.*

The Federal government is hereby respectfully requested to make a full investigation of this homicide and to use its influence and authority to effect the immediate apprehension of the guilty person or persons and an early and just trial, and, further, that this legation be fully informed of all the circumstances of the occurrence and the steps taken by the authorities.

I take, etc.,

ALBAN G. SNYDER.

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*Chargé Snyder to the Secretary of State.*

No. 62.]

AMERICAN LEGATION,  
*Bogotá, July 4, 1905.*

SIR: Referring to my No. 61 of June 29, 1905, I have the honor to send you herewith copy and translation of a note received from the minister for foreign affairs in answer to my note of June 29, 1905.

I am, sir, etc.,

ALBAN G. SNYDER.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Snyder.*

REPUBLIC OF COLOMBIA,  
 MINISTRY FOR FOREIGN AFFAIRS,  
 Bogotá, June 30, 1905.

SIR: In your note of the 29th of this month your honor has seen fit to transmit to me a telegram from the alcalde of Segovia, Department of Antioquia, informing you that Joseff Otto, citizen of the United States, was murdered on the 11th of said month.

By telegram of this date the government of Antioquia has been ordered to take summary measures, if they have not already been taken, against those responsible for the crime, and that the necessary measures be taken in accordance with the law and consular convention between this Republic and the United States, to place in security the effects left by the deceased; and that information be given to this office of all the circumstances of the case in order that they may be forwarded to your honor.

I improve, etc.,

CLÍMACO CALDERÓN.

*The Acting Secretary of State to Chargé Snyder.*

No. 31.]

DEPARTMENT OF STATE,  
 Washington, August 11, 1905.

SIR: I have to acknowledge the receipt of your No. 62 of July 4 last, reporting the murder of an American citizen, Joseff Otto, in the Department of Antioquia.

In reply I have to say that the Department is gratified to see that the Colombian Government is taking appropriate measures to secure the apprehension of the perpetrators.

The report of the circumstances of the case is awaited by the Department.

I am, etc.,

F. B. LOOMIS.

*Chargé Snyder to the Secretary of State.*

No. 82.]

AMERICAN LEGATION,  
 Bogotá, August 15, 1905.

SIR: Referring to my No. 61 of June 29, 1905, I have the honor to transmit herewith copy and translation of a note received from the minister for foreign affairs relative to the murder of Joseff Otto.

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Snyder.*

REPUBLIC OF COLOMBIA,  
 MINISTRY FOR FOREIGN AFFAIRS,  
 Bogotá, July 24, 1905.

SIR: Referring for the second time to your note of June 29 last, I inform your legation of the following dispatch received by telegraph from the governor of the Department of Antioquia:

“MINISTER FOR FOREIGN AFFAIRS: Relative to the murder of the foreigner, Joseff Otto, I transmit the following telegram:

“Official. Segovia, July 10, 1905. Prefect, Santa Rosa. On the night of June 11 past, Victor Alvarez shot Mr. Otto, causing instant death. Instructions immediately sent for arrest and transfer Amalfi June 24. Captured immediately and remitted. Property Otto in custody of wife, but not sufficient satisfy creditors. Alcalde. Vespasiano Zea F. Benito Uribe.”

I improve, etc.,

CLÍMACO CALDERÓN.



**RELATIONS BETWEEN COLOMBIA AND VENEZUELA.—REQUEST FOR THE GOOD OFFICES OF THE UNITED STATES IN ADVOCATING THE PRINCIPLE OF THE FREE NAVIGATION OF RIVERS COMMON TO NEIGHBORING COUNTRIES.**

*The Colombian Minister to the Secretary of State.*

[Translation.]

LEGATION OF COLOMBIA,  
*New York, July 5, 1905.*

Mr. SECRETARY: The minister of foreign relations of Colombia handed to the most excellent Mr. William W. Russell, envoy extraordinary and minister plenipotentiary of the United States at Bogotá, under date of May 23 last, a memorandum concerning the relations between Colombia and Venezuela, and the navigation of the rivers common to both countries.

In that document the minister of foreign relations summarized, with full precision, the history of the commercial relations between Colombia and Venezuela, and presented a clear statement of the present status of the question. From the time when the award which decided the boundary dispute between the two countries, the minister says, the policy of Venezuela in matters relating to the transit trade of Colombia and the navigation of the common rivers has been marked by a conspicuous spirit of hostility toward Colombia, and true it is. To the mind of all those interested in the free navigation of rivers, the attitude of Venezuela is governed by a spirit which is not exactly that which is necessary for the promotion and development of pacific relations among nations. Neither logical arguments nor historic precedents, such as those submitted by the Colombian chancellery to the Government of Venezuela for the recognition by the latter of the principle of free trade over the natural waterways placed by God at the disposal of all nations, have availed.

The minister of foreign relations in the above-mentioned memorandum most appropriately recalls the brilliant debate conducted by the Government of the United States against the Governments of Great Britain and Spain in regard to the navigation of the St. Lawrence and Mississippi rivers and the splendid triumph achieved in the cause of universal progress when the principle of free navigation was sanctioned by the treaties that terminated the controversy.

I venture to supplement the facts recalled by the minister of foreign relations of Colombia as decisive arguments in favor of the principle that Colombia consecrated years ago by her laws and wished to have consecrated by her international compacts for the mutual advantage of the people of Colombia and of Venezuela, with another precedent that I consider quite fitting and directly applicable to the matter dealt with in this note.

In 1851 Mr. J. Randolph Clay, minister of the United States to Peru, concluded a treaty by which Peru granted to citizens of the United States the right to establish steamship lines on the rivers of Peru. That treaty was not approved by the Congress of Peru.

The American expedition of Messrs. Herndon and Gibbon, of the Navy of the United States, to explore the Amazon River, induced the Government of Brazil to negotiate with Peru and Bolivia treaties excluding citizens of the United States from the navigation of the Amazon and South American trade, and a treaty was, in fact, drawn

up on the 23d of October, 1851, between Peru and Brazil, by which it was stipulated that the navigation of the Amazon was the exclusive property of the riparian states. The minister of the United States, Mr. Clay, who had knowledge of this convention, endeavored to frustrate the designs of Brazil both with Peru, which had just concluded the treaty, and the Government of Bolivia. Of the latter he obtained that it would open to the whole world its rivers and navigable waters. He also succeeded in securing the cooperation of the Governments of New Granada (now Colombia) and of Ecuador to the same end.

The action of the representatives of the United States in regard to the navigation of the Amazon did not solely bear on the right of navigation that might appertain to the riparian states, but also embraced the right to navigate its waters that might be claimed by nonriparian countries. If Mr. Clay had confined his efforts to an acceptance of the principle of the free navigation of the Amazon by the coowners of that river, the treaty of October, 1851, between Peru and Brazil, although intended for the two contracting parties, would have met the liberal aspirations of that diplomatist. On the basis of that convention the other countries watered by the Amazon River could have sanctioned the principle of freedom in the conventions they might subsequently conclude on so important a subject. But Mr. Clay did not stop at the clauses of the treaty here referred to. The representative of the United States had broader horizons in view; he desired for all nations the generous and fruitful policy of free commerce.

The representative of Brazil at Washington sought the views of the Government of the United States with special reference to the scientific expedition of the above-named Herndon and Gibbon. Mr. Marcy, then Secretary of State, made the following declaration in 1853 to the minister of Brazil:

"I permit myself to entertain the hope that the Government of Brazil, actuated by an enlightened regard for the interests of the Empire, will strive by all proper means to develop its vast resources. It appears to me that no measure would be more certain to obtain this result than the removal of unnecessary restrictions upon the navigation of the Amazon, and especially to the passage of vessels of the United States to and from the territories of Bolivia and Peru watered by that river and its tributaries. It is to be hoped that by means of treaty stipulations those advantages may be secured to citizens of the United States."

The Government of the United States was no less interested than its Minister Clay in the solution of this problem. President Pierce, in his message to Congress in 1853, said:

"Considering the vast regions of this continent and the number of states which would be made accessible by the free navigation of the river Amazon, particular attention has been given to this subject. Brazil, through whose territories it passes into the ocean, has hitherto persisted in a policy so restricted in regard to the use of this river as to obstruct and nearly exclude foreign commercial intercourse with the states which lie upon its tributaries and upper branches. Our minister to that country was instructed to obtain a relaxation of that policy and to use his efforts to induce the Brazilian Government to open to common use, under proper safeguards, this great natural highway for international trade. Several of the South American

States are deeply interested in this attempt to secure the free navigation of the Amazon, and it is reasonable to expect their cooperation in the measure."

President Pierce made remarks of a more general character in the document above referred to, and my purpose in alluding to the latter is to point out that precedents in Europe, as well as in America, show that the international policy of the United States had for its aim the liberty of commerce on the rivers watering the territory of more than one country.

Untiring in his efforts, Minister Clay signed with the Government of Bolivia the treaty of 1850, in which Article 28 reads as follows:

"In accordance with fixed principles of international law, Bolivia regards the rivers Amazon and La Plata, with their tributaries, as highways or channels opened by nature for the commerce of all nations. In virtue of which, and desirous of promoting an exchange of productions through these channels, she will permit and invites commercial vessels of all descriptions, of the United States and of all other nations of the world, to navigate freely in any part of their courses which pertain to her, ascending or descending as far as the ocean."

The great interests of European countries and the United States that have in recent years grown up touching the trade with the Latin-American countries, which, owing to the extremely rich nature of their soil, are destined to become a likely field of noble activity and competition for all nations, are a fact well worthy of the earnest consideration of statesmen.

The government, whose spokesman I am, ventures to offer to the Government of the United States the suggestion that it may be expedient to join in its efforts to secure from the present Government of Venezuela, by persuasive methods, the solemn and everlasting recognition of the principle of the free navigation of the international rivers that flow in part through its territory for the mutual advantage of the people of Colombia and that of Venezuela, as well as for the general advantage of mankind.

It would be desirable, and I would ask that it be done if this note were favorably received by the Government of the United States, that the American minister at Caracas be appropriately instructed in the sense of declaring on behalf of the commercial interests of the citizens of the United States his desire that the Government of Venezuela make the navigation of the Zulia and Orinoco rivers free, and urging, by persuasion, that the principle be solemnly consecrated in its public treaties. My government will join in such an action, which comes within its traditional policy in the matter, and will interpose no obstacle or delay to the meeting of an international mixed commission for the framing of regulations concerning the use of the above-named rivers without detriment to the legitimate interests of the countries through which they flow.

Colombia harbors no ill will toward any nation, and especially toward Venezuela, to which it is bound by ties that can not be broken.

I embrace, etc.,

DIEGO MENDOZA.

*The Acting Secretary of State to the Colombian Minister.*

No. 4.]

DEPARTMENT OF STATE,  
*Washington, August 5, 1905.*

SIR: I have to acknowledge receipt of your note of the 5th ultimo, informing me of the substance of a memorandum handed to Mr. Russell prior to his departure from Bogotá by the minister for foreign affairs of Colombia regarding the commercial relations between Colombia and Venezuela and inviting the good offices of the United States to urge upon Venezuela the recognition of the free navigation of rivers.

Mr. Russell duly presented to the Department the communication to which you refer, and the subject has had attentive consideration.

The principle of the free navigation of rivers has been advocated by the United States and maintained in its relations with its neighbors for many years. This government is ready, therefore, to use its good offices in the sense requested, and Mr. Russell has been instructed upon arriving at his new post in Venezuela to take advantage of fitting occasion to express to the minister for foreign affairs the great satisfaction with which the United States would view the adoption and proclamation by Venezuela of the general principle of the free navigation of rivers and fluvial arteries of communication common to neighboring countries.

It is of course to be understood that in touching upon this matter this government does not seek to intervene or mediate in any way in the relations between Colombia and Venezuela, but is merely interested in the universal recognition of a policy beneficial to the commerce of the world.

Be pleased, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to Chargé Snyder.*

No. 29.]

DEPARTMENT OF STATE,  
*Washington, August 5, 1905.*

SIR: On July 25, 1905, while in Washington, Mr. W. W. Russell addressed to the Department a dispatch reporting interviews last winter with the Colombian minister for foreign affairs concerning the strained relations between Colombia and Venezuela, growing out of the closing of the Orinoco to Colombian commerce, and transmitting a memorandum handed to him by Señor Calderon just prior to Mr. Russell's departure from Bogotá, bespeaking the good offices of the United States to urge upon Venezuela the recognition of the principle of the free navigation of rivers. This matter was also presented to the Department by the Colombian chargé d'affaires at this capital in a note of the 5th ultimo.

The subject has been given consideration, and Mr. Russell is instructed, after arriving at his new post at Caracas, to take advantage of a favorable occasion to express to the Venezuelan minister for foreign affairs in a friendly way the great satisfaction with which the United States would view the adoption and proclamation by Venezuela of the general principle of the free navigation of rivers and fluvian arteries of communication common to neighboring countries. This principle the United States has advocated and in its relations

with neighboring States maintained for many years. Mr. Russell is instructed to make it plain that this government in touching upon this subject does not seek to intervene or mediate in any way in the relations between Colombia and Venezuela, but is merely interested in the universal triumph of a principle beneficial to the world's commerce.

I am, etc.,

ALVEY A. ADEE.

*Minister Barrett to the Secretary of State.*

No. 16.]

AMERICAN LEGATION,  
Bogotá, December 13, 1905.

SIR: Although the Department may have been informed fully by the American minister in Caracas about the negotiations recently conducted there in regard to the relations of Colombia and Venezuela, I have the honor to report briefly on the matter as given out officially here.

It will be remembered that a few months ago the President of Venezuela refused to receive a special envoy of Colombia sent to Caracas to reopen diplomatic relations which were broken off some time ago on account of troubles of the boundary and the navigation of the upper waters of the Orinoco. When the Colombian envoy retired another man by the name of Dr. J. Ignacio Díaz Granados was sent to Caracas as a confidential agent of President Reyes to look over the situation and try to pave the way for a better understanding.

Doctor Granados, after working quietly but effectively for several months, has at last signed an agreement or protocol with Doctor Rafael López Baralt, confidential agent of Venezuela, by which it is agreed that past differences between the two nations are forgotten, that both shall send to the respective capitals ministers plenipotentiary and envoys extraordinary, and that a new treaty of amity, commerce, and navigation shall be negotiated. The initial framing and principal discussion of the treaty will take place at Caracas between Gen. Benjamin Herrera, a distinguished liberal of Colombia, who will be named as Colombian envoy, and the plenipotentiary of Venezuela yet to be named or the minister of foreign affairs.

The importance of this announcement and of the coming negotiations is emphasized greatly by the fact that there is a very serious difference between the two countries over the boundary and that Colombian commerce has suffered acutely through the practical closing to Colombian navigation and trade by Venezuela of the Orinoco, whose upper waters or tributaries flow through or into large and resourceful sections of Colombia. As a number of Americans have legitimately operated in the trade of this district and upon these rivers, the United States is indirectly concerned in the results to be obtained by the negotiation of this new treaty. \* \* \*

I have, etc.,

JOHN BARRETT.

## AMENDMENTS OF THE NATIONAL CONSTITUTION OF COLOMBIA.

*Chargé Snyder to the Secretary of State.*

No. 69.]

AMERICAN LEGATION,  
*Bogotá, July 22, 1905.*

SIR: I have the honor to transmit herewith copy and translation of a general act additional and reformatory of the national constitution passed by the national assembly of Colombia during its sessions of the present year.

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.—Translation.]

*A general act additional and reformatory of the national constitution.*

In the name of God, the Supreme Fountain of all authority.

The members of the national constitutional and legislative assembly for the departments of Antioquia, Bolivar, Boyaca, Cauca, Cundinamarca, Magdalena, Nariño Santander, and Tolima;

Considering Decree No. 29 of February 1, 1905, by which a national assembly is convoked and the various drafts of acts reforming the national constitution presented by the executive government during the sessions of the national assembly and agreed to by this body;

And in order to unite all the partial acts of constitutional reformation into one sole act or official instrument, we have decided to compile and sign said reform in the present general act, adding to and reforming the national constitution as follows:

*Reformatory act No. 1 of March 27, 1905.*

ART. 1. The magistrates of the supreme court of justice will serve for a term of five years, and the judges of the superior tribunals of the judicial district will serve four years.

ART. 2. The first term of the supreme court judges will commence on May 1st of the present year, and that of the judges of the district supreme tribunals from the 1st of June of the present year.

PARAGRAPH. Said magistrates may be elected indefinitely.

ART. 3 (transitory). The first time, the President of the Republic will appoint, at his discretion, the judges of the supreme court and of the superior tribunals, and shall submit their appointments for the approbation of the Senate.

*Reformatory act No. 2 of March 28, 1905.*

ART. 1. Hereafter the legislative bodies shall meet in ordinary sessions of their own right in the capital of the Republic every two years, on the 1st day of February.

ART. 2. The ordinary sessions shall last for ninety days, upon the conclusion of which the government shall declare the sessions closed.

ART. 3. After the passage of this reformatory act the first constitutional Congress will meet on February 1, 1908, which will be the initial date for the subsequent meetings of said body.

ART. 4 (transitory). In the meantime, until the meeting of the first Congress treated of in the preceding article the present national assembly shall continue to exercise the legislative functions in extraordinary sessions, which the constitution gives to Congress and the Senate and Chamber of Representatives separately.

ART. 5 (transitory). Before the date of meeting of the first constitutional Congress the national assembly shall again exercise its legislative functions, when the government may convene it in extraordinary sessions.

*Reformatory act No. 3 of March 30, 1905.*

ART. 1. The law will change the territorial division of the whole Republic by forming the number of departments that may be deemed proper for the public administration.

ART. 2. It will also separate municipal districts from existing departments or from those which may be formed, in order to organize or administer them according to special laws.

ART. 3. The law-making body will determine the population which is to correspond to each department in the new territorial divisions. It will distribute among them the property and charges and will determine the number of senators and representatives and also the manner of electing them.

ART. 4. Articles 5, 6, and 76 of the constitution are hereby reformed.

*Reformatory act No. 4 of March 30, 1905.*

SOLE ARTICLE. Let article 204 of the constitution be abolished.

*Reformatory act No. 5 of March 30, 1905.*

ART. 1. Upon the passage of this act the offices of Vice-President of the Republic and "designado" to exercise the executive power are abolished.

ART. 2. In case of temporary absence of the President the minister whom he may designate shall replace him, and in the absence of ministers on whom this designation may fall the governor of the department nearest to the capital of the Republic will be charged with the executive power.

ART. 3. In case of vacancy of the Presidency the minister whom the cabinet by a clear majority may elect shall be substituted for him, and if the minister should be absent then the governor of the department nearest the capital of the Republic.

§ 1. Whoever is in charge of the executive power shall immediately call the national assembly, and, after the termination of the sessions of this body, the Congress, in order that it may proceed to elect the citizen to replace the President for the unexpired term within the 60 days following.

§ 2. When only a year or less remains of the unexpired term, whoever is exercising the executive power shall continue to the expiration of the term, calling the election for President according to the constitution.

§ 3. If, from whatever cause, the minister who may have been made acting President is absent, the cabinet shall proceed to make a new selection.

§ 4. The citizen provisionally occupying the Presidency according to Article 3 of this act can not be elected by the national assembly or Congress for the remainder of the term.

The person exercising the functions of President in the last six months preceding the election of the new President likewise can not be elected for this office.

ART. 4. The only absolute vacancy of the Presidency is through the death of the President or his accepted resignation.

ART. 5. The present Presidential period, only good during the administration of General Reyes, shall be ten years, from January 1, 1905, to December 31, 1914.

In case General Reyes has occupied the Presidency during his full term, the term of the one who regularly succeeds him shall be four years, and this shall be the term of all subsequent administrations.

ART. 6. Articles 74, 102, 108, 114, 120 (ordinal 9), 127, 136, and 174 of the constitution are hereby reformed, and Articles 77, 124, 125, 128, 129, 130, and 131 of the same, and any others whatever contrary to the present reformatory act, are abolished.

*Reformatory act No. 6 of April 5, 1905.*

SOLE ARTICLE. In times of peace no one shall be deprived of his property, in whole or in part, except in the following cases and according to the following expressed conditions:

For general contribution.

For motives of general utility defined by the legislature, a previous indemnization having been made, except in the opening and construction of lines of communication, in which cases it is supposed that the general benefit accruing to the lands involved balances the value of the strip of land necessary for the road; but if it shall be proved that said strip is worth more, then the difference shall be paid.

*Reformatory act No. 7 of April 8, 1905.*

ART. 1. The departmental assemblies are charged with the direction and fostering of the primary instruction and charitable undertakings by means of ordinances and the resources of the department itself; the established industries or those to be established; the colonization of the public lands pertinent to the department; the opening up of roads and navigable canals and the working of the forests within the department; the management of the local police and the jails of the judicial circuit; the management of the revenues and expenditures of the department and municipalities and all appertaining to the internal progress.

ART. 2. Article 186 of the constitution is hereby replaced by the present reformatory act.

*Reformatory act No. 8 of April 13, 1905.*

ART. 1. The Senate and House of Representatives shall be reelected at the same time.

ART. 2. The senators shall be elected by the department councils according as the law may determine.

ART. 3. The President of the Republic and the representatives shall be elected in the manner prescribed by law.

ART. 4. In every popular election which may have for its object the election of public corporations and in the naming of senators the right of representation of minorities will be recognized, and the law shall determine the manner and terms for carrying this into effect.

ART. 5. Articles 95, 114, 173, 174, 175, 176, 177, and 178 of the constitution are hereby repealed.

*Reformatory act No. 9 of April 17, 1905.*

ART. 1. The constitution of the Republic can be reformed by a national assembly called by Congress expressly for this object, or by the executive government through previous petition from a majority of the municipalities.

PARAGRAPH. In regard to the calling of the national assembly referred to in this article, the reforms to be treated of shall be set down and the body shall dedicate its attention thereto.

ART. 2. The assembly treated of in the foregoing article shall be composed of as many representatives as the population is entitled to—namely, in the proportion of one member for each 100,000 inhabitants.

PARAGRAPH. Each deputy shall have two alternates.

ART. 3. The principal deputies and alternates shall be elected by the municipalities of the respective electoral districts.

ART. 4. For the ratification of the reform it is sufficient that it be discussed and approved according to the provisions for enacting laws.

ART. 5. The sessions of the assembly shall last 30 days, but may be prolonged in the judgment of the government.

ART. 6. When necessary to call the national assembly, the constitutional period of the Congress elected before shall cease, and the national assembly shall exercise its legislative functions from the time of its installation until the end of the constitutional period of the Congress which it has replaced.

ART. 7. The legal provisions already provided for the representation of the minorities shall govern in the elections for deputies for the national assembly.

ART. 8. If it should be necessary to introduce new reforms to the constitution in accordance with the provisions of this law, in the time between the closing of this national assembly and the meeting of the regular Congress in 1908, the present assembly will be called by the executive power to adopt such reforms without the necessity of a previous petition from the municipalities.

*Reformatory act No. 10 of April 27, 1905.*

ART. 1. The council of state is abolished. The law will determine the employees who must comply with the duties and functions relating to this body.

ART. 2. Title XIII of the national constitution is abolished.

ART. 3. This law shall take effect from its publication in the *Diario Oficial*.

Bogotá, April 30, 1905.

The president of the national constitutional and legislative assembly, deputy for the Department of Tolima, Enrique Restrepo Garcia, the first vice-president of the, etc.

NATIONAL EXECUTIVE POWER, Bogotá, April 30, 1905.

Let it be complied with and executed.

R. REYES.

The minister of government, Bonifacio Vélez; the minister for foreign affairs, Climaco Calderón, etc.

**GENERAL ARBITRATION TREATY, ARBITRATION TREATY OF LIMITS, AND MODUS VIVENDI BETWEEN COLOMBIA AND PERU.**

*Chargé Snyder to the Secretary of State.*

No. 89.]

AMERICAN LEGATION,  
Bogotá, October 10, 1905.

SIR: I have the honor to transmit herewith copies and translations of the treaties referred to in my No. 88 of September 18, 1905.

I am, etc.,

ALBAN G. SNYDER.



[Inclosure 1—Translation.]

*General arbitration treaty between the Republics of Peru and Colombia.*

His Excellency, the President of the Republic of Peru, and His Excellency, the President of the Republic of Colombia, with the object of extending the cordial relations between the two Republics and of settling amicably any questions which may arise between them, have resolved to conclude a general arbitration treaty, and have named their plenipotentiaries for this purpose.

For His Excellency, the President of the Republic of Peru, Dr. Hernan Velarde, envoy extraordinary and minister plenipotentiary of said Republic, accredited to the Government of Colombia; and

For His Excellency, the President of the Republic of Colombia, Doctor Climaco Calderón, minister for foreign affairs, and Señor Luis Tanco Argaez, envoy extraordinary and minister plenipotentiary of Colombia in Peru, at the present time residing in this capital.

The said parties, their respective powers having been duly accepted, have resolved the following:

ARTICLE 1. The high contracting parties will submit to arbitration all controversies of any kind which, for whatever reason, may arise between them, and which they have not been able to settle amicably by means of direct negotiations. Only questions affecting the independence and honor of the two nations are excepted from this obligation. In case of doubt, this point will also be resolved by compromise. Specifically, national independence and honor will not be considered compromised in controversies relative to diplomatic privileges, consular jurisdiction, customs and navigation duties, validity, construction, and carrying out of treaties, and pecuniary claims, whatever their origin and antecedents may have been and it is understood to be the wish of the two governments to give the fullest possible interpretation to the principle of international arbitration.

The present treaty is also applicable to controversies which have taken place before its conclusion, but questions which have already been definitely settled between both parties can not be renewed. In these cases arbitration will be exclusively limited to differences which may arise as to the interpretation and carrying out of the said arrangements.

ARTICLE 2. The Governments of Peru and Colombia nominate His Holiness the Pope as arbitrator in cases of differences and, in the case of the refusal or inability of His Holiness, His Excellency, the President of the Argentine Republic.

ARTICLE 3. For each case the high contracting parties will conclude a special convention to determine the precise object of the controversy, as also all points and circumstances relative to the affair which they may deem necessary.

Failing such convention, and one of the high contracting parties having notified the other that four months have passed since they had been requested to conclude the same, without, for whatever cause, their being able to come to an arrangement, the arbitrator will decide on the facts of the case and the rights which must be resolved to decide the controversy.

For any other point, in default of the special convention on the subject or should there be no mention made of it in the same, the following rules will be applied:

ART. 4. In default of special arrangements between the interested parties, the arbitrator is empowered as follows: Fix the time for the arbitration; to determine the judicial proceedings and contentions; the formalities and terms for the interested parties; and, in general all necessary measures for the prompt resolving and carrying out of all points and difficulties and all prejudicial and incidental questions that may arise.

The high contracting parties bind themselves to put at the disposition of the arbitrator all information at their command.

ART. 5. The arbitrator has the right to decide, in his own judgment, on the validity and interpretation of the matter in question.

ART. 6. An agent of each of the interested parties will represent his government in all matters submitted to arbitration.

ART. 7. The arbitrator must decide according to the principles of law unless the question imposes special obligations or authorizes the arbitrator to act as a friendly intermediary.

ART. 8. The sentence must definitely decide each point of the case.

It will be drawn up in duplicate, signed by the arbitrator, and each of the countries will be notified directly or by the representative sent to the arbitrator.

ART. 9. Each of the interested parties will defray its own expenses and half of those of the arbitration.

ART. 10. The legally pronounced sentence will decide, to the extent of its powers, the controversy between the interested parties. It must contain the statement of the time within which it is to be executed. The same arbitrator will decide any questions which may arise in its execution.

ART. 11. The sentence does not admit appeal and the carrying out of same is left to the honor of the two nations signing it.

Nevertheless, the same arbitrator can be requested to revise the sentence by acquainting him with the following facts:

1. That the sentence has been given in view of a false or equivocal document.
2. If the sentence has been, in whole or in part, the consequence of a fully recognized error, positive or negative, resulting from the proceedings or documents relative to the case.

ART. 12. The arbitrator will fix the proceedings for the revision, and the brief and peremptory terms in which it will be effected, confining himself exclusively to the point which gave rise to the revision.

ART. 13. This treaty will be in force for a period of ten years, dating from the date of the exchange of ratifications. If not denounced six months before its expiration, it will be considered to be renewed for another period of ten years, and so on.

ART. 14. Both governments will simultaneously solicit, through their plenipotentiaries, the acquiescence of His Holiness within six months following the exchange of ratifications of the present treaty.

ART. 15. This treaty will be ratified and the ratifications exchanged in Lima and Bogotá in the shortest time possible.

In virtue of which the plenipotentiaries of the high contracting parties have signed and sealed, in duplicate, in Bogotá, on the twelfth day of September of the year nineteen hundred and five.

[SEAL.]  
[SEAL.]  
[SEAL.]

HERNAN VELARDE.  
CLIMACO CALDERÓN.  
LUIS TANCO ARGAEZ.

[Inclosure 2—Translation.]

*Boundary treaty of arbitration between Peru and Colombia.*

The Governments of Peru and Colombia, animated by the earnest desire of putting a brotherly and decorous end to the question pending between them regarding their territorial limits, and with the object of removing all cause or motive of disagreement which might disturb the friendship which happily exists between them, have considered it convenient to reach an agreement, and for such purpose have appointed their respective plenipotentiaries, as follows:

His Excellency, the President of the Republic of Peru, Doctor Hernan Velarde, envoy extraordinary and minister plenipotentiary of the same Republic in Colombia; and

His Excellency, the President of the Republic of Colombia, Dr. Climaco Calderón, state minister for foreign affairs, and Señor Luis Tanco Argæz, envoy extraordinary and minister plenipotentiary of Colombia in Peru, at present in this capital;

Who, after having presented their full powers, which were found in good and due form, have resolved the following:

*Arbitration treaty of limits.*

ARTICLE 1. The Governments of Peru and Colombia submit the boundary question pending between them to the unappealable decision of His Holiness the Supreme Roman Pontiff, which question will be resolved, taking into consideration not only the titles and arguments of right presented to him, but also the conveniences of the high contracting parties, conciliating them so that the frontier line be founded in right and equity.

ART. 2. The present arbitration agreement remains expressly subordinate to the arbitration agreed upon between Peru and Ecuador of August 1, 1887, now being actually heard before His Majesty the King of Spain, having effect only in case the royal arbitrator awards territories to Peru which Colombia claims as hers. At the same time the Government of Colombia declares that the stipulations of the present arbitration agreement do not affect the treaty of equal nature celebrated between Colombia and Ecuador on November 5, 1904, which can take effect as soon as the arbitration decision of 1887, between Peru and Ecuador, to which reference is made, be finished.

ART. 3. Within the six months following acceptance by the august arbitrator the plenipotentiaries will present to his holiness, or to the person appointed by his holiness, an exposition in which is set forth the claims of their respective governments, accompanied by the documents which sustain them and in which will be set forth the reasons of the case.

ART. 4. From the day on which said expositions are presented the plenipotentiaries are authorized to receive and answer, in a reasonable time given to them, the proceedings which the august arbitrator thinks it convenient to issue, as well as to carry out the provisions which he may dictate with the object of clearing up determined points.

ART. 5. Once the arbitrator's judgment pronounced and officially published by the Secretary of State, it is definite and final, and the decisions are obligatory upon both parties.

ART. 6. Although the Governments of Peru and Colombia hope that his holiness will accept the arbitration proposed to him; if such should not prove the case, from now they appoint His Excellency the President of the Argentine Republic as arbitrator, in order that he exercise the request according to what has been stipulated in the foregoing articles.

ART. 7. The expenses incurred by the arbitrator in maintaining the process will be reimbursed by the contracting governments, each paying one-half of said expenses.

ART. 8. If, according to the declaration contained in Article 2, the necessity arise for carrying out of the compromise between Peru and Colombia treated of in this treaty, within four months of the day of execution of the sentence pronounced by His Majesty the King of Spain in the case now pending before him owing to the arbitration agreement celebrated between Peru and Ecuador, both governments will simultaneously request, through their plenipotentiaries, the acquiescence of his holiness.

ART. 9. The present treaty will be ratified by the legislative bodies of Peru and Colombia and the ratifications exchanged in the least possible time.

In virtue of which the plenipotentiaries of the high contracting parties have signed the present treaty in duplicate and have sealed it with their private seals, in Bogotá, the 12th day of September, nineteen hundred and five.

[SEAL.]  
[SEAL.]  
[SEAL.]

HERNAN VELARDE.  
CLÍMACO CALDERÓN.  
LUIS TANCO ARGAEZ.

#### ANNEX XIV.

*Complementary act to the treaty of arbitration of limits signed in Bogotá, between Peru and Colombia, on September 12, 1905.*

The Peruvian plenipotentiary, his excellency Doctor Hernan Velarde, envoy extraordinary and minister plenipotentiary in Colombia, and the Colombian plenipotentiaries, his excellency Doctor Clímaco Calderón, minister for foreign affairs, and his excellency Mr. Luis Tanco Argæz, envoy extraordinary and minister plenipotentiary in Peru, at present in this capital, who signed the agreement accomplished on the 12th of the present month and year between the two Republics, having met the ministry for foreign affairs of the Republic of Colombia and the plenipotentiary of Peru having manifested a desire to clear up the sense of the declaration made by the Colombian plenipotentiaries relative to the treaty celebrated between Colombia and Ecuador on November 5, 1904, and which appears in the second article of the arbitration treaty of limits celebrated by the same negotiators on the 12th of the present month, the mentioned plenipotentiaries agreed that the declaration to which reference is made does not signify that the Peruvian Government accepts the legality of the treaty to which said declaration contracts itself, especially in the seventh article which excludes from the Peruvian-Ecuadorian arbitration, actually being heard by His Majesty the King of Spain, a territorial zone which Peru considers included in that arbitration, and notice is hereby given in this agreement that this zone is considered as an integral part of the treaty of arbitration of limits signed on the 12th of the present month and year, signing it in duplicate and sealing it with their private seals in Bogotá on the twenty-third day of September, nineteen hundred and five.

[SEAL.]  
[SEAL.]  
[SEAL.]

HERNAN VELARDE.  
CLÍMACO CALDERÓN.  
LUIS TANCO ARGAEZ.

[Inclosure 3.—Translation.]

#### *Modus vivendi agreement between Peru and Colombia.*

The Governments of Peru and Colombia, desiring to put into practice the friendly agreement determined upon in the arbitration treaty and to secure harmony between the two countries, have resolved to conclude an agreement of equity, for which they have named plenipotentiaries:

His Excellency the President of the Republic of Peru, Doctor Hernan Velarde, envoy extraordinary and minister plenipotentiary of the said Republic in Colombia.

His Excellency the President of the Republic of Colombia, Doctor Clímaco Calderón, minister for foreign affairs, and Señor Luis Tanco Argæz, envoy extraordinary and minister plenipotentiary of Colombia in Peru, at present residing in this capital.

Who, having exhibited their full powers, which were found to be valid and in due form, have agreed upon the following:

1. The Governments of Peru and Colombia bind themselves to maintain the *status quo* in the territory for which they are contending until the final solution of the controversy,

which will be brought about by the arbitration referred to in the treaty signed on this date, and with the object of avoiding any difficulty or dangerous conflicts in the region of the Putumayo they agree to establish during this time two zones, north and south, for provisional occupation separated by said river.

The zone apportioned to Peru will consist of the territory situated to the south of the right bank, between the rivers Cobuya and Cotuhe, and that apportioned to Colombia the territory situated to the north or the left bank.

2. The Government of Colombia will name an inspector and his secretary for the custom-house of Cotuhe, who will collect import and export duties on merchandise according to the Peruvian tariff and carrying out his duties subject to Peruvian regulations until the two interested governments agree otherwise. Gum of whatever kind will pay in this custom-house the only tax, an export duty of thirty cents Peruvian money per kilogram.

3. From the date on which their agreement comes into effect—that is to say, from its approval by both interested governments—the net produce of the mixed custom-house of Cotuhe will be divided equally between the two nations and each government will pay the expenses of the employees which they maintain in the said custom-house.

4. Articles of import which, owing to their destination, should be introduced through the custom-house of Cotuhe will not pay duties in passing through the custom-house of Iquitos, through which they pass as goods in transit in the same manner as goods passed through the custom-house of Para. Such goods when passing through the custom-house of Cotuhe will only pay according to the Peruvian tariff, or according to such tariff as the two countries may agree upon.

5. In virtue of the friendly and equitable character of this agreement it is understood that the conditions underlying traffic on the river Putumayo shall be the same for Colombians and Peruvians, and the boats of both nationalities may freely ply that river.

6. The Governments of Peru and Colombia mutually bind themselves to respect and encourage the industrial enterprises of Peruvians and Colombians, who have established themselves at the present time in the zone of the river Putumayo and its tributaries. They shall not have the right to burden or in any way affect these interests with other imposts or taxes than those laid down in article three.

7. The Governments of Peru and Colombia bind themselves to in no way interfere in a manner contrary to the agreement come to so long as the frontier disputes between the two countries have not been definitely settled in accordance with the arbitration agreed upon.

8. The preceding stipulations do not in any way imply the renunciation or the recognition of territorial rights in favor of other countries, their only object being to avoid imminent danger of armed conflict between the Colombians and Peruvians exploiting this region. The object of said stipulations is to facilitate the fraternal agreement sought by the governments of both Republics.

In virtue whereof they sign in duplicate and seal with their private seals the above in Bogotá this twelfth day of September, nineteen hundred and five, it being agreed upon that this convention will come into force on its approval by the executive of both governments.

[SEAL.]  
[SEAL.]  
[SEAL.]

HERNAN VELARDE.  
CLÍMACO CALDERÓN.  
LUIS TANCO ARGAEZ.

*Complementary act to the modus vivendi agreement signed in Bogotá, between Peru and Colombia, the 12th of September, 1905.*

The envoy extraordinary and minister plenipotentiary of Peru, Doctor Hernan Velarde, and the Colombian plenipotentiaries, Doctor Clímaco Calderón, minister for foreign affairs, and Luis Tanco Argæz, envoy extraordinary and minister plenipotentiary in Peru, at present residing in this capital, signers of the treaties concluded on the 12th of this month, between the two Republics, and the Peruvian plenipotentiary, having expressed a desire to make clear the sense of the fourth clause of the *modus vivendi*, the above-mentioned plenipotentiaries agreed that the object of this clause is not to make Iquitos a transit port and a deposit for the Putumayo, but to fix the regulations which merchandise destined for the said river and passing through Iquitos will be subject from its entrance into Iquitos till its arrival at Cotuhe, where the respective duties are to be paid under strict supervision by the Peruvian customs authorities to the regulations of that country, and in virtue of which the present act forms an integral part of the *modus vivendi* above referred to, it being signed in duplicate and sealed with their private seals in Bogotá this twenty-third day of September, nineteen hundred and five.

[SEAL.]  
[SEAL.]  
[SEAL.]

HERNAN VELARDE.  
CLÍMACO CALDERÓN.  
LUIS TANCO ARGAEZ.

**SETTLEMENT OF THE CLAIM OF RAYMOND AND SOPHIE SMITH  
AGAINST COLOMBIA.**

*Chargé Snyder to the Secretary of State.*

No. 93.]

AMERICAN LEGATION,  
*Bogotá, November 7, 1905.*

SIR: I have the honor to inform you that I have settled the claim of Raymond and Sophie Smith, American citizens, for damages suffered at the hands of government troops during the last revolution, for the sum of \$1,500 gold, payable in *vales de extranjeros*. \* \* \*

I inclose herewith copy and translation of the resolution of the Colombian foreign office settling this claim.

It might be well to remark that this is the only claim to date in which the Colombian Government has paid the full amount requested, even in *vales*.

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.—Translation.]

MINISTRY FOR FOREIGN AFFAIRES,  
*Bogotá, October 10, 1905.*

Raymond and Sophie Smith, citizens of the United States of America, domiciled in the municipality of Aguachica, Department of Magdalena, possessed in that municipality a country estate, on which they had plantations of cacao, coffee, a dwelling house, domestic fowls and cattle. It is known in the petition that they observed neutral conduct during the last revolution.

It also appears duly proved: 1st. That forces of the Gramalote battalion, which formed part of the army commanded by General Luis Morales Berti, appeared on said estate of Raymond and Sophie Smith and took various head of cattle and other domestic animals of the corral; 2nd. That later, government forces which were in Ocana under orders of Miguel Quin, civil and military chief of that city, set fire to the house of said Smiths and destroyed the plantations of the estate of Aguachica; 3rd. That revolutionary forces had entered that estate, before the house was burned, and carried off the cattle which had remained there after the Gramalote battalion of the government forces had taken the greater part; and 4th. That seeing themselves without any protection whatever, the Smiths resolved to abandon their estate, and in fact did so abandon it, going to Barranquilla, from whence they afterwards proceeded to the United States.

The foreign character of the claim is proved, and it is also known that after coming to Colombia they bought the lands in the vicinity of Aguachica, built the house which was burned, cleared the land of trees and underbrush, and made the plantations of cacao and coffee which were destroyed. But the claim does not clearly prove how much of the damages and expropriations were caused by the government forces; and therefore, in consideration, on the one part, of the good faith which the claim reveals, and, on the other, that it is a case for the application of Article 2 of law 27 of 1903, deciding in good faith and belief, and bearing in mind the legal proof and form in which it is presented, as well as the rectitude with which it has been pressed by the claimants, the ministry fixes the sum of the indemnity which can be given to the petitioners at \$1,500. 00

In consideration of the above it is resolved:

That there be recognized in favor of Raymond and Sophie Smith, citizens of the United States, as the only and definite indemnity for the value of their claim, the sum of \$1,500.00 gold, payable in *vales de extranjeros*.

It is made known that the Honorable Alban G. Snyder, chargé d'affaires of the United States, is authorized to receive the sum recognized, and that the payment should be made to him.

Let it be made known, copied in the respective book, published in the Diario Oficial, and if accepted by the claimants, an authentic copy sent to the ministry of finance and treasury to be paid and placed in the archives.

The minister.

CLÍMACO CALDERÓN.

*The Secretary of State to Minister Barrett.*

No. 6.]

DEPARTMENT OF STATE,  
Washington, December 15, 1905.

SIR: I have to acknowledge the receipt of Mr. Snyder's No. 93, of the 7th ultimo, reporting the settlement of the claim of Raymond and Sophie Smith by the payment of the amount claimed, \$1,500, in *vales de extranjeros*.

The Department approves Mr. Snyder's action.

I am, etc.,

ELIHU ROOT.

**REVOLUTIONARY CONSPIRACY.**

*Minister Barrett to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Bogotá, December 20, 1905.

(Mr. Barrett reports that an official announcement has been made of the discovery of a plot to dispose of the President of Colombia and to organize a new government. Many prominent men who were arrested are now about to undergo trial by court-martial. Among the leaders are a former cabinet minister and generals.)

*Minister Barrett to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Bogotá, December 21, 1905.

(Mr. Barrett states that the President of Colombia requests that an announcement be made that while the conspiracy was serious enough to warrant severe punishment of the conspirators there are no important ramifications through the country. His government completely controls the situation and no revolution can result from the foolishly managed conspiracy. The financial credit of the government is not weakened. The President is determined that the decision of the court-martial be executed firmly and that the majesty of the law be maintained. Foreign nations are invited to have confidence in the stability of the government.)

*Minister Barrett to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Bogotá, December 21, 1905.

(Mr. Barrett reports that upon further investigation it is shown that the conspiracy aimed to assassinate the President of Colombia in his residence last night. Former minister for foreign affairs, Felipe

Angulo, is the chief of the conspirators. Confidence in the government has been restored by the prompt action of the President in arresting the conspirators and providing a speedy trial for them, and complete calm prevails.)

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*President Roosevelt to President Reyes.*

[Telegram.]

WASHINGTON, *December 22, 1905.*

I offer you my congratulations upon the frustration of the reported attempt against your personal safety.

THEODORE ROOSEVELT.

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*President Reyes to President Roosevelt.*

[Telegram.]

BOGOTÁ, *December 25, 1905.*

Sincerely obliged for your congratulations. Minister Mendoza is charged to pay your excellency visit in my name on this occasion. Peace is assured all over the country.

REYES.

## CUBA.

### PATENT MEDICINE LAW OF CUBA.

*The Acting Secretary of State to Minister Squiers.*

No. 460.]

DEPARTMENT OF STATE,  
*Washington, January 9, 1905.*

SIR: I inclose copy of a letter from A. W. Pinkham, of Lynn, Mass., to the Hon. E. W. Roberts, a member of the House of Representatives,<sup>a</sup> regarding the proposed enforcement of a law in Cuba requiring a statement of the formula of patent medicines in order to obtain authorization for their sale.

The complainant represents that if the law is enforced, he will have to withdraw from the sale of his preparations in Cuba.

You may use your good offices in the matter and report to the Department.

I am, etc.,

FRANCIS B. LOOMIS.

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*Minister Squiers to the Secretary of State.*

No. 1174.]

AMERICAN LEGATION,  
*Habana, Cuba, February 1, 1905.*

SIR: I have the honor to acknowledge receipt of Department instructions No. 460, of January 9, 1905, regarding the proposed enforcement of a law in Cuba requiring a statement of the formula of patent medicines in order to obtain authorization for their sale.

In reply, I beg to advise you that as a result of my inquiries I find that it is the intention of the government to actively enforce the regulations for the practice of pharmacy and particularly the provisions of article 15.

A copy of said regulations is inclosed herewith.

The old Spanish law of February 24, 1844, prohibiting the sale of secret medicines has never been annulled, and, although I do not believe it to be the intention of the government to enforce same at this time, it nevertheless exists and should be taken into consideration by those drug firms doing business with Cuba.

I inclose herewith translation of Governor Nunez's order granting an extension of six months' time for the fulfillment of the provisions of article 15 of the aforesaid regulations.

I am, etc.,

H. G. SQUIERS.

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<sup>a</sup> Not printed.



[Inclosure 1.—Translation.]

*Order of Governor Nunez.*

HABANA, August 15, 1904.

In view of the reasons set forth by various owners of drug stores and representatives of foreign manufacturers, I have decided to grant a six months' extension of time for compliance with the provisions of article 15 of the pharmacy regulations.

Which is hereby published in the official bulletin of the province for general information.

EMILIO NUNEZ,  
*Provincial Governor.*

[Inclosure 2.]

*Article 15 of the pharmacy regulations.*

ART. 15. Permission for the sale of medicines or galenic or compound drugs from abroad shall be applied for by a professor of medicine or pharmacy by means of a memorial, accompanied by the medicine whose introduction is desired and by two copies of the pharmacopœia, formulary, work, or periodical publication of medicine or pharmacy in which its composition appears. A decision on such applications shall be preceded by a report from the royal academy of medical, physical, and natural sciences of Habana and by an opinion of the supreme board of health.

*The Secretary of State to Minister Squiers.*

No. 471.]

DEPARTMENT OF STATE,  
*Washington, February 8, 1905.*

SIR: Referring to Mr. Sleeper's No. 990, of June 20 last,<sup>a</sup> I inclose copy of a letter from the Lambert Pharmacal Company of St Louis<sup>a</sup> protesting against the Cuban patent-medicine law.

The Department would be pleased to receive a report from you on the subject.

The action of the departmental government of Habana reported by Mr. Sleeper appears to have been confirmed and made general by an order of the Secretary of the Interior, issued November 12, 1904.

I am, etc.,

JOHN HAY.

*Minister Squiers to the Secretary of State.*

No. 1187.]

AMERICAN LEGATION,  
*Habana, Cuba, February 18, 1905.*

SIR: In continuation of my No. 1174 of the 1st instant, and in reply to Department instructions No. 471, of the 8th of this month, inclosing copy of a letter from the Lambert Pharmacal Company of St. Louis, protesting against the Cuban patent medicine law, I have to transmit herewith translation of a letter from the chief clerk of the department of the interior to the secretary of this legation advising him that the regulations for the sale of patent medicines have been modified in the sense that it shall not be obligatory to place on the outside of the wrapper of each remedy the respective formula.

I am, etc.,

H. G. SQUIERS.

[Inclosure.]

*The Chief Clerk of the Interior Department to Chargé Sleeper.*

[Personal.]

REPUBLIC OF CUBA, SECRETARIATE OF THE INTERIOR,  
*Habana, February 13, 1905.*

By the attached copy of a letter which I this day address to Mr. C. B. Riker, treasurer and general manager of the Sidney Ross Company, of New York, you will see that in accordance with my promise of several days ago the order of this secretariate relative to the sale of remedies has been modified in the sense that it shall not be obligatory to place on the outside of the wrapper thereof the respective formulas, it being sufficient that the latter be known to the government, which shall maintain due secrecy.

This measure, in addition to avoiding the objectionable features which you pointed out to me and which would have occasioned serious damage to American commerce, tends to likewise protect the interests of public health within existing legislation.

I am, etc.,

BALBINO GONZALEZ.

[Subinclosure.—Translation.]

*The Chief Clerk of the Interior Department to the Sidney Ross Company.*

REPUBLIC OF CUBA, SECRETARIATE OF THE INTERIOR,  
*Habana, February 13, 1905.*

SIR: On August 27, 1904, in reply to your petition of July 7 last addressed to the governor of this province, I stated to you that in accordance with the opinion of the superior board of health, which was consulted with respect to the possibility of deferring to the wishes of your company expressed in the petition above mentioned, it was absolutely necessary to print the respective formula on the outside of packages containing pharmaceutical preparations placed on sale in this island.

Subsequently reconsidering the case and bearing in mind the numerous hardships would be imposed upon foreign commerce by carrying out this measure, which on the other hand might give rise to all kinds of falsification, and for the purpose of harmonizing such interests of commerce with those of the public health, the secretary has canceled his previous order, requiring at the same time that all persons who desire to place on sale in this island any compounded remedy should send to this office a copy in duplicate of the formula thereof, which the government shall treat with the proper confidence without prejudice to its right to prohibit the sale of all those preparations which do not offer, in the judgment of the technical official corporations, the necessary guarantees, whether because containing substances injurious to health in excessive proportion or for incompatibility or other causes which may justify such prohibition.

Yours, very truly,

BALBINO GONZALEZ.

**SANITATION OF CUBAN CITIES.***Minister Squiers to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
*Habana, January 14, 1905.*

House agrees Senate sanitation bill reported by telegram of December 17<sup>a</sup> and President approves to-day. Secretary of Public Works Diaz goes to Santiago immediately to superintend work of sanitation.

SQUIERS.

*The Secretary of State to Minister Squires.*

No. 481.]

DEPARTMENT OF STATE,  
*Washington, March 10, 1905.*

SIR: The people of the United States are deeply interested in the proper sanitation of the cities of the island of Cuba and especially in the sanitation of the city of Habana. So pressing was this necessity deemed to be that during the military occupancy of the island plans were devised for the sanitation of the city of Habana, bids were advertised for and received, and such proceedings had that finally, on January 10, 1902, a contract was entered into pursuant to said preliminaries between the city of Habana on the one hand and Messrs. McGivney & Rokeby on the other for the sewerage and repaving of said city.

Thereupon the contractors deposited \$500,000 in American money as a guaranty of good faith.

As the work was estimated to cost some \$13,000,000 and the city of Habana was not in funds to that amount, a clause in the contract provided that the work should begin within thirty days after the city should notify the contractor that the necessary funds were ready.

There the matter has remained, and for three years the Government of Cuba has apparently taken no steps to carry further this matter.

Under the circumstances I am constrained to bring to your attention the following representations and request you to bring them officially to the attention of the Republic of Cuba.

The importance and propriety of prompt action to be taken by the Government of the Republic of Cuba in regard to the sanitation of the cities of the island contained in the contract between the Governments of the United States of America and of the Republic of Cuba, set out in what is known in our legislation as the Platt amendment (of 1901) and the appendix to the Cuban constitution, adopted (1901) pursuant to the requirements of that amendment, are evidenced by the following summary statement of facts:

In 1901 a formal contract was entered into between the United States of America and the Republic of Cuba. This contract was evidenced by the following documents and proceedings:

On March 2, 1901, the Congress of the United States passed an act known as the Platt amendment, providing:

The President is hereby authorized to leave the government and control of the island of Cuba to its people so soon as a government shall have been established in said island under a constitution, which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

## IV.

That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

## V.

That the Government of Cuba will execute, and as far as necessary extend, the plans already devised or other plans to be mutually agreed upon for the sanitation of the cities of the island to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

## VIII.

That by way of further assurance the Government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.  
(31 U. S. Statutes at Large, 897.)

On June 13, 1901, the Republic of Cuba adopted a new constitution containing the eight clauses of the Platt amendment above referred to, substantially in the same words.

The ports and commerce of the United States have heretofore suffered immense losses through the prevalence of yellow fever in Cuba and the importation of the same into the United States from such sources of infection. The result has been that certain portions of the South, at different times, have been completely cut off by quarantine and other regulations from all social and commercial intercourse with the other sections, with a resulting great loss and damage to the people of the United States. In consequence, the United States Government, in granting liberty to Cuba, provided, by the covenants contained in the Platt amendment, that the evil arising from the unsanitary conditions of the ports of the island should be remedied as soon as possible by proper sanitary works.

From the foregoing it will be seen that the Republic of Cuba agreed:

First. "To execute and as far as necessary extend the plans already devised or other plans to be mutually agreed upon for the sanitation of the cities of the island."

Second. "That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected."

Third. To "embody the foregoing provisions in a treaty."

The McGivney & Rokeby contract for sewerage and paving of Habana was a plan for the sanitation of that city "devised" by the United States military government and "agreed to" by the Cuban Government on the acceptance of the transfer.

It also constituted one of the "acts of the United States in Cuba during its military occupancy thereof," and should be, therefore, "ratified and validated," and "all lawful rights acquired thereunder" should be "maintained and protected," pursuant to the solemn pact of the Cuban Government.

The foregoing assertions are substantiated by the following documents and transactions:

During the incumbency of the United States military government in the island, plans of sanitation of different cities were adopted and partially carried out, and in particular the following proceedings were had in regard to the city of Habana:

June 27, 1901, the United States military government issued sealed proposals for bids from contractors on a sewerage and paving contract improvement in the city of Habana, and required the bidders to deposit \$200,000 as a guaranty of good faith. Bids were made under these proposals, and Messrs. McGivney & Rokeby, American citizens, having made the lowest bid, were awarded the contract.

January 10, 1902, a contract for the sewerage and paving of the city of Habana was executed between the city of Habana and Messrs. McGivney & Rokeby, and approved by the Hon. Leonard Wood, military governor. Thereupon \$500,000 was deposited with the city of Habana as security for the due performance by Messrs. McGivney and Rokeby of said contract.

May 16, 1902, Messrs. McGivney & Rokeby formed a corporation under the laws of the State of New Jersey to take over said contract, known as the "McGivney & Rokeby Construction Company." Its stockholders are all American citizens and include, among others, Edward J. Berwind, Oliver H. Payne, Grant B. Schley, Jacob Schiff, and James Speyer.

On the 20th day of May, 1902, pursuant to the direction of the President of the United States, the Hon. Leonard Wood, military governor of Cuba, transferred to the President and Congress of the Republic of Cuba the government and control of the island pursuant to a formal proclamation then and there made, and the Hon. Estrada Palma, President of the Republic of Cuba, accepted the transfer pursuant to a formal speech of acceptance then and there made.

The proceedings on that occasion are set forth in full in *Gaceta de la Habana*, official periodical of the Government of the Republic of Cuba, and the following are abstracts from the *Gazette* bearing upon the matter in question:

HEADQUARTERS MILITARY GOVERNOR, ISLAND OF CUBA,  
*Habana, May 20, 1902.*

*To the President and Congress of the Republic of Cuba.*

SIRS: Under the direction of the President of the United States, I now transfer to you as the duly elected representatives of the people of Cuba the government and control of the island, to be held and exercised by you, under the provisions of the constitution of the Republic of Cuba heretofore adopted by the constitutional convention and this day promulgated; and I hereby declare the occupation of Cuba by the United States and the military government of the island to be ended.

This transfer of government and control is upon the express condition, and the Government of the United States will understand, that by the acceptance thereof you do now, pursuant to the provisions of the said constitution, assume and undertake, all and several, the obligations assumed by the United States with respect to Cuba by the treaty between the United States of America and Her Majesty the Queen Regent of Spain, signed at Paris on the 10th day of December, 1898.

The plans already devised for the sanitation of the cities of the island and to prevent a recurrence of epidemic and infectious diseases, to which the Government of the United States understands that the provisions of the constitution contained in the fifth article of the appendix applies, are as follows:

(1) A plan for the sewerage and paving of the city of Habana, for which a contract has been awarded by the municipality of that city to McGivney, Rokeby & Co.

(2) A plan for waterworks to supply the city of Santiago de Cuba, prepared by Capt. S. D. Rockenbach, in charge of the district of Santiago, and approved by the military governor, providing for taking water from the wells of San Juan Canyon and pumping the same to reservoirs located on the heights to the east of the city.

(3) A plan for the sewerage of the city of Santiago de Cuba, a contract for which was awarded to Michael J. Dady & Co. by the military governor of Cuba, and now under construction.

(4) The rules and regulations established by the President of the United States on the 17th of January, 1899, for the maintenance of quarantine against epidemic diseases at the ports of Habana, Matanzas, Cienfuegos, and Santiago de Cuba, and thereafter at the other ports of the island, as extended and amended and made applicable to future conditions, by order of the military governor, dated April 29, 1902, published in the Official Gazette of Habana on the 29th day of April, 1902.

(5) The sanitary rules and regulations in force in the city of Habana.

LEONARD WOOD,  
*Military Governor of Cuba.*

The transfer was accepted by the following official communication \* \* \* of which the following is a true translation:

Hon. Gen. LEONARD WOOD.

SIR: As President of the Republic of Cuba, I received in this act the government of the Island of Cuba, which you transfer to me, in compliance of the orders communicated to you by the President of the United States, and I take note that in this act the military occupation of the island ceases.

Upon accepting this transfer, I declare that the Government of the Republic assumes, in accordance with the precepts of the constitution, all and every one of the obligations established with respect to Cuba by the Government of the United States, by virtue of the treaty signed on the 10th of December, 1898, between the United States and Her Majesty the Queen Regent of Spain.

With the understanding that article 5 of the appendix to the constitution is applicable to them, the government will take care to facilitate the execution of the work of sanitation projected by the military government; it will procure, also, to the extent of its authority, the observance of the regimen established by the military government of Cuba, and will hold itself responsible, in the arrangements for sanitation, for the obligations of the two countries.

T. ESTRADA PALMA.

The appendix to the constitution of Cuba consists of the provisions of the Platt amendment, which are thus incorporated by that appendix into the constitution of Cuba, and the fifth article of said appendix is the same as the fifth article of the Platt amendment above set forth.

July 16, 1903, the assignment of the contract from Messrs. McGivney & Rokeby to the McGivney & Rokeby Construction Company was approved by the city of Habana and the Republic.

The contract provides, among other things, that the contractor shall be obliged to commence the work "within the term of thirty days after having been duly notified by the municipal mayor of the city of Habana that the necessary funds for the execution of the work are ready."

This contract requires that the necessary funds for the execution of the work should be "ready" before the work is to begin.

From the foregoing it will be observed that the general covenant contained in the Platt amendment and the appendix to the Cuban constitution whereby Cuba agreed with the United States to sanitize the cities of the island was thus made definite and specific so far as concerned the city of Habana. Thus did Cuba specifically agree, in May, 1902, to sanitize the city of Habana by carrying out the McGivney & Rokeby contract.

Under such circumstances an international obligation to raise the funds necessary for the purpose of carrying out the McGivney & Rokeby contract rests upon the National Government of the Republic of Cuba.

It has lately been represented that the Cuban National Government has done nothing in nearly three years toward meeting this obligation.

It is represented that the city of Habana has made some effort toward carrying out its obligations, but that these efforts have been rendered abortive by this inaction on the part of the National Government of Cuba, and that the efforts on the part of the city of Habana to carry out its obligations under the McGivney & Rokeby contract have been substantially as follows:

That the city of Habana now owes on certain obligations amounting to a first and second mortgage the equivalent of \$13,000,000, American money, and on certain floating obligations the equivalent of \$2,000,000 more;

That the city has proposed to raise a total loan of \$28,000,000, \$15,000,000 to retire the old loan, and \$13,000,000 for the McGivney & Rokeby sewerage contract;

That prior to the making of the bond contract hereinafter mentioned, the city advertised for bids for an issue of its own bonds without any guarantee from the government, but no bids were obtained;

That after this failure the city of Habana made a contract with

Messrs. Farson, Leach & Co., bankers, of Chicago, for an issue of \$28,000,000 of its bonds, bearing interest at 5 per cent, to be sold at not less than 90. One of the conditions of such contract was that the same should be approved by the military governor and that the Cuban Government should contribute \$300,000 per year for forty years toward paying the interest and providing a sinking fund for the repayment of the debt;

That the contract between the municipality and the bankers was not signed until two days before the United States military government handed over the government of the island to the people of Cuba;

That in consequence, it became necessary to take other steps for the approval of the bond contract by the President of the Republic of Cuba and by the Cuban Congress;

That thereupon the municipality of Habana filed a petition directed to the Cuban Congress asking it to authorize the President of the Republic to give his approval to said bond contract and to vote the payment by the Cuban Government of the sum of \$300,000 annually in aid of the said bond issue; and a bill is now pending in the Cuban Congress for said purpose.

That said bill, after its introduction into the Cuban Congress, was referred to the finance committee of the Cuban Senate; that it has remained there for a long time without further action, and although attempts have been made to have it reported from the committee no action has been taken thereon.

That under these circumstances there is great danger that the whole project and plan for the sanitation of the city of Habana devised by the United States military government and constituted in the contract between the municipality of Habana and Messrs. McGivney & Rokeby, above mentioned, will lapse by reason of the apparent neglect and indifference toward it of the Cuban Government and Congress.

It has been represented to the Department that the situation of this great work of improvement and the attitude of the Cubans themselves toward it are substantially as follows:

That the sanitation of Habana is a local improvement to one city in one province of the island when there are six provinces represented in the national government; that there is objection on the part of the representatives of the five other provinces to thus helping out the municipality of Habana to the extent of the \$300,000 per year for forty years for a local improvement.

That the opponents of the bill in the Cuban Congress and also in Habana itself declare that the city of Habana is one of the healthiest cities in the world and that there is no necessity of any sewerage system or of going to any expense for sanitation, notwithstanding the fact that Habana is a city of over 250,000 population, with only a few short sewers and the great majority of its houses dependent upon cesspools and gutter sewers on the surface of the streets.

That for the reason stated the Cubans object to carrying out the McGivney & Rokeby contract, and by thus refusing to furnish the necessary funds to carry out the contract are preventing the consummation and the execution of this great work of internal improvement.

The United States Government is vitally interested in seeing that the plans for the sanitation for the city of Habana devised and par-

tially carried out under the military government should be completed under the Government of the Cuban Republic.

In view of the fact that under the provisions of the Platt amendment and the subsequent proceedings under it above recited, the Cuban National Government is under the obligation to sanitize the cities of the island, that government should act willingly and promptly so as to hasten the due fulfillment by itself of its own solemn covenant with the United States of America.

It is therefore apparent that great public interests are at stake and that such appropriate action on the part of that government should be taken as will result in the consummation of the plans "devised" for the sanitation of the city of Habana by the United States Government itself and "agreed upon" by both of the sovereignties concerned, as above set forth.

Under the circumstances, as represented, you are hereby directed to bring this matter to the attention of the Government of the Republic of Cuba and to urge upon it the great interest which the United States Government has in the sanitation of the cities of the island of Cuba under her covenants contained in the appendix to her constitution and under the treaty of May 23, 1903, between the two governments.

You will also say that this government is also desirous of opening negotiations for the formal drafting and execution of a treaty between the two nations in regard to the subject-matter as is provided to be entered into by the eighth clause of the act of Congress above recited and the appendix to the Cuban constitution.

Inclosed are two copies of a brief,<sup>a</sup> one for your own use and one for the use of the Cuban Government, prepared by R. Floyd Clarke, attorney for the McGivney & Rokeby Construction Company.

I am, etc.,

JOHN HAY.

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*Minister Squiers to the Secretary of State.*

No. 1228.]

AMERICAN LEGATION,  
*Habana, Cuba, April 15, 1905.*

SIR: Referring to Department instructions No. 481, of March 10, 1905, regarding contract for sewerage and paving Habana, I have the honor to say that in accordance with such instructions the matter was immediately brought to the attention of the Cuban Government.

Copy of my note and translation of Cuban Government's reply are inclosed herewith. \* \* \*

I am, etc.,

H. G. SQUIERS.

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[Inclosure 1.]

*Minister Squiers to the Secretary of State and Justice.*

AMERICAN LEGATION,  
*Habana, Cuba, March 31, 1905.*

YOUR EXCELLENCY: Acting under particular instructions from my government I have the honor to state to your excellency that the people of the United States \* \* \* between the two governments. (Quoted from instruction No. 481, March 10, 1905. Printed ante.) \* \* \*



I inclose copy of a brief for the use of your excellency's government, prepared by R. Floyd Clarke, attorney for the McGivney & Rokeby Construction Company, and take this occasion to reiterate to your excellency the assurance, etc.

H. G. SQUIERS.

[Inclosure 2.—Translation.]

*The Secretary of State and Justice to Minister Squiers.*

No. 208.]

DEPARTMENT OF STATE AND JUSTICE,  
DIVISION OF STATE,  
Habana, April 6, 1905.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's polite note, No. 647, of the 31st of last March, relative to the sanitation of the cities of the Republic and especially that of the city of Habana.

I shall inform the President of the indication contained in the said note and in due time it will be a pleasure to me to communicate to your excellency the decision which may be adopted in this subject.

I take advantage, etc.,

JUAN F. O'FARRILL.

*Minister Squiers to the Secretary of State.*

No. 1241.]

AMERICAN LEGATION,  
Habana, Cuba, May 6, 1905.

SIR: \* \* \* With reference to contract for sewerage and paving Habana, I have the honor to inclose translation of a Presidential message sent to Congress April 28 and a newspaper report<sup>a</sup> of the debate following the reading of the message in the Senate.

Mr. O'Farrill in a recent interview agreed that a message should be prepared and sent to Congress.

Mr. Palma's prompt action indicates the pressure of interested persons who will without doubt push matters to a favorable issue, if it is possible to do so. \* \* \*

I am, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

*Message of the President of Cuba to the Cuban Congress.*

It is the duty of the Executive to submit to the consideration of the Congress a matter of serious importance, as it comes within our obligations respecting the United States. I refer to the plan for the sewerage and paving of the city of Habana. These works, besides being included by their nature in article 5 of the constitutional appendix, are specifically mentioned in the letter of transfer of the government of the island, addressed by Gen. Leonard Wood on the 20th of May, 1902, to the President of the Republic and to Congress. The paragraphs of said letter concerning this matter and other works of a like nature are as follows:

"The following are the plans devised for the sanitation of the cities of the island and to prevent a recurrence of epidemic and infectious diseases, to which the Government of the United States understands that the provisions of the constitution contained in the fifth article of the appendix applies, viz:

"(1) A plan for the sewerage and paving of the city of Habana, for which a contract has been awarded by the municipality of that city to McGivney, Rokeby & Co.

"(2) A plan for waterworks to supply the city of Santiago de Cuba, prepared by Capt. S. D. Rockenbach, in charge of the district of Santiago, and approved by the military governor, providing for taking water from the wells of San Juan Canyon and pumping the same to reservoirs located on the heights to the east of the city.

<sup>a</sup> Not printed.

"(3) A plan for the sewerage of the city of Santiago de Cuba, now under construction by virtue of the contract with Messrs. Michael J. Dady & Co."

In order that this contract be fulfilled, the Government at Washington has advised us thereof, through its diplomatic representative, in terms which reveal its desire that the works of sanitation of the city of Habana be concluded according to the sewerage and paving plan approved by the military governor in 1901. Moreover, the American Government understands that the municipality having adjudged the contract for said works to Messrs. McGivney, Rokeby & Co., with the approval of the said governor, and these having, furthermore, deposited as a guaranty one-half million of dollars, they have the indisputable right to undertake them and no one else, whether paid for by the municipality or by the National Executive.

In order to give a clearer idea of what the Washington Government thinks about the matter, I shall translate below certain paragraphs of the note addressed to our state department by the American minister:

\* \* \* \* \*

"From the foregoing it will be observed that the general covenant contained in the Platt amendment and the appendix to the Cuban constitution whereby Cuba agreed with the United States to sanitize the cities of the island was thus made definite and specific so far as concerned the city of Habana. Thus did Cuba specifically agree in May, 1902, to sanitize the city of Habana by carrying out the McGivney & Rokeby contract. Under such circumstances an international obligation to raise the funds necessary for the purpose of carrying out the McGivney & Rokeby contract rests upon the National Government of the Republic of Cuba."

Now whatever our opinion may be about the extent or limit of the municipal contract with that company there remains anyway the obligation which the Government of the Republic of Cuba has contracted with that of the United States relative to the sewerage and paving of the city of Habana. And as the lack of fulfillment of this obligation has resulted in our attention being called to the matter by the Washington Government, I comply with my duty in presenting to the Congress a matter of such extreme importance in order that it may decide what it sees fit with the promptness which the case requires.

Given at the Presidential Palace, Habana, April 28, 1905.

T. ESTRADA PALMA.

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*The Acting Secretary of State to Minister Squiers.*

No. 524.]

DEPARTMENT OF STATE,  
Washington, July 26, 1905.

SIR: You will again bring to the attention of the Cuban Government the question of the sanitation of the cities of Cuba, which has been the subject of previous instructions, and report the present status of the matter.

I am, etc.,

ALVEY A. ADEE.

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*Minister Squiers to the Secretary of State.*

No. 1308.]

AMERICAN LEGATION,  
Habana, Cuba, August 17, 1905.

SIR: Referring to Department's instructions No. 524, of the 26th ultimo, I have the honor to say that in a conversation with the secretary of state I represented that, owing to the yellow-fever epidemic in Louisiana, the United States was particularly interested in sanitary conditions here, and that owing to the failure of Congress to approve the budget there was some apprehension that without funds the present excellent conditions could not be maintained.

Doctor O'Farrill assured me that everything was being done by his government to preserve the health of the island and that a special decree had been issued (translation inclosed) making available the sums necessary for that purpose. This decree had escaped me, as it was irregularly issued and we did not happen to receive a copy.

I have also conferred with Doctor Finlay, and feel convinced that the authorities are earnestly trying to maintain Cuba's high standard of sanitary conditions and that there is at present no cause for apprehension.

I have, etc.,

H. G. SQUIERS.

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[Inclosure 1.—Translation.]

*Presidential decree in lieu of budgetary law, 1905-6.*

The fiscal year, 1904-5, terminating on this date and the general budget not having been approved by Congress for the economic year, 1905-6:

Whereas it is not possible to admit that the function of government and the administrative services can remain paralyzed for any length of time without producing a deep disturbance in the organization of the Republic, to the great discredit of the nation;

Whereas article 68 of the fundamental law authorizes the Executive to make such provision as he may deem convenient, in so far as may be incumbent on the government and administration of the state;

Making use of this power, on the motion of the secretary of the treasury, and in conformity with the advice of the council of secretaries, I resolve:

Article 1. During the time that no disposition is made by Congress concerning the matter the expenditures of the public administration shall be met monthly out of the credits assigned each department by the law of the budget which has been in force up to date.

Article 2. The revenues will continue to be collected in the manner and form that the laws in force determine.

Article 3. The secretary of the treasury is instructed to take the proper measures to carry out the provisions of the present decree.

Given in the Presidential palace in Habana, the 30th of June, 1905.

T. ESTRADA PALMA.

J. RIUS RIVERA, *Secretary of the Treasury.*

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[Inclosure 2.—Translation.]

*Presidential decree providing for the sanitation of the cities of the island.*

The manner of providing for the service of cleaning and of sanitation of various cities of the island being left undetermined by Congress;

The credit of \$326,000 appropriated by the law of the 14th of January of the current year being exhausted, which provided for the cleaning of the streets and for the work of sanitation of Santiago de Cuba, Cienfuegos, Matanzas, Cardenas, Nuevitas, Trinidad, Caibarien, Isabela de Sagua, Batabano, Camaguey, Santa Clara, Guines, Pinar del Rio, and Guanajay;

The governments of the said cities not having the necessary sums designated in their budgets for carrying out the above object;

Whereas it is not possible to abandon for a single day; the cleaning of the streets and the work of sanitation without exciting with good reason, the protests of the neighbors, of the foreign and domestic press, to which the neglect in the said service in the said places gave rise six months ago, and that which is more serious, without permitting ourselves to infringe international obligation;

Whereas the law covering the matter in hand has not been enacted by Congress,

Making use of the power which article 68 of the constitution concedes to the Executive, on the motion of the secretary of public works and in accord with the advice of the council of secretaries, I have decreed the following:

Article 1. Until Congress take proper measures to provide for the cleaning of the streets and the sanitation of the cities of Santiago de Cuba, Cienfuegos, Matanzas, Cardenas, Nuevitas, Trinidad, Caibarien, Isabela de Sagua, Batabano, Camaguey, Santa Clara, Guines, Pinar del Rio, and Guanajay, in the same manner in which they are now being done, shall continue to be met according to the law of the 14th of January of the current year.

Article 2. The secretary of public works is directed to take the proper measures to carry out the provisions of the present decree.

Given in the Presidential palace, in Habana, on the 30th of June, 1905.

T. ESTRADA PALMA.

RAPHAEL MONTALVO,  
*Secretary of Public Works.*

*The Secretary of State to Chargé Sleeper.*

No. 569.]

DEPARTMENT OF STATE,  
*Washington, December 21, 1905.*

SIR: The correspondence had with your legation, especially during the current year, will have shown the great interest, mutually shared by the two countries, which is felt in the carrying out of the engagement contained in the appendix to the Cuban constitution and affirmed in the fifth article of the treaty of May 22, 1903, between the United States and the Republic of Cuba for the maintenance and, so far as necessary, the extension of the plans then already devised or other plans mutually to be agreed upon for the sanitation of the cities of the island of Cuba.

In this regard reference may be made to the note which Minister Squiers addressed, in pursuance of the Department's instructions, to Secretary O'Farrill on March 31, 1905, to the reply of Señor O'Farrill, dated April 18, and to the message communicated to the Cuban congress by the President on April 28 last. The latter paper in particular shows the extreme importance attached by the Cuban Executive to the faithful execution of the existing engagements in the premises.

Legislation has since been proposed in the Cuban congress looking to the adoption of extensive measures of sanitation throughout the island. The matters especially brought to the attention of that body by President Palma's message of April 28 do not appear to have been acted upon. That this inaction is not due to any misconception of the importance or urgency of the matter is evident from the first "considerando" of the bill introduced in the House of Representatives on September 29 last, which reads:

Considering that the Cuban State could not in any case elude the responsibility that would fall upon it if, for lack of attention or vigilance in sanitary matters, the American Government should demand the fulfillment of the agreement between us on the subject of hygiene, and that, in view of the fact that international duties directly affect the central authority, it is not possible to delegate them to any other organization, either provincial or municipal;

as well as from the concluding paragraph of article 1 of the said bill, which reads:

The city of Habana shall continue with its present organization in this respect, using the amounts set down in the general budget for services already established and the legislative credits appropriated for special works under way.

While the needful measures for improving the sanitary conditions of other cities of the island, devised and set on foot by the military authorities of the United States, were to some extent incomplete owing to the magnitude of the task and the briefness of the term of American occupation, those adopted with regard to the capital city were matured with care and applied with success, so that the health of Habana was bettered to a notable degree. Conditions were established and improvements set under way which have continued up to a recent date to maintain the salubrity of Habana, and which have demonstrated by their results the practical wisdom of their choice. What shortcomings may now be apparent are obviously attributable, not to defects in the devised scheme, but to its ineffective completion in all its parts.

The present conditions in the island naturally attract attention in this country. The great and growing intercourse between the United States and the Republic is mainly carried on through the capital and in large part through the populous provincial cities, in all of which

effective sanitation is an imperative need and the consummation of adequate measures to that end a public duty. None realize this more than the Cubans themselves.

It appears to the President to be a timely, and at the same time a truly friendly act, to call the attention of the Cuban Government anew to the question of public sanitation and, in view of the very prosperous condition of the finances of the Republic, of the importance of allowing no hindrance to check the increasing commerce of Cuba, and of the occasion which now seems to call for earnest efforts to maintain and perfect the good work of the past few years, to urge that there be no further delay in the execution of the unfinished part of the comprehensive plan heretofore set under way, particularly in regard to the paving and draining of the city of Habana.

I am, etc.,

ELIHU ROOT.

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**CLAIMS OF LUCIANO ARESTUCHE AND FELIPE MAZA É IBARRA  
AGAINST THE UNITED STATES.**

*The Cuban Legation to the Department of State.*

[Memorandum.]

IN RE ARESTUCHE AND MAZA IBARRA.

LEGATION OF CUBA,  
*Washington, January 12, 1905.*

The Cuban minister has the honor to call the attention of the honorable Secretary of State of the United States to two cases in which two citizens of Cuba received injuries at the hands of American soldiers during the military government of the island.

The first case, of Luciano Arestuche, who lost a finger and the use of another of the right hand, was presented to the Department of State of the United States on March 19, 1903, and on the 13th of July of the same year the Department, in a memorandum, inclosed a copy of a letter from the honorable Secretary of War embodying the conclusions of that Department, as well as his own, that there is no legal liability of the Government of the United States in the premises.

The second case, of Felipe Maza é Ibarra, is a similar one, but the injury is in the forehead, forcing him to use an apparatus for protection.

The minister of Cuba would earnestly request the honorable Secretary of State, not as a legal question nor as establishing a precedent, but from motives of humanity, to recommend to the Congress of the United States that a small appropriation be granted to alleviate the sufferings of these two unfortunate Cubans.

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*The Department of State to the Cuban Legation.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, January 17, 1905.*

The Department of State has received the memorandum of the Cuban legation, dated January 12, 1905, suggesting that recommendation be made to Congress to appropriate a moderate sum for the

relief of Luciano Arestuche and Felipe Maza é Ibarra, who are alleged to have suffered injuries at the hands of American soldiers during the period of the military occupation of Cuba by the United States.

It appears that the colonel commanding our forces at Matanzas collected from the soldiers the sum of \$314.96, American money, which was paid to Arestuche for the purpose of helping him to support his family and for medical attendance. From an investigation of the case it appears to the Department that the acts of the soldiers, necessitating the amputation of the little finger of Arestuche's right hand and destroying the use of the next finger, were the lawless acts of private individuals, for which there was no legal liability on the part of this government. The Department is willing, however, as an act of grace, to pay to Arestuche a moderate sum in addition to what he has already received, say \$500. No claim in behalf of Ibarra and no evidence has ever been presented to the Department, and it is unable to indicate what action, if any, it might be disposed to take in the case.

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*The Cuban Legation to the Department of State.*

[Memorandum.]

LEGATION OF CUBA,  
*Washington, January 19, 1905.*

The Cuban legation has the honor to acknowledge receipt of the memorandum of the Department of State, dated January 17, 1905, in which the Department declares that it is willing as an act of grace to pay to Luciano Arestuche a moderate sum, say \$500, in addition to what he has already received for injuries at the hands of some American soldiers during the American military government in Cuba.

The Cuban legation, in accepting the offer of the Department, would ask for similar treatment for Felipe Maza é Ibarra, of whom verbal mention was made to the honorable Secretary of State.

The facts of the case are on file in the Bureau of Insular Affairs of the War Department and show that on the 28th of September, 1901, while discharging his duties as policeman in Matanzas and trying to arrest an American soldier for disorderly conduct, he was disarmed, attacked, and suffered serious wounds in the head, causing the loss of parts of the frontal bone and a deformity which forces him to the use of a plate to protect his forehead. He was one hundred and twenty-six days in the hospital, and is still suffering.

Notwithstanding that a sum of money was said to have been collected to help him among the officers and men of the regiment to which the soldier belonged, not a cent was received by Maza é Ibarra and he addressed himself to the War Department on June 12, 1902, asking for an investigation as to the money collected; but it seems no money was ever collected.

The Cuban legation relies on the same spirit of humanity in the Department to help this case.

*The Department of State to the Cuban Legation.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, January 26, 1905.*

The Department of State has received the memorandum of the Cuban legation, dated January 19, 1905, in regard to the claim of Felipe Maza é Ibarra, based on injuries inflicted upon him by American soldiers at Matanzas on September 28, 1901.

The legation should present to the Department the papers and evidence upon which the claim is based to enable the Department to consider its request for indemnity.

The Department has nothing before it in relation to the claim but the statement contained in the legation's memorandum.

*The Cuban Minister to the Secretary of State.*

[Translation.]

No. 194.]

LEGATION OF CUBA,  
*Washington, February 10, 1905.*

EXCELLENCY: In compliance with the wishes of your Department expressed in the memorandum of January 26, replying to mine of the 19th idem., I have the honor to inclose copies of testimony in the case of the injury suffered by the Cuban citizen, Felipe Maza é Ibarra, at the hands of United States soldiers.<sup>a</sup>

Relying upon the high spirit of justice of your excellency, I venture to ask that as an act of grace toward the unfortunate citizen, Maza é Ibarra, an allowance be made to relieve his miserable condition.

I take, etc.,

GONZALES DE QUESADA.

*The Secretary of State to the Cuban Minister.*

No. 128.]

DEPARTMENT OF STATE,  
*Washington, February 14, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, inclosing certain testimony relating to the wounding of Felipe Maza é Ibarra, a Cuban citizen, by soldiers of the Army of the United States, and asking that an indemnity may be granted by this government as an act of grace.

I have the honor to say in reply that the Department has requested the Secretary of War to furnish a report in regard to the case.

Accept, etc.,

JOHN HAY.

<sup>a</sup> Not printed.

*The Cuban Minister to Acting Secretary of State Adee.*

[Translation.]

No. 201.]

LEGATION OF CUBA,  
*Washington, March 29, 1905.*

EXCELLENCY: Referring to the memorandum of your Department of the 17th of January of this year, and to mine of the 19th of the same month and year, I would like to know if, in view of the urgent condition of Mr. Luciano F. Arestuche, to whom, as a grace, that Department is disposed to grant \$500 for injuries suffered at the hands of soldiers of the American Army, it would be possible to deliver to me the said sum to have it reach the said destitute individual.

I avail, etc.,

GONZALES DE QUESADA.

*The Chief of the Bureau of Accounts to the Cuban Minister.*

DEPARTMENT OF STATE,  
*Washington, April 6, 1905.*

SIR: By direction of the Acting Secretary of State I have the honor to refer you to the memorandum of the Department of the 17th of January last, and to your reply of the 29th ultimo, in connection with the claim of Luciano Arestuche, and to inclose herewith a receipt for \$500 in full payment of the same, together with my check for the said amount.

I will thank you to sign the receipt and return it to me.

I am, etc.,

THOMAS MORRISON.

*The Acting Secretary of State to the Cuban Minister.*

No. 131.]

DEPARTMENT OF STATE,  
*Washington, April 7, 1905.*

SIR: Referring to your note of February 10 last, relative to the claim for damages made by Felipe Maza é Ibarra, based upon injuries inflicted on him by soldiers of the Army of the United States, I have the honor to say that the Department, after careful consideration of the evidence transmitted by you in support of the claim and of a report from the War Department, has reached the conclusion that the facts in this case do not afford any sufficient basis for either the payment of an indemnity or an allowance as an act of grace.

Accept, etc.,

ALVEY A. ADEE.

*The Cuban Minister to the Secretary of State.*

No. 206.]

LEGATION OF CUBA,  
*Washington, April 7, 1905.*

EXCELLENCY: I had the pleasure to receive a communication from Mr. Thomas Morrison, Chief of the Bureau of Accounts of the Department of State, including a check for \$500 in payment of the claim of



Luciano F. Arestuche on account of injuries suffered at the hands of American soldiers during the military occupation of Cuba.

Thanking you in the name of my government and my own for this act of justice, I take, etc.,

GONZALES DE QUESADA.

**TREATY BETWEEN THE UNITED STATES AND CUBA FOR THE  
MUTUAL EXTRADITION OF FUGITIVES FROM JUSTICE.**

*Signed at Washington, April 6, 1904.*

*Ratification advised by the Senate, April 26, 1904.*

*Ratified by the President, January 24, 1905.*

*Ratified by Cuba, January 16, 1905.*

*Ratifications exchanged at Washington, January 31, 1905.*

*Proclaimed, February 8, 1905.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and the Republic of Cuba providing for the mutual extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Washington, on the sixth day of April, one thousand nine hundred and four, the original of which Treaty being in the English and Spanish languages is word for word as follows:

The United States of America and the Republic of Cuba, being desirous to confirm their friendly relations and cooperate to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Cuba, and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the Republic of Cuba, Gonzalo de Quesada, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Cuba to the United States of America;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following:

ARTICLE I.

The Government of the United States of America and the Government of the Republic of Cuba mutually agree to deliver up persons who, having been charged as principals, accomplices or accessories with or convicted of any crimes or offenses specified in the following article, and committed within the jurisdiction of one of the high contracting parties, shall seek an asylum or be found within the territories of the other: Provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed.

## ARTICLE II.

Extradition shall be granted for the following crimes and offenses:

1. Murder, comprehending the offenses expressed in the Penal Code of Cuba as assassination, parricide, infanticide and poisoning; manslaughter, when voluntary; the attempt to commit any of these crimes.

2. Arson.

3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, goods, documents, or other property, by violence or putting him in fear; burglary; housebreaking and shopbreaking.

4. Forgery, or the utterance of forged papers, or falsification of the official acts or documents of the Government or public authority, including courts of justice, or the utterance or fraudulent use of any of the same.

5. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, bank-notes, or other instruments of public credit; of counterfeit seals, stamps, dies and marks of state or public administration, and the utterance, circulation or fraudulent use of any of the above mentioned objects.

6. Embezzlement by public officers or depositaries; embezzlement by persons hired or salaried to the detriment of their employers; obtaining money, valuable securities or other personal property by false devices, when such act is made criminal by the laws of both countries and the amount of money or value of the property so obtained is not less than two hundred dollars in gold.

7. Fraud or breach of trust (or the corresponding crime expressed in the Penal Code of Cuba as defraudation) by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars in gold.

8. Perjury; subornation of perjury.

9. Bribery; defined to be the giving, offering or receiving of a reward to influence one in the discharge of a legal duty.

10. Rape; bigamy.

11. Wilful and unlawful destruction or obstruction of railroads, trains, bridges, vehicles, vessels or other means of transportation or public or private buildings, when the act committed endangers human life.

12. Crimes committed at sea, to wit:

(a) Piracy, by statute or by the law of nations.

(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

(d) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

13. Crimes and offenses against the laws of both countries for the suppression of slavery and slave-trading.

14. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons in order to exact money from them or their families, or for any other unlawful end.

15. Larceny, defined to be the theft of money, effects, documents, horses, cattle, live-stock or any other movable property of the value of more than fifty dollars.

16. Obtaining by threats of doing injury, money, valuables or other personal property.

17. Mayhem and other wilful mutilation causing disability or death.

Extradition is to take place for participation in any of the crimes and offenses mentioned in this treaty not only as principal or accomplices, but as accessories in any of the crimes or offenses mentioned in the present article, provided such participation may be punished, in the United States as a felony and in the Republic of Cuba by imprisonment, hard labor or capital punishment.

### ARTICLE III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely charged with a crime or offense, a duly authenticated copy of the warrant of arrest in the country where the crime or offense has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced. In both cases whenever possible all facts and data necessary to establish the identity of the person whose extradition is sought shall also be presented.

The extradition of the fugitives under the provisions of this treaty shall be carried out in the United States and in the Republic of Cuba, respectively, in conformity with the laws regulating extradition for the time being in force in the State in which the demand for the surrender is made.

### ARTICLE IV.

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of formal proof, complaint on oath, as provided by the statutes of the United States, shall be made by an agent of the Government of Cuba before a judge or magistrate authorized to issue warrants of arrest in extradition cases.

When, under the provisions of this article, the arrest and detention of a fugitive are desired in the Republic of Cuba, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive.

The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender accompanied by the necessary evidence of his guilt has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

## ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this Treaty.

## ARTICLE VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if it is proved that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character.

An attempt against the life of the head of a foreign government or against that of any member of his family when such attempt comprises the act either of murder, assassination, or poisoning, shall not be considered a political offense or an act connected with such an offense.

No person surrendered by either of the contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the government on which the demand for surrender is made, or which may have granted the extradition shall be final.

## ARTICLE VII.

Extraditions shall not be granted, in pursuance of the provisions of this Treaty if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

## ARTICLE VIII.

No person surrendered by either of the contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, unless the said person shall have been at liberty to leave the country for a month after having been tried, and in case of conviction, a month after having served sentence or being pardoned.

## ARTICLE IX.

All articles found in the possession of the person to be surrendered, whether being proceeds of the crime or offense, or being material as evidence in making proof of the crime or offense, shall, so far as practicable, and in conformity with the laws of the respective countries, be seized and surrendered with his person. Nevertheless the rights of third parties with regard to such articles shall be duly respected.

## ARTICLE X.

If the individual claimed by one of the contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the state whose demand is first received, unless the government from which extradition is sought is bound by treaty to give preference to another.

If the said individual shall be indicted or convicted in the country from which extradition is sought, his extradition may be deferred until the proceedings are abandoned, the individual set at liberty or discharged or has served his sentence.

## ARTICLE XI.

The expenses incurred in the arrest, detention, examination and delivery of fugitives under this treaty shall be borne by the state in whose name the extradition is sought: Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; and, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

## ARTICLE XII.

The present treaty shall take effect on the thirtieth day after the date of the exchange of ratifications.

The ratifications of the present treaty shall be exchanged at Washington as soon as possible, and it shall remain in force for a period of six months after either of the contracting governments shall have given notice of a purpose to terminate it.

It witness whereof, the respective Plenipotentiaries have signed the above articles both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the City of Washington this sixth day of April, nineteen hundred and four.

JOHN HAY [SEAL]  
GONZALO DE QUESADA [SEAL]

And whereas the said Treaty has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the thirty-first day of January one thousand nine hundred and five;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington, this eighth day of February, in the year of our Lord one thousand nine hundred and five, and of the Independence of the United States of America the one hundred and twenty-ninth.

[SEAL]

THEODORE ROOSEVELT

By the President:

JOHN HAY

*Secretary of State.*

**MESSAGES OF THE PRESIDENT OF CUBA TO THE CONGRESS OF CUBA.**

*Minister Squiers to the Secretary of State.*

No. 1227.]

AMERICAN LEGATION,  
*Habana, Cuba, April 15, 1905.*

SIR: I have the honor to inclose herewith a translation of the President's message of April 3, 1905, on the assembling of the seventh session of the legislative bodies.

\* \* \* \* \*

Under foreign relations the President states that Cuba has become a party to the conventions and agreements concerning the international registry of trade-marks and the repression of false entries of origin of merchandise, exchanged ratifications of a treaty of friendship, commerce, and navigation with Italy and treaties of extradition of criminals with Great Britain and the United States, and expect soon a similar treaty with Belgium.

\* \* \* \* \*

To the United States under the head of commerce will be found the most important item of interest. It is here shown that Cuba's total trade has increased some \$27,256,000 during the past year. Of this \$13,617,000 were imports. The increase in the import trade with the United States was \$7,039,000; with Great Britain, \$1,884,000; with Germany, \$1,100,000; with Spain, \$594,000; with France, \$852,000. To show how favorable the reciprocity treaty has been to the United States, Mr. Palma states that comparing 1903 with 1904 our trade has increased just 2 per cent.

\* \* \* \* \*

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

*Extracts from the President's Message of April 3, 1905.*

To Congress:

The seventh legislative session of the National Congress begins to-day, and in compliance with article 68 of the constitution I address this message to both colegislative bodies.

\* \* \* \* \*

FOREIGN RELATIONS.

On January 11 last Señor Manuel Alvarez Calderon presented his credentials as envoy extraordinary and minister plenipotentiary of Peru. On our part, diplomatic relations have been initiated with the Republic of Haiti, accrediting Señor Jorge A. Campuzano as chargé

d'affaires before the government of that Republic; and as soon as the Senate approves the appointment of Señor Emilio Ferrer y Picabia for the post of minister plenipotentiary in France and Italy, our legation in Rome shall have been established, thus responding to the honor with which long since the Italian Government distinguished us.

Elementary duties of international courtesy impel me to reiterate the indication made in previous messages with respect to the advisability of sending a special mission to the Central and South American countries for the purpose of establishing friendly relations with those sister nations and strengthening the currents of sympathy with which they ever distinguished us, it being possible, besides, to concert commercial treaties which shall tend to favor certain of our national industries.

\* \* \* \* \*

With the previous approval of the Senate, Cuba has become a party to the conventions and agreements concerning the international registry of trade-marks and the repression of false indications of origin of merchandise. Such conventions and agreements are the complement of the International Union for the Protection of Industrial Property, to which we had already become a party. Ratifications have been exchanged of the treaty of friendship, commerce, and navigation with Italy, and the treaties of extradition of criminals with Great Britain and with the United States, and ratifications should be exchanged within a short time of a similar treaty negotiated with Belgium.

The Senate of the United States closed its sessions in the last Congress without having approved the treaty recognizing our sovereignty over the Isle of Pines. Nevertheless, knowing, as we all know in Cuba, the essentially moral character of the American people and the noble disinterestedness, unexemplified in the world's history, with which they lent us aid that we might become an independent nation, there is no reason to doubt that, during the next Congress, that august body, inspired as it ever is with an upright spirit of justice, shall approve the treaty, thus responding to the honorable purposes of the illustrious citizen who to-day exercises the first magistracy of the great Republic.

Cuba has been invited to participate in several fairs and congresses, for example, the Railway Congress, to be held in Washington in the month of May next year; the Congress of Commercial Bodies and Commercial and Industrial Associations of Belgium; the Congress of Navigation, to be held in Milan next year.

For the purpose of stimulating the immigration of laborers from Spain, instructions were given to our consular agents there to disseminate, principally in the rural districts, the advantages open in Cuba to the honest laborer through the good treatment which he receives and the high wages which he is paid, which permits him to abundantly provide for his necessities and accumulate some savings. Those functionaries are effectively complying with the instructions transmitted.

The consulate of the Republic in Liverpool has begun the installation of a commercial museum, where Cuban exhibitors, in addition to adequately exhibiting their goods, may obtain information and references conducive to the better placing of Cuban products.

I beg to call attention to the allusion made in my messages of April and November last year, relative to the Brussels Sugar Convention, and to the indication which I made in that of March 2 last as to the advisability of authorizing the President to modify paragraphs 293 and 294 of the tariff, by means of which the English market would be opened to our sugars, whether we become a party of the said convention or not.

\* \* \* \* \*

*Minister Squires to the Secretary of State.*

No. 1382.]

AMERICAN LEGATION,  
*Habana, Cuba, November 16, 1905.*

SIR: I have the honor to transmit herewith translation of the President's message, dated November 6. It was read at the opening session of Congress the same day.

In a rather lengthy review of the affairs of the island for the past year, the Department will find practically nothing relative to the questions which seem to be of chief importance in our present relations with Cuba—i. e., sanitation (sewering and paving Habana), British-Cuban treaty, and trade relations with the United States.

The President's statements regarding the condition of the treasury and general trade are far more satisfactory reading. There was a treasury balance on November 1 of \$22,823,483.14, a very respectable

showing. The special taxes imposed to provide for the charges in connection with the \$35,000,000 loan prove to be ample, as from the surplus bonds of the same loan have been purchased during the year to the amount of \$1,062,500.

Cuba's import trade, exclusive of coin, amounted to \$70,150,000 in 1903-4 and to \$83,905,000 in 1904-5, an increase of \$13,800,000, of which \$8,900,000, or 65 per cent, came from the United States. It is stated that less than \$800,000 of this increase came from France, less than \$740,000 from Spain, and less than \$460,000 from Germany. Mr. Palma makes no mention of the balance, \$2,900,000—probably English increase. He does state that exportations to the United States increased by \$7,500,000 and to England \$400,000.

The payment of the first 50 per cent of the army claims is about completed, there being a balance of \$2,974,786.68 out of \$28,351,271.47. It is the opinion of the secretary of the treasury that unclaimed amounts will more than cover the further claims to be adjudicated by the new commission.

I have the honor to be, sir, etc.,

H. G. SQUIERS.

[Inclosure.—Translation.]

*The President's Message to the Congress.*

(Read to both Houses November 6, 1905.)

\* \* \* \* \*

FOREIGN RELATIONS.

On April 7 last, M. Paul Lefavre, accredited as minister resident of the French Republic in substitution of M. Edmon A. Bruwaert, who had up to that time filled that position, was received in public audience with the customary ceremonies.

In former messages I have pointed out the advisability of sending a special mission to the countries of Central and South America, and I now insist upon that indication. Salvador, Chile, Peru, and Guatemala have sent their diplomatic representatives here, and it is announced that Nicaragua will shortly do so, while Cuba has not as yet responded to such marks of international courtesy. The mission referred to could fulfill this duty to our sister republics and at the same time establish friendly relations with others of the continent.

The Senate not yet having approved the appointment made on January 11, 1904, of Señor Emilio Ferrer y Picabia, present chargé d'affaires in France for the post of minister plenipotentiary in that Republic and in the Kingdom of Italy, it has not been possible to establish the legation in the latter, which was among the first to accredit a diplomatic representative to our government.

\* \* \* \* \*

Previous to the date of the message which I had the honor to address to Congress at the opening of the first legislative session of the present year the Senate of the United States terminated its sessions and will not resume them until the beginning of December next, this being the reason why approval of the Isle of Pines treaty is still unsettled. Reports which we have received with reference to this matter indicate that the United States Senate will approve the treaty in question, in which the sovereignty of Cuba over the island referred to is recognized.

Ratifications have been exchanged of the treaty of extradition with Belgium. On May 4 last a treaty of general relations was signed with Great Britain, and the same has been submitted to the approval of the Senate. An extradition agreement has been signed with Santo Domingo and another with Spain; also one relative to postal parcels with Germany, and another of the same character is now being negotiated with the French Republic.

\* \* \* \* \*

An invitation has been lately received from the Government of Russia, through its ambassador in the United States, for the Republic of Cuba to take part in the new international peace conference to be held at The Hague as soon as favorable replies are received from the invited governments. Through our minister in Washington we have replied to the ambas-



sador, His Excellency Baron Rosen, that the Government of the Republic will take part in the new peace conference and that delegates will be appointed at the proper time.

It would be a great honor indeed for Cuba to be represented at that conference, the object of which is to prevent or limit as much as possible armed conflicts, submitting to arbitration international questions which the contending parties themselves can not arrange pacifically.

I again beg to insist upon the recommendation which I had the honor to make to Congress in other messages relative to the modification of articles 293 and 294 of the customs tariff, as such a reform is necessary in order that Cuba may adhere to the sugar convention of Brussels.

\* \* \* \* \*

### INDIGNITY OFFERED TO THE AMERICAN CONSULATE AT CIENFUEGOS.

*Chargé Sleeper to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Habana, September 20, 1905.*

(Mr. Sleeper reports that the American consul at Cienfuegos has informed him that the coat of arms and the door of the American consulate was besmeared with filth last night, and that an immediate investigation has been ordered by the mayor and the police.

Mr. Sleeper reports further that he has requested the Cuban Government to take steps to prevent a repetition and to make every effort to arrest and punish the perpetrators of the outrage.)

*The Cuban Minister to Acting Secretary of State Adee.*

[Translation.]

No. 230.]

LEGATION OF CUBA,  
*Washington, D. C., September 21, 1905.*

EXCELLENCY: I have the honor of reproducing in this note the dispatch which my government, interpreting the sentiments of the people of Cuba, sent me yesterday with regard to the deplorable incident which occurred in Cienfuegos, and which I transmitted to your excellency last night.

This morning the coat of arms of the American consulate at Cienfuegos was found sullied. Make known to the Secretary of State the deep regret of the government at this act, which must not be considered as a manifestation of hostility on the part of the Cuban people toward the American people, but as an isolated act committed by a criminal band for the purpose of creating difficulties for the government. A prompt and rigid investigation has been ordered in order that the perpetrator of so repugnant a deed may be punished.

I avail myself of the opportunity to express to your excellency once more the chagrin and mortification which this deed has caused my government, and to assure you that no efforts will be spared in punishing the guilty party, and the honorable Secretary may rest assured that by this means alone the sincere friendship cherished by Cuba toward this nation will be demonstrated to the American people and government.

I reiterate, etc.,

GONZALO DE QUESADA.

*The Acting Secretary of State to Chargé Sleeper.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, September 21, 1905.*

(Mr. Adee informs Mr. Sleeper that the Cuban minister expressed his regrets at the deplorable outrage at Cienfuegos and promises of vigorous action by the Cuban Government toward the punishment of the perpetrators. This exhibition of good will by the Cuban Government is highly appreciated by the Government of the United States.)

*The Acting Secretary of State to the Cuban Minister.*

No. 147.]

DEPARTMENT OF STATE,  
*Washington, September 23, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, in which you quote your government's telegram expressing its deep regret at the deplorable outrage perpetrated on the American consulate at Cienfuegos, and renew the assurances previously given that no effort will be spared to punish the offender.

I have the honor to say that the good will thus exhibited by the Cuban Government is highly appreciated by this government.

Accept, etc.,

ALVEY A. ADEE.

*Chargé Sleeper to the Secretary of State.*

No. 1343.]

AMERICAN LEGATION,  
*Habana, Cuba, September 23, 1905.*

SIR: In confirming my telegram of the 20th instant, relative to the besmirching of the door and escutcheon of the American consulate at Cienfuegos, I have the honor to transmit to the Department herewith copy of my notes to the foreign office of the 20th and 22d instant, respectively, and translations of foreign office notes of the 20th and 21st instant, the former of which was handed me by Mr. Hevia, director of the department of state, in person. I also inclose a partial report from Vice and Deputy Consul Vincent P. Lombard at Cienfuegos, and confirm on the overleaf the remaining telegrams bearing on the matter.

The result of the investigations made by the government and Mr. Lombard's further report will, I trust, throw more light on the subject and will be communicated to the Department at the earliest possible moment.

I have, etc.,

JACOB SLEEPER.

[Inclosure 1.]

*Chargé Sleeper to the Secretary of State and Justice.*AMERICAN LEGATION,  
*Habana, September 20, 1905.*

YOUR EXCELLENCY: It is with profound regret that I call to your excellency's attention the besmearing with excrement of the escutcheon and door of the American consulate at Cienfuegos last night.

This, unfortunately, is not the first occurrence of this kind, as the legation was forced to call the attention of the foreign office to an act of similar nature which took place on the night of January 30, 1904. I refer you to Mr. Squiers's personal note to Mr. Zaldo of January 31, 1904.<sup>a</sup>

In bringing this disgraceful affair to your excellency's notice I respectfully and earnestly request that prompt and vigorous action be taken toward the apprehension and punishment of the guilty party or parties and that no effort be spared to prevent a recurrence of such a deplorable act.

Reserving the right to make further representations regarding this incident after consultation with my government and requesting that your excellency advise me of the result of your investigation at the earliest possible moment, I take the occasion to renew, etc.,

JACOB SLEEPER.

[Inclosure 2.—Translation.]

*The Secretary of State and Justice to Chargé Sleeper.*

DEPARTMENT OF STATE AND JUSTICE,  
*Habana, September 20, 1905.*

MR. CHARGÉ D'AFFAIRES: With most profound regret I have the honor to inform your honor that, according to a telegram received by the secretary of government from the mayor of Cienfuegos, persons unknown last night besmirched the door and escutcheon of the American consulate in that city.

This act, similar to that committed on January 31, 1904, shows an unworthy and insistent intention on the part of its perpetrators to provoke friction by these reprehensible means between the Government of this Republic and that of your honor.

Since, however, the sentiments of sincere sympathy that exist in Cuba for the American nation are known to the Government of the United States, it is hoped that even so criminal an act may in no wise weaken the bonds of close and loyal friendship which unite the two countries.

And your honor will also permit me to say that the government most energetically protests against such an attempt and profoundly deplores its consummation. In addition I take pleasure in informing you that a scrupulous and urgent investigation has been ordered in order to procure the punishment of those who are found to be the perpetrators.

The above had been written when I had the honor to receive your polite note of to-day relative to the same matter. I can assure your honor that no effort will be spared to secure the apprehension and just punishment of the guilty parties and that every precaution will be taken to avoid the repetition of so regrettable an occurrence.

I reiterate, etc.,

JUAN F. O'FARRILL.

[Inclosure 3.—Translation.]

*The Secretary of State and Justice to Chargé Sleeper.*

DEPARTMENT OF STATE AND JUSTICE,  
*Habana, September 21, 1905.*

MR. CHARGÉ D'AFFAIRES: I have the honor to inform your honor that, having brought the occurrence of the 19th instant at the American consulate in Cienfuegos to the knowledge of the prosecuting attorney of the supreme court, he communicates to me, under date of yesterday, that he has instructed the prosecuting attorney of the court of Santa Clara by telegraph to institute and carry through the case immediately in that city, visiting in person the place where the occurrence took place, so that the person culpable of so execrable an act shall be discovered and punished at once.

I reiterate, etc.,

JUAN F. O'FARRILL.

<sup>a</sup>Foreign Relations 1904, p. 237.

[Inclosure 4.]

*Chargé Sleeper to the Secretary of State and Justice.*AMERICAN LEGATION,  
*Habana, September 22, 1905.*

YOUR EXCELLENCY: I have the honor to acknowledge receipt of your excellency's polite notes of the 20th and 21st instant, respectively, relative to the outrage recently perpetrated upon the American consulate at Cienfuegos, and beg to convey to your excellency the appreciation of my government at the efforts now being made by the Cuban authorities to discover the author or authors of so despicable an act.

Trusting that I may shortly be in a position to advise my government of the discovery and apprehension of the guilty party or parties, I take the occasion, etc.,

JACOB SLEEPER.

*The Secretary of State to Minister Squiers.*

No. 548.]

DEPARTMENT OF STATE,  
*Washington, October 3, 1905.*

SIR: I have to acknowledge the receipt of Mr. Sleeper's No. 1343, of the 23d ultimo, in regard to the besmirching of the door and escutcheon of the consulate at Cienfuegos.

The Department's telegram of the 21st ultimo has made known to the legation the Department's appreciation of the good will of the Cuban Government in this matter, as exhibited in both oral and written communications by the Cuban minister here. The sentiments of sincere regret and reprobation contained in Mr. O'Farrill's note of September 20 to Mr. Sleeper give additional gratification to the Department, which does not doubt that every effort will be put forth to apprehend and punish the guilty parties and to prevent a recurrence of the offense.

I am, etc.,

ELIHU ROOT.

## DENMARK.

### ARBITRATION TREATIES CONCLUDED BY DENMARK WITH RUSSIA, GREAT BRITAIN, SPAIN, AND ITALY.

*Minister Swenson to the Secretary of State.*

No. 362.]

AMERICAN LEGATION,  
*Copenhagen, March 30, 1905.*

SIR: I transmit herewith for your information a copy of an arbitration treaty concluded at St. Petersburg between Denmark and Russia under date of the 1st instant.

The Danish Rigsdag gave its required sanction to the instrument yesterday, no opposition manifesting itself; and the ratifications will shortly be exchanged at St. Petersburg.

I have, etc.,

Laurits S. Swenson.

[Inclosure.—Translation.]

#### CONVENTION.

His Majesty the King of Denmark and His Majesty the Emperor of all the Russias, signatories of the convention for the pacific settlement of international disputes, concluded at The Hague on the 29th of July, 1899, desiring, pursuant to the principles set forth in articles 15-19 of the said convention, to enter into negotiations for the conclusion of a compulsory arbitration convention, have named as their plenipotentiaries: His Majesty the King of Denmark; Mr. Paul Ludvig Ernst de Lovenorn, His Majesty's chamberlain and envoy extraordinary and minister plenipotentiary to the Imperial Russian Court; and His Majesty the Emperor of all the Russias; His Excellency Count Lamsdorf, His Majesty's secretary of state, actual privy counselor and minister for foreign affairs, who after having delivered to each other their full powers, which were found to be in good and proper form, have agreed upon the following articles:

##### ARTICLE 1.

The high contracting parties bind themselves to submit to the permanent court of arbitration established at The Hague by the convention of the 29th July, 1899, those differences that may arise between them in so far as they do not concern the independence of the countries concerned or their vital interests or the exercise of their sovereignty and in so far as it has not been possible to reach an amicable settlement through direct diplomatic negotiations.

##### ARTICLE 2.

Each party determines the question to what extent the controversy arisen concerns its independence, its vital interests, or the exercise of its sovereignty which, in consequence of its character, belongs to those which, in consequence of the foregoing articles, are excepted from the obligation of arbitration.

##### ARTICLE 3.

The high contracting parties bind themselves not to maintain exceptions with reference to the foregoing article in the following cases:

1. Cases of differences relating to the interpretation or application of any agreement which is concluded or shall be concluded between the high contracting parties, and which concern:

a. Subjects of international private right;

b. The regulation of those associations of commerce and industry which are lawfully organized in one of the countries;

c. Questions of the civil or the criminal procedure and relative to extradition.

2. In cases of differences concerning pecuniary claims when the obligation to pay an indemnity, or any other payment, is acknowledged in principle by the parties.

#### ARTICLE 4.

The present convention is applicable, although the questions in dispute that may arise may have their origin in facts that antedate its conclusion.

#### ARTICLE 5.

It is understood that the foregoing articles are not applicable to such differences between subjects of the two contracting states or between a subject of one of these states and the other state, which the courts of the respective states, in accordance with their laws, may be competent to adjudicate.

#### ARTICLE 6.

When there is occasion for an arbitration between them, the high contracting parties will, in case there be no compromising exceptions to the contrary, as regards the designation of arbitrators and the procedure of arbitration, conduct themselves according to those stipulations which are established at The Hague by the convention of the 29th July, 1899, relative to the pacific settlement of international disputes with the exception of what concerns the points set forth hereafter.

#### ARTICLE 7.

None of the arbitrators can be subjects of those states which are signatories to the present convention or have a residence in their territory. They may not have any interests in those questions which may be the subject of arbitration.

#### ARTICLE 8.

If occasion, therefore, should arise, the decision of arbitration shall contain a statement of the periods of time within which it shall be carried out.

#### ARTICLE 9.

The compromise provided for in article 31 of the convention of July 29 shall fix a period within which the exchange of the memoranda and documents which bear on the object of the dispute shall take place. This exchange shall in every case be concluded before the beginning of the meetings of the arbitral tribunal.

These stipulations in no way affect what is determined by The Hague convention with reference to the phase of the arbitration procedure (article 39), particularly the stipulations in articles 43-49.

#### ARTICLE 10.

The present convention shall continue in force for ten years from the date of the exchange of ratifications. In case neither of the high contracting parties shall, within this period, have declared its intention to terminate its operation, the convention shall continue in force until the expiration of one year from the day when one or the other of the high contracting parties shall have denounced it.

#### ARTICLE 11.

The present convention shall be ratified at the earliest possible date, and the ratifications shall be exchanged at St. Petersburg at the latest, the 14/1 April, 1905.

In witness whereof the plenipotentiaries have subscribed the present convention and affixed their seals thereto.

Done at St. Petersburg, the 1st day of March, the 16th day of February, 1905.

P. LOVENORN.  
COUNT LAMSDORFF.

*Chargé Lorillard to the Secretary of State.*

No. 46.]

AMERICAN LEGATION,  
*Copenhagen, November 25, 1905.*

SIR: I have the honor to inform the Department that a treaty of arbitration between Denmark and Great Britain was signed on the 25th ultimo at the foreign office in London, by Baron Bille, the Danish minister to Great Britain, and the Marquess of Lansdowne.

It is impossible to secure a copy of this treaty here, but I have been informed by a prominent official of the ministry of foreign affairs here that its terms are identical with those of a like treaty between Great Britain and France, signed October 14, 1903.<sup>a</sup>

I have, etc.,

GEORGE L. LORILLARD.

*Chargé Lorillard to the Secretary of State.*

No. 54.]

AMERICAN LEGATION,  
*Copenhagen, December 8, 1905.*

SIR: I have the honor to inform the Department that a general treaty of arbitration between Denmark and Spain was signed at Madrid on the 1st instant.

The text of this treaty has not yet been made public. The minister of foreign affairs was kind enough to tell me, however, that it is identical with that of the Anglo-Danish, reported in my dispatch No. 46, of the 25th ultimo, the Anglo-French, and the Anglo-Italian arbitration treaties.

\* \* \* \* \*  
I have, etc.,

GEORGE L. LORILLARD.

*Chargé Lorillard to the Secretary of State.*

No. 59.]

AMERICAN LEGATION,  
*Copenhagen, December 19, 1905.*

SIR: I have the honor to report that a general treaty of arbitration between Denmark and Italy was signed on the 14th instant at Rome.

While the text of the treaty has not yet been made public, I am in a position to state that by its terms all differences which may occur between the two countries are to be referred to the Permanent Court of Arbitration at The Hague for final settlement.

I have, etc.,

GEORGE L. LORILLARD.

**NEUTRALITY OF DENMARK IN THE WAR BETWEEN RUSSIA AND JAPAN.**

*Minister Swenson to the Secretary of State.*

No. 364.]

AMERICAN LEGATION,  
*Copenhagen, May 13, 1905.*

SIR: The Japanese Government has addressed protests to that of Denmark for allowing Russian ships to coal in Danish territorial waters, and for permitting Russian officials to employ Danish pilots to take these vessels through such waters, contending that said acts constitute a breach of Denmark's neutrality.

A complaint of this nature was lodged with the foreign office some time after the first division of the Baltic fleet passed into the North Sea on its way to the scene of war. It was accompanied by a warning against extending similar hospitalities to subsequent detachments of the Russian fleet. In its reply, the Danish Government did not deny the facts set forth in the complaint, except as to alleged coaling at Fredericksund Harbor, but it asserted that they were in accordance with its established practice in similar cases, and that they were not inconsistent with the proclamation of neutrality which it had communicated to the Japanese Government at the beginning of the war. It did not admit that its neutrality had been infringed; but insisted, on the contrary, that it had scrupulously maintained its obligations as a neutral, and intended to do so in the future. It is to be observed that the coaling in question had taken place in the so-called Langeland Belt—one of the narrow passages between the islands—and not in any Danish harbor. Only one of the colliers was a Danish vessel, which had been supplied with coal at Kiel, Germany.

The Japanese Government did not seem to be satisfied with the reply to its note; for when a second squadron of Russian warships bound for the East was given the same privileges by Denmark as the first, the protest was repeated and Japan reserved the right to take such measures as it may find necessary to protect its interests in the matter. It is not true, as has been published, that the Japanese Government has presented a claim for indemnity in connection with the grievances above.

\* \* \* \* \*

I have, etc.,

LAURITS S. SWENSON

**ELECTION OF PRINCE CHARLES OF DENMARK AS KING OF NORWAY.**

*Minister O'Brien to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
*Copenhagen, November 20, 1905.*

Prince Charles accepts crown of Norway with consent of King of Denmark. Leaves Thursday for Christiana.

O'BRIEN.



*President Roosevelt to the King Elect of Norway.*

[Telegram.]

WASHINGTON, *November 20, 1905.*

I felicitate Your Majesty on being chosen by the Norwegian people to succeed to the throne of Haakon and Olaf—of Harold and Sgurd.

THEODORE ROOSEVELT.

*Minister O'Brien to the Secretary of State.*

No. 39.]

AMERICAN LEGATION,  
*Copenhagen, November 21, 1905.*

SIR: I wired you yesterday as follows: [Printed ante.]

I ventured to cable this advice in order that the President, if he saw fit, might send congratulations, and in order that you might arrange to have our government represented at the inaugural ceremonies, which will take place on the arrival of the King and are intended to be rather elaborate.

The Norwegian representatives have been very anxious that the United States should be represented, and I am informed that our minister at Stockholm, Colonel Graves, has already been designated for that purpose.

The ceremony took place at the Amalienborg Castle and was considered as an event of very uncommon importance.

There were present in the throne room the ministers of state of Denmark and prominent officers of the army and navy, the diplomatic corps with their wives, the wives of the ministers of state, and the ladies in waiting upon the several royal ladies who were present.

The King, it is said, consented with a good deal of hesitation and reluctance to the election of his grandson, Prince Charles, and this knowledge, together with his great age and necessary infirmity, made the scene a rather solemn and affecting one.

I beg to inclose a translation of the speech made by King Christian IX to the deputation from Norway.

I have, etc.,

T. J. O'BRIEN.

Inclosure.—Translation.]

NORWEGIAN REPRESENTATIVES, NORWEGIAN MEN: It is a great pleasure to us to meet the wishes of the Norwegian people by accepting the old royal crown of Norway for our dear grandson, Prince Charles, and we sincerely hope and believe that the Norwegian people together with him, will have a glorious future before them.

The young King does not come to Norway as a stranger, for he is akin to the former Norwegian kings; nor will the Kingdom of Norway be a foreign country to him, for throughout the country he will meet with common memories of the history of the realm and of those of his kindred.

It is our hope that the ties which already unite the young King and his Queen with the old country and people will be strengthened by mutual cooperation between the King and the people for the happiness and prosperity of the old country, and it is our firm belief that this will be a means of promoting not only the prosperity of the Norwegian people, but also that of its kinsmen.

We pray the Almighty God that this step may lead to happiness and bliss for the whole north and that fraternity, peace, and friendship will increase between the Scandinavian nations. We are fully convinced that our whole house and the Danish nation are joining us in this wish.

By this we recommend you to the mercy of God, and beg you to accept our heartiest greetings for the Norwegian people which you represent here.

But to you, my dear grandchildren, I address myself with the wish that God will grant you strength and energy to serve your country and people with fidelity and rectitude; then you will be sure of winning the affection of your people and feel yourselves as Norwegians foremost in the work for the happiness and future of your country.

You, my dear grandson, have served your native country and your King with fidelity, and therefore I am sure that you will embrace your new and responsible task with an earnest desire of fulfilling your responsible position. Your father and mother, your whole kindred, the Danish people, and I, your old King and grandfather, entertain the warmest feelings for you at this solemn moment.

Leave with God, my dear grandchildren, the country and the kindred that has fostered you, and go to the country and people that has called you, and take your old King's blessing for yourselves, your kindred, and your doings with you forever.

God be with you.

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*Minister O'Brien to the Secretary of State.*

No. 42.]

AMERICAN LEGATION,  
*Copenhagen, November 22, 1905.*

SIR: Last evening the members of the diplomatic corps were invited to an audience with the newly-elected King Haakon VII to take place at his apartments at 11.30 this morning. I was present, along with Mr. Lorillard, secretary of the legation.

Although I had received no word from the Department, I took the liberty of congratulating the King upon his accession, both on my own behalf and on behalf of our government. He replied in suitable words and asked that I convey to my government his sincere thanks. I learned afterwards that the President had already cabled to the King direct.

This message I have obtained and the following is a translation, which I give you by way of verification:

I felicitate Your Majesty on being chosen by the Norwegian people to succeed to the throne of Haakon and Olaf—of Harold and Sigurd.

Of course a large number of telegrams were received, but the foregoing was the only one printed in the Danish papers. It was at once sent forward to Christiania and was printed there last evening—the only one which appeared.

I have, etc.

T. J. O'BRIEN.

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*The Secretary of State to Chargé Lorillard.*

No. 13.]

DEPARTMENT OF STATE,  
*Washington, December 8, 1905.*

SIR: I have to acknowledge the receipt of Mr. O'Brien's despatch No. 39 of the 21st ultimo, confirming his telegram of the preceding day, announcing Prince Charles's acceptance of the crown of Norway, and transmitting a translation of the speech made by King Christian IX to the deputation from Norway.

While circumstances made it impracticable for Minister Graves to be at Christiania at the time of King Haakon's arrival, he has been instructed to make a ceremonial visit to the Norwegian capital at an early day.

\* \* \* \* \*

I am, etc.,

ELIHU ROOT.

## DOMINICAN REPUBLIC.

### CORRESPONDENCE RELATING TO THE PROTOCOL OF AGREEMENT BETWEEN THE UNITED STATES AND THE DOMINICAN REPUBLIC PROVIDING FOR THE COLLECTION AND DISBURSEMENT OF CUSTOMS REVENUES IN THAT REPUBLIC.

*Minister Dawson to the Secretary of State.*

No. 100.]

AMERICAN LEGATION,  
*Santo Domingo, January 2, 1905.*

SIR: I have the honor to confirm your telegram, as follows:

WASHINGTON, December 30, 1904.

DAWSON, *Minister, Santo Domingo:*

Confidential. You will sound the President of Santo Domingo, discreetly but earnestly and in a perfectly friendly spirit, touching the disquieting situation which is developing owing to the pressure of other governments having arbitral awards in their favor and who regard our award as conflicting with their rights. Already one European Government strongly intimates that it may resort to occupation of some Dominican customs ports to secure its own payment. There appears to be a concert among them. You will ascertain whether the Government of Santo Domingo would be disposed to request the United States to take charge of the collection of duties and effect an equitable distribution of the assigned quotas among the Dominican Government and the several claimants. We have grounds to think that such arrangement would satisfy the other powers, besides serving as a practical guaranty of the peace of Santo Domingo from external influence or internal disturbance.

HAY.

and to say that I immediately called upon President Morales.

We entered upon a full and friendly discussion of the international relations and internal politics of this country as affected by its financial obligations, in the course of which I did not disguise from him my conviction that the European creditors would wait no longer for their money. He frankly answered that such was his own conviction and that he was daily expecting a European demand, backed by a war vessel, and a demand from me for the four northern ports under the Improvement award. He clearly realizes that the European creditors will accept no guaranty he can offer, and each would insist on having the full annual amount provided for its own protocol, leaving him nothing, or next to nothing, to run the administration. He said that personally he had long been of the opinion that the best solution was for the United States to take charge of the collection of the revenues, guaranteeing to the Dominican Government enough to live on and arranging with the creditors.

I asked him if he was prepared to make, in the name of his government, a request that my government undertake this task. He answered that he was almost ready; that the opposition to American intervention within his cabinet and among his prominent supporters had much diminished in the last two weeks; Minister Velasquez had despaired of carrying out his own plan; the arrangement at Monte

Christi was not working well; it had been proposed in the last cabinet meeting to ask the United States to take charge of that port.

I told him I could not recommend such a proposition to my government; that if we were forced to ask for more ports under the award it would be for Sanchez and Samana, as well as Monte Christi; that I appreciated how great were the political difficulties he was struggling against—difficulties which arose from the deeply grounded prejudice against any sort of American intervention existing among some of his supporters—but that it was for him and not me to say if he had succeeded in removing that prejudice, or if the time had come for him to act in spite of it.

He then asked me to make a written proposition, stating the proportion or amount that I would recommend to be allowed for administrative expenses of the Dominican Government. I begged him to excuse me from doing so, and suggested that the first step had better be a proposition from the Dominican Government, embodying the principle of American collection on a basis that seemed to him just and practicable. He agreed, and said that his own idea was 40 per cent for the creditors and 60 per cent to the Dominican Government.

I expressed some doubts as to whether my government could reach an arrangement with the creditors if limited to such a sum, but agreed to submit it as a tentative proposition as soon as his doubts as to the attitude of his anti-American supporters should be cleared up. Thereupon he asked me to talk with Joubert and Velasquez, with a view to emphasizing the impression already made by the former on the latter's mind. The President said that if Velasquez could be brought to agree, Vasquez and Caceres would follow. Joubert had already half convinced him that the American Government had no selfish or ulterior views in this matter, and an interview with me would tend to convince him further that an American intervention in the custom-houses would be conducted in a manner that would offend Dominican pride as little as possible and not destroy the prerogatives of the office of minister of finance.

Accordingly, in the last three days, I have had several interviews with the President, Joubert, Velasquez, and Sanchez, and this morning I felt justified in sending you the telegram which I hereby confirm:

SANTO DOMINGO, *January 2, 1905.*

SECSTATE, *Washington:*

Dominican President disposed to request United States take charge of collections all customs on the following conditions: Distribute 40 per cent annual receipts among all creditors—remaining 60 to the Dominican Government.

DAWSON.

In the course of these interviews I have been obliged to reject several suggestions which seemed to be inadmissible. The first was that I should commit myself personally in favor of the proposed division of the revenues—40 per cent and 60 per cent. I remain free to suggest, either personally or officially, if I should be so instructed, either a different percentage or minimum sums for creditors and government, respectively, with a percentage division of the excess.

The second suggestion was that an assurance be given that Mr. Abbott would not be placed in charge. I immediately inquired if the Dominican Government had any ground of complaint as to Mr. Abbott's administration of Puerto Plata. They answered in the negative, only saying that some officials found it difficult to get along with

him. The suggestion was promptly withdrawn. Apart from other considerations which led me to assume a firm position on this point was the fact that I deemed it wise to take the first opportunity of impressing upon them that we would not take the responsibility involved unless given a free hand to back up our representatives in enforcing a rigidly impartial administration of the custom-houses.

The third suggestion came from Minister Velasquez alone. For the purpose of "saving face" and soothing patriotic pride, he insists upon a joint control of each custom-house by representatives of the two governments, but he has not yet made his plan intelligible to me. In fact it is still shadowy in his own mind. I told him we certainly could not accept a responsibility unless we were given a real and effective control of the collections, although personally I was not only willing but anxious to leave the Dominican Government with the maximum of administrative freedom consistent with this essential prerequisite. He asked me to consider carefully a draft of a plan which he will prepare and submit day after to-morrow. I fear I shall have serious trouble with him on this point, but by consenting to the sending of my telegram to you this morning he has committed himself to the principle of American intervention, and the President feels sure he can hold him in line.

Caceres has been sent for and Joubert will stay over this steamer to aid in holding the Horacista party together in this crisis.

I have, etc.,

T. C. DAWSON.

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*The Secretary of State to Commander Dillingham.*

DEPARTMENT OF STATE,  
Washington, January 5, 1905.

SIR: The President, having full confidence in your ability and discretion, and being aware of your exceptional knowledge of the present conditions in the Dominican Republic, desires you to proceed with all possible dispatch to that Republic.

Upon arrival at Santo Domingo City you will confer with the American minister and then call upon the President of the Dominican Republic and such of his representatives as you may deem best to see.

You will recall to President Morales your interviews with him in the spring of 1904, and the voluntary offer which he then made to you to turn over all of the custom-houses in the Dominican Republic to the Government of the United States for the purpose of enabling it to establish an orderly and businesslike administration of the Dominican revenues, the payment of the recognized foreign claims, the defraying of the necessary expenses of government, and the creation of a sinking fund for the gradual liquidation of the national indebtedness.

You will state, at such time and in such manner as your wisdom and knowledge of the conditions indicate, that the Government of the United States, in view of the continued state of unrest which seems to prevail in Santo Domingo, and in view of the imminent and pressing danger of intervention on the part of certain European creditors to the end of obtaining a settlement of claims overdue, that this government is now disposed to assist the Government of Santo Domingo in the work of regulating the finances of the Republic by undertaking the administration of all its custom-houses.

You may state that this government would be inclined to pay about 40 per cent of the net revenues derived from import duties to the Government of Santo Domingo for its own uses, retaining 60 per cent for interest payments on the acknowledged indebtedness of the Republic and for the establishment of a moderate sinking fund, together with the necessary charges of administration and the payment of other claims which may be recognized.

This government will also undertake to adjust recent claims which have not been adjudicated through the agency of some impartial tribunal, and will lend President Morales such assistance as it properly may to restore the credit of the Republic, preserve order, and advance its welfare.

President Morales, on his part, will be expected to agree, for his government, to make no change in the existing tariff or taxation laws without the advice and consent of this government, but to make such revision of the tariff from time to time as wisdom and the exigencies of the situation would seem to demand, upon the formal request of the Government of the United States.

The Department is informed that President Morales seems disposed to enter into some such arrangement as I have briefly outlined. You will give him such advice and assistance as you properly can, and if he desires it, and you think it wise, you may confer with leading men of the Republic for the purpose of enlisting their support of the proposed plan of financial reform. It will probably be well for you, after you have visited San Domingo City, to visit the north coast of Santo Domingo for the purpose of conferring with men of recognized standing representing the various factions at Puerto Plata, Santiago, Monte Christi, and some other points.

You will be expected to report to the President, through the Department of State, both by cable and letter, as often as you think it necessary.

It is desirable that you should work in harmony with the American minister at San Domingo City, and inform him, from time to time, respecting the situation in the various parts of the Republic which you visit.

You will advise the Department the time of your departure from San Juan and your arrival at San Domingo City, and of your subsequent movements.

Your cablegrams from San Domingo City to the Department may be charged to the account of the American legation, if you so desire.

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A naval vessel will meet you at San Juan. This vessel will be at your disposition and will convey you to such parts of the Dominican Republic as you deem it advisable to visit.

I have etc.,

JOHN HAY.

*Minister Dawson to the Secretary of State.*

No. 107.]

AMERICAN LEGATION,  
*Santo Domingo, January 23, 1905.*

SIR: Continuing the subject of my No. 100, of the 2d instant, the arrangement in regard to the Dominican debt and custom-houses, I have the honor to report that on the 6th instant the minister of finance

submitted to me his unofficial project providing for a joint system of collection. A copy and translation are inclosed.

Though offering better guaranties than I had dared to expect would come from him, the project did not seem sufficiently sweeping in view of the custom-house abuses which have so long prevailed here, and it did not contemplate an adjustment of all the debts. Therefore I determined to reject it. But instead of seeing the minister of finance I sought the minister of foreign affairs and told him my objections, believing that a few days of reflection would at that time do more to bring Señor Velasquez around than a discussion with me.

On the 7th came your cablegram of instructions, which I confirm, as follows:

WASHINGTON, January 6.

DAWSON, *Minister, Santo Domingo:*

Answering your cablegram January 2, it appears from your dispatch No. 36, September 12 last, that the debt of Santo Domingo then was \$32,280,000, that estimated revenues under Dominican management of custom-houses are \$1,850,000, and that the proposed budget for current administration is \$1,300,000, leaving only \$550,000 to pay foreign and liquidated obligations, and that the payments due on these latter will amount during the ensuing year to \$1,700,000, besides \$900,000 of arrearages of payments overdue, amounting in all to \$2,600,000. These last charges would have to be met, but it appears to be impossible, under present conditions and with the estimated revenues from the custom-houses constituting substantially all the revenues of the Republic, to defray the ordinary expenses of the government and to meet its (obligations).

Various American claimants are appealing to the United States Government to enforce the concessions and obligations which the Dominican Government has granted and undertaken toward them and urging energetic measures for their protection.

Your No. 87, December last, and other communications to the Department show the unrest of claimants of other governments with regard to conditions in Santo Domingo, and the serious danger to the Republic to be apprehended from the conflicting claims of creditor states of the Dominican revenues and from the continuance of existing conditions, which are constantly becoming more threatening. These conditions constitute a menace to the Republic itself and they may only be improved by the maintenance of peace, order, and a scrupulous collection and appropriation of the revenues to pay the necessary current expenses of the government and to meet its creditors on a foundation which would inspire confidence and assure the ultimate payment and extinction of the debt.

This would make it necessary to fix a limit to the expenditure of the government until its debt should be extinguished or greatly reduced.

The United States Government could only assume responsibility for accomplishing these objects on conditions which would make it possible and assure the success of its undertaking. It is, therefore, desirable and even indispensable to fix a limit to the expenditures of the government; to maintain existing tariff laws which should be modified only with the consent of the United States in order to facilitate the discharge of the obligations of the government. The United States would have to collect all the customs revenues. A sum necessary to meet the expenditures for the operation of the government and not to exceed 40 per cent of the total of said revenues would be turned over by the United States to the Dominican treasury. The remaining revenues would have to be applied by the United States on the Dominican debt and interest charges due and to become due and to meet the expenses of the United States in carrying out the arrangement.

The United States would also have to undertake the adjustment of the amount and terms of payment and amortization of all existing obligations, and also to reconcile conflicting claims and to consider and determine the validity and amount of any unsettled claims. At the end of each fiscal year any surplus remaining in the hands of the United States after payment of all matured obligations and interest and amortization charges and its own expenses for the current year would be handed over to the Dominican Government. You will present these considerations in your own way to the Dominican Government.

LOOMIS.

In view of the latitude given me by the last sentence, I determined not to treat directly with the President until after getting, or failing to get, from Velasquez a concession as to the sole management of the custom-houses. So, after careful consideration, I went to the minister of foreign affairs, whom I knew to be unwaveringly in favor of Amer-

ican intervention on any reasonable terms, and informed him of all the material parts of your instructions, leaving him free to withhold them for the present from the President and Señor Velasquez if he deemed best.

Mr. Sanchez vigorously protested against the proposed division, saying that with only 40 per cent the government could not hold itself together, and that if we insisted the President and cabinet would have to resign and leave the country. But I doubted whether he would adhere to this opinion after reflection, and left him without entering on any discussion.

When I saw him the next day he said nothing of this subject, but told me that he had informed the minister of finance, but not the President, of the substance of my instructions. Velasquez had received the news surprisingly well, and was willing to continue his negotiations with me.

Accordingly, Señor Velasquez and I had several interviews. In the first he told me he was engaged in preparing a new and rigidly economical budget and would soon indicate the minimum the government could get along with. Information of this I sent you on the 13th in the following telegram:

SANTO DOMINGO, *January 13, 1905.*

SECSTATE, *Washington:*

Dominican minister for foreign affairs has submitted your bases to the minister of finance. The latter is now preparing a new budget with a view to reasonable expenditure limit. Joubert starts Washington, D. C., 18th.

DAWSON.

In the evening of the same day Mr. Velasquez, Mr. Joubert, and myself had a long and amicable discussion of the manner of collection. I explained the practical reasons which I believed had induced my government to insist upon taking charge of the collection of all customs revenues and the naming of all collecting officers. Doubtless most of the subordinates would be Dominicans, and in selecting them we would be glad to receive suggestions from the Dominican Government, but we must have the power of employing and discharging, unhampered by any formal limitation. We then discussed his project, article by article, and it became apparent that an entirely new one would have to be prepared. This I undertook, at Mr. Velasquez's request. He did not, however, definitely indicate his acceptance of my views.

On the following morning (the 14th) Captain Dillingham arrived, bearing instructions from you to cooperate with me. His acquaintance with Dominican character, politics, and public men is so complete that within a few hours he understood the situation perfectly. His views and mine coincided exactly, and we have acted in concert in every particular. To both of us it seemed that prompt action was essential, because we could not rely on the situation remaining the same two days together; that a journey to the northern part of the island would probably not be necessary if we found that Morales could count on the adherence of Velasquez and the other controlling members of the Horacista party, and that we could hope to do nothing with the Jiminestas at present.

I called on the minister of foreign affairs and assured myself that the President had by this time been informed of our rejection of his proposal of 60 per cent for expenditures. I then arranged for a non-



official and confidential interview between the President and Captain Dillingham, at which I was present. It took place on the morning of the 15th, in the President's residence.

Captain Dillingham placed the requirements of the American Government clearly and positively before the President, dwelling especially on the necessity for a sweeping reform in administrative expenditure and on the fact that the United States was solely actuated by a desire to ameliorate the conditions of the Dominican Republic, and that the conditions suggested had nothing in view except the latter's welfare.

The latter replied that he was convinced of the truth of all that Captain Dillingham said; that he was now prepared to turn over the adjustment of the debt and the management of the custom-houses to the United States; that he could rely on all the members of his cabinet except Velasquez, who, himself, was wavering; that if the latter would sign the proposed agreement it would be peaceably accepted by Caceres, etc.; that if Velasquez refused he (the President) would go ahead anyway, provided the American Government would stand by him.

We then entered upon a frank discussion of the administrative reforms and economies which would be required. The President said he proposed to do away with the army and the system of payments to military chiefs, to reduce the number of provinces and officials, to devote especial attention to roads and schools, and to making more efficient judicial administration. His proposals did not differ sensibly from those contained in inclosure 1 with my No. 41 of September 24, 1904.

The President then said he would like the agreement to contain clauses by which the United States would promise not only to aid him in restoring financial credit and preserving order, but also in ameliorating the industrial condition of the island. He wanted especially to remove the export duties which were crushing the life out of cacao, tobacco, and coffee culture. This would have a tremendous influence in securing a peaceful acceptance of American intervention. Captain Dillingham and I promised that we would recommend this to our government.

The President then spoke of the importance of closing up the whole matter without any delay. The longer it was discussed the more probability there would be of disagreements even among his own Horacista supporters, to say nothing of the people at large who might be excited by the misrepresentations of the opposition. He also said that a favorable moral effect would be produced on all parties and classes if Captain Dillingham should be received formally with military honors.

The next day (16th) I introduced Captain Dillingham to the minister of foreign affairs, and the formal presentation to the President was fixed for the 17th at 10 o'clock.

At that hour we presented ourselves at the palace, accompanied by two of the President's aids-de-camp, and found an imposing array of troops in the square and the President surrounded by his whole cabinet. I inclose a copy of Captain Dillingham's address and of the reply of the President. When the usual toasts were drunk, I proposed, in Spanish, the health of the President and the "Independence of the Dominican Republic."

In the meantime I had said to Señor Velasquez clearly, but in the most friendly spirit, that I was obliged to reject his plan of joint col-

lection, and handed him a draft of an agreement. This document was merely an amplification of your instructions to Captain Dillingham and myself, except that the right to abolish export duties was reserved. This concession was made under the authority asked for and granted by the following telegram:

SANTO DOMINGO, *January 15, 1905.*

SECRETARY OF STATE, *Washington:*

Personal interview with the President to-day was satisfactory. We recommend and request permission to include in arrangement abolition of export duties. Net receipts from same very little. The abolition is intended to satisfy agriculturists, thereby averting possible outbreak.

DILLINGHAM, DAWSON.

WASHINGTON, *January 16, 1905.*

DILLINGHAM, *American Legation, Santo Domingo:*

It may not be well to make requests complicated in the beginning. But we rely upon the judgment of the minister and yourself.

LOOMIS.

After the reception on the 17th Captain Dillingham exchanged calls with all the members of the cabinet, and we were informed that the minister of foreign affairs and the minister of finance had been appointed a commission on the part of the Dominican Government with full power to deal with us.

The next evening we met and exchanged views. It appeared that we agreed as to essentials, and the Dominican commissioners undertook to prepare a draft of an agreement.

From the 18th it was apparent that the uneasiness and curiosity of the public was fast rising to a height that might prove dangerous. The press and people clamored to know what was going on, and were not satisfied with the generalities uttered by Captain Dillingham and the President in their addresses. It was currently believed that Santo Domingo was to be annexed, or at least that Samana Bay was to be ceded, and incendiary articles were published charging the members of the present government with selling out their country without consulting the people. The news of the resignation of Governor Cespedes added to the alarm, and unfounded rumors of pronunciamientos by Caceres were circulated and believed. But quiet continued to prevail in the streets, and the government was sure that the excitement would die down as soon as the real nature of the proposals should be made public.

Under these circumstances it seemed wisest to waste no time in coming to a conclusion. We met the Dominican commissioners again the next evening (the 19th) and discussed article by article a draft which they had prepared based upon my former short draft. We found it necessary to insist upon many modifications in verbiage and detail, but succeeded in reaching an agreement as to every point before separating.

The next morning Captain Dillingham telegraphed you as follows:

SANTO DOMINGO, *January 20, 1905.*

SECRETARY OF STATE, *Washington:*

Arrangement completed. Will be signed to-day and published to-morrow. Need war vessel at once at Monte Christi and at capital. I will shortly leave for the United States, by way of Cuba, aboard *Castine*. I do not anticipate uprising or any great opposition, but I consider take every precaution advisable. If the telegraphic communication should be interrupted the United States minister should have the means of communicating. Quiet prevails.

DILLINGHAM.

But though we had such explicit and satisfactory assurances from the President and the commissioners the public and political situation was so strained that we could not feel safe until Mr. Velasquez had affixed his signature to the completed document. He and I spent the day of the 20th in making grammatical changes necessary to secure an exact correspondence in the Spanish and English texts, but it was impossible to complete the copying that night. This seemed unfortunate, as President Morales was exceedingly anxious to publish the document as soon as possible. As a matter of fact, its terms were confidentially communicated to many people, and the fact that it had been agreed upon was communicated to the newspapers from official Dominican sources and by them published on the evening of the 20th.

That same evening Captain Dillingham received the following telegram from you:

WASHINGTON, *January 20, 1905.*

DILLINGHAM, *American Legation, Santo Domingo:*

Please cable immediately substance of the proposed decree. Navy Department desires you to remain at capital to confer with Sigsbee.

LOOMIS.

To this he immediately replied:

SANTO DOMINGO, *January 21 (filed 10 a. m.), 1905.*

SECRETARY OF STATE, *Washington:*

United States Government, guaranteeing territorial integrity of the Santo Domingo Republic, undertakes adjustment all obligations, including amounts, conditions of payment, interest, validity, sinking fund; reconciling; Santo Domingo may be represented on tribunals; United States Government is to take charge all custom-houses existing or hereafter to be created, naming all employees; Santo Domingo Government allowed inspector accounts in each custom-house; statements monthly, general statement annually; Santo Domingo receives 45 per cent receipts, agreeing to limit administrative expenditures to indispensable necessities; payments to treasury weekly; collection expenses chargeable to 55 per cent; any reform of tariffs to be made in agreement with the United States Government; no change of duties without consent of the United States Government, except export duties, which may be abolished or reduced immediately; United States Government, at the request of Santo Domingo Government, will grant every assistance in its power to restore credit, to preserve order, to advance welfare; agreement takes effect February 1.

Referring to organization, recommend no appointment anyone formerly connected with Improvement Company. Such appointments objectionable.

DILLINGHAM.

On the same day I received the following telegram:

WASHINGTON, *January 20, 1905.*

DAWSON, *Minister, Santo Domingo:*

Twentieth. Is it proposed to have us take immediate charge of all custom-houses? What plan of administration is suggested?

LOOMIS.

Saturday morning, on going into the city, we found that the copies of the agreement were ready, and they were immediately signed, two being in Spanish and two in English.

I then answered your telegram of the night before as follows:

SANTO DOMINGO, *January 21, 1905.*

SECRETARY OF STATE, *Washington, D. C.:*

Agreement signed. Terms as telegraphed by Dillingham. No limitation on our power to make reorganization customs service and appointment collectors. Present Dominican authorities responsible to us from February 1 until American employees arrive. For the present I have to suggest sending of an expert with at least two assistants to begin reorganization and to take charge as soon as possible most important ports. Abbot and I can advise. There is some excitement and criticism. Wish to disarm same by a friendly attitude as to details. Firm attitude as to essentials and presence of force advisable for moral effect upon malcontents.

DAWSON.

The reorganization ought to be undertaken carefully and deliberately by an experienced man, who should come as soon as possible. The situation at Monte Christi is such that an American collector should be installed there on February 1. Puerto Plata, being now administered by the financial agents, is all right. As to the other ports, there will be little harm in letting them remain for a short time in the hands of Minister Velasquez. He has already prepared orders that all outstanding drawback contracts be canceled, and I am hopeful that the desire of getting places under the American management will tend to make the present collectors strictly enforce duties. In the interval until our expert comes I will have them make accounts to me. Judge Abbott, who had started to the United States on account of ill health, turned around at San Juan and will be here to-morrow. If he is now recovered, his advice and assistance will be of great assistance until the Department determines on its course of action. The reason I suggested a chief with two assistants was that I thought the former could take charge of the custom-house here, one assistant go to Sanchez and the other to Puerto Plata to take Mr. Strickland's place, if, as I hope, the latter goes to Monte Christi. Macoris, Samana, and Azua can be left for later.

On the evening of the 21st Captain Dillingham received the following telegram:

WASHINGTON, *January 21, 1905.*

Captain DILLINGHAM,

*Care American Legation, Santo Domingo:*

We are not sufficiently informed upon situation. Please cable fully.

LOOMIS.

To this he replied, after consultation with me:

SANTO DOMINGO, *January 21 (filed 10 a. m. 22d).*

SECRETARY OF STATE, *Washington:*

Twenty-first. Until this afternoon no unfavorable news was received from anywhere in the Republic. Then was informed that Arias and Rodriguez are under arms and prepared to take the field at Monte Christi. I at once telegraphed *Detroit* proceed there, maintain status quo until February 1, and compel, if possible, Arias and Rodriguez to keep their contract of last June. Telegraphed Scott substance of present agreement. Do not know if *Detroit* has sailed. Had I a destroyer I would now be en route to Monte Christi, leaving *Castine* here. Rest Republic apparently quiet. Caceres at Puerto Plata prepared to meet trouble in Monte Christi. Sentiment in capital is growing better. Most people seem to appreciate generous attitude of the Government of the United States.

Sunday morning. No changes. With Santiago quiet other trouble will amount to little. If Rodriguez can be controlled situation will be simplified. I believe Santiago will be kept in line by the Vice-President and minister of finance. At this moment quiet prevails, but the situation is acute but encouraging.

DILLINGHAM.

I also confirm your telegram as follows:

WASHINGTON, *January 21, 1905.*

DAWSON, DILLINGHAM,

*American Legation, Santo Domingo:*

We are embarrassed by having newspapers get substance of agreement before it reached Department.

LOOMIS.

and our reply thereto:

SANTO DOMINGO, *January 21, 1905.*

SECRETARY OF STATE, *Washington:*

Twenty-first. Substance agreement was known here generally last night. The information came from the Dominican authorities, who dreaded immediate bad effect from current misconceptions.

DAWSON, DILLINGHAM.

We regret exceedingly the embarrassment caused to the Department by the premature making public of the matter here, but there was no way for us to prevent it. The Dominican Government, to appease the popular clamor, gave out confidentially certain provisions of the agreement before its commissioners had agreed on the rest. In fact this semipublicity was the first definite assurance upon which we felt we could rely that the arrangement was really going through. We telegraphed you just as soon as we were ourselves sure that there would be no modifications or backing out.

I herewith inclose copies of both the English and Spanish versions of the agreement, which you will observe is dated the 20th, although in fact it was not signed until the morning of the 21st. We believe that in all essentials it either coincides exactly with the instructions given us, or corresponds as closely as was practicable.

The first paragraph of the preamble needs no comment.

In the second paragraph of the preamble we were obliged to insert the recitation "guaranteeing the complete integrity of the territory of the Dominican Republic." This was insisted upon at the last moment by the Dominican commissioners in a way that left no doubt that a refusal on our part would have been regarded as a virtual declaration of intention to annex and led to a breaking off of the negotiations. Vice-President Caceres had made such a clause a condition precedent to his adhesion, and Dominican opinion, so far as we have been able to ascertain it, is unanimous on the subject. In view of the declarations made by our President in his recent message to Congress and the general tenor of the Department's dispatches to this legation, we deemed it best to consent to the insertion of the clause without hesitation or discussion.

Paragraph "a" of Article I also seemed reasonable and we made no objections to its insertion.

The clause of Article II reading "the said employees being, so far as the fulfillment of their duties and the exercise of their rights is concerned, considered as Dominicans and therefore subject to the laws of the Republic," was the subject of much discussion between us and the Dominican commissioners. We agreed to its final form after assuring ourselves that its practical effect would be confined to securing from custom-house employees a faithful execution of Dominican customs laws and regulations. For example, if an employee connives at smuggling he can be punished according to Dominican law, and we can easily prevent any misuse of the power or persecution of employees if such should be attempted.

The last sentence of Article II—in regard to a Dominican inspector of accounts in each custom-house—was also the subject of much discussion, and it was difficult to arrive at an agreement as to its form. We admitted the right of the Dominican Government to inspect our administration, but insisted that there be no power to interfere in any way in the collection.

Paragraph "a" of Article II was inserted for the purpose of avoiding the necessity of putting off the date when the arrangement is to go into effect to a remote period. Not only would there have been great stealings in the custom-houses in the interval, but the present uproar of opposition would have continued probably with increasing violence. From every point of view it seems best to take at least

colorable possession of the custom-houses at the earliest date possible, and make the arrangement an irrevocable fait accompli.

Our reasons for consenting to 45 per cent for administrative expenditures will be explained in person by Captain Dillingham. I have given the subject of what would be a safe and reasonable minimum most careful consideration ever since my arrival, and while I have not yet been able to gather all the data necessary for a sound estimate, I think that \$75,000 a month for the first few months is as little as they can get along with. Later, when the President has been able to dismiss the army and reduce the number of provinces, it may be that \$800,000 will be safe. Necessarily all the reductions can not be enforced immediately. The reform will take time and at best the position of President Morales and his government is bound to be exceedingly difficult for the next year. If he fails the alternative is likely to be very expensive to the creditors and the United States as well as to the property owners on this island. The Department will note the last clause of Article III by which the "Dominican Government undertakes to keep its administrative expenditures within the limits of the indispensable necessities of administration." This clause, I believe, not only gives us the power to insist on a reduction of expenditures whenever we may deem it advisable, but it opens the door to a real superintendence of all administrative matters, which in wise hands can be used to great advantage. Its practical effect can be made like that of similar clauses in the financial agreements to which the Government of Egypt is a party.

Paragraph "a" of Article III was inserted as an assurance that the expenses of blockading, etc., should be charged against the 55 per cent and not against the 45 per cent.

Articles IV and V need no comment.

Article VI corresponds exactly with the instructions sent to me but does not include the provision as to the United States having the right to suggest a revision of the tariff which was mentioned in Captain Dillingham's instructions. The Dominican commissioners objected strenuously to obligating their government to change their tariff on lines to be indicated by the American Government, although they had inserted in their own draft a promise to undertake a thorough reform. It finally developed that they were afraid we would force them to revise their tariff in the interest of Americans shipping goods which compete with their protected industries. We think the clause as finally agreed upon covers the real intention of the Department.

Article VII needs no comment, and the reasons why Article VIII fixes such an early date for the arrangements to go into effect have already been adverted to.

This dispatch, as indeed the whole negotiation, has been prepared under great pressure, and I must ask the Department's indulgence as to its form.

I wish to express to the Department my gratitude for the sending of Captain Dillingham. He has not only been a most agreeable colleague, but he has by his energy, tact, frankness, and decision done more than any other American could in so short a time with the members of the Dominican Government, and quick action was essential to success.

I have, etc.

T. C. DAWSON.

## DOMINICAN PROJECT.

[Inclosure 1.—Translation.]

*Bases.*

1. The American Government constitutes itself before the Dominican Government their creditor for the total amount of the various foreign debts and the domestic debts under contract.

2. To guarantee the responsibility so assumed the American Government will share with the Dominican Government the direction of all custom-houses of the Republic, appointing in each of them one employee of the same grade and with the same rights and duties as the collector of customs appointed by the Dominican Government, and a financial agent to exercise a general superintendence in respect to the rights which the American Government acquires as its security.

3. To collect the amount of the debt which it represents and the interests thereof. A certain percentage of the customs dues shall be received at each custom-house direct by the American employee, who for that purpose will be invested with the same powers as an administrator of hacienda. The importers and exporters in order to facilitate the collections thus divided shall make two obligations, one for so much of the percentage of the duties due to be delivered to the administrator of hacienda of the Republic and the other for so much of the percentage to be turned over to the American employee. Fifty per cent of the port dues, destined by a law of Congress for the payment of the so-called deferred debt, is excepted from the revenues, the total of which is to be divided as stated above, first dividing in an equal proportion the remaining 50 per cent. As soon as the deferred debt shall have been paid the total amount of the port dues shall be collected by both parties in the same manner as agreed upon for the custom-house dues.

4. In no case can the Dominican Government claim, before the payment of the total foreign and domestic debts under contract, to assume the management of any of the custom-houses without the consent of the American Government; nor, on the other hand, can the American Government in any case demand a larger share than the stated percentage of the custom-house revenues. The Dominican Government may at any time resume the management of their custom-houses, but only on condition that they shall have paid the total debt thus assumed by the American Government.

5. The monthly statements of the custom-house receipts, one of which is to the financial agent, shall be signed by the Dominican custom-house collector and by the American Government employee.

6. But in any case when in one or more custom-houses the regular collection might be interrupted, the financial agent may assume the exclusive direction of one or more custom-houses as long as the causes of the interruption last, being obliged to establish the regular order herein stated as soon as they have ceased.

7. There shall be in each custom-house only the most indispensable employees, to be determined by both the inventores and the corresponding minister, but each and every one excepting the inventor shall be appointed by the Dominican Government.

8. The salary of the American inventor shall be the same as that of the Dominicans, the Dominican Government paying their salaries as well as those of the rest of the employees from the percentage it will receive. The salary of the finance agent shall be fixed on signing this contract by those representing the contracting parties, the Dominican Government paying the same as well as the traveling expenses of said functionary (financial agent) made for the good of the service under a previous understanding.

9. The Dominican Government, as also the financial agent representing his government, in case of misunderstanding may demand the discharge of any functionary who may have committed the fault, subject to the formalities prescribed by law.

10. The Dominican Government may, with the view of promoting the improvement of agriculture and domestic industries that would increase production, introduce such reforms in the fiscal laws as may be reasonable and necessary for the accomplishment of said object.

11. All the rights and duties established by the parties under the award of July 14, 1904, shall remain in force in all that the new arrangement does not destroy.

[Inclosure 2.]

*Address of Commander Dillingham to President Morales.*

MR. PRESIDENT: The Government of the United States being now disposed to assist the Government of Santo Domingo in restoring the credit of the Republic, preserving order and advancing the welfare of the people of Santo Domingo, the President has appointed

me a special commissioner to your Republic, to give, with our minister, Hon. Mr. Dawson, such advice and assistance as I properly can in the premises.

In presenting myself to your excellency, I am commanded by the President to express to you his most earnest desire for the prosperity and development of your beautiful and fertile country, and I bring to you personally, Mr. President, the President's cordial good wishes.

In the performance of my duties upon your coast in the past I have seen how your brave officers and men can rise above their personal ambitions and sacrifice themselves for their country's good, and my experiences have so intensified my interest in all that concerns the prosperity of your beautiful Republic that I return to you as to a loved one, feeling convinced that the efforts we may exert will be crowned with success in promoting the welfare of your land.

Together with our distinguished minister resident, Hon. Mr. Dawson, I hope to be so agreeably identified with your prosperity as to bind even closer, if possible, the bonds of sympathy which unite us.

Permit me, Mr. President, to submit the assurances of my profound consideration.

[Inclosure 3.—Translation.]

Whereas the Dominican Government, in view of the debts which burden the Republic, the imminent peril and urgent menace of intervention on the part of nations whose citizens have claims already established or to be established, finding itself, as it does, unable peremptorily to fulfill its obligations on account of the condition to which political disturbances and other causes have brought the treasury, the result being that these obligations are falling due without its having been possible to pay them, or even the interest thereon, desires to reach an arrangement with all its creditors by which the latter shall obtain a sufficient guarantee, and the government itself succeed in assuring the regular receipt of revenues sufficient for the payment of its internal administration and the maintenance of its administrative autonomy without any interruption by the exigencies of foreign creditors or by internal political disturbances; and

Whereas the American Government, guaranteeing the complete integrity of the territory of the Dominican Republic, indicates that it is disposed to cooperate toward the end above recited, and offers to aid by lending its guarantee of the arrangement that the Dominican Government proposes to effect with all its creditors.

The Dominican Government represented by the secretary of state of foreign relations, Citizen Juan Francisco Sanchez, and the secretary of state of finance and commerce, Citizen Federico Velasquez H., and the American Government represented by its commissioner, Mr. Albert C. Dillingham, and its minister resident, Mr. Thomas C. Dawson, have agreed and covenanted as follows:

1. The American Government agrees to undertake the adjustment of all the obligations of the Dominican Government, foreign as well as domestic; the adjustment of the payments and of the conditions of amortization; the reconsideration of conflicting and unreasonable claims; and the determination of the validity and amount of all pending claims.

(a) If in order to reach such adjustments it shall be considered necessary to name one or more commissions, the Dominican Government shall be represented in said commissions.

2. In order to protect the said responsibility, the American Government shall take charge of the custom-house receipts, and, in order to guarantee the regular receipt of the funds required for the faithful and exact payment of the obligations thus liquidated and accepted, shall take charge of the existing custom-houses and of those which may hereafter be created, naming the employees necessary for their management, the said employees being, so far as the fulfillment of their duties and the exercise of their rights is concerned, considered as Dominicans and therefore subject to the laws of the Republic. On its part the Dominican Government shall have in each of the custom-houses a "controle" for the purpose of making inspections on behalf of its interests.

(a) From and after the date on which this contract takes effect the present custom-house employees shall be considered as acting under its provisions.

3. Out of the revenues which shall be collected in all of the custom-houses of the Republic the Government of the United States shall deliver to the Dominican Government a sum, which shall not be less than 45 per cent of the total gross amount collected, for the purpose of attending to the necessities of the administrative budget, this being estimated for the first year at the sum of \$900,000 (nine hundred thousand dollars) and which the Dominican Government shall receive in monthly advance payments for the needs of the public service, divided into four installments, in the following manner: Equal amounts of \$18,750 (eighteen thousand seven hundred and fifty dollars) on the 1st, the 8th, the 15th, and the 22d. If it shall appear that the total revenues of the first or any subsequent year will be less than



\$2,000,000 (two million dollars), the payments may be proportionately decreased, the Dominican Government undertaking to keep its administrative expenditures within the limits of the indispensable necessities of administration.

(a) It is agreed that the extraordinary expenses which may be occasioned in the collection of the customs duties shall be made for the account of the creditors of the Republic without assigning to the latter any part thereof.

4. To the Government of the United States it falls to pay out of the 55 per cent which it detains:

(a) The employees of all the custom-houses.

(b) The interests, amortization, and installments of the Dominican debt, foreign and domestic, in accordance with what is hereinbefore provided, according as it shall be fixed and liquidated.

(c) The whole surplus which may remain at the end of each fiscal year shall be delivered to the Dominican Republic, or shall be devoted to the payment of its debt, if it shall so determine.

5. The collectors in the custom-houses must send monthly to the contaduria-general and the department of the treasury statements of the corresponding income and outgo, and annually a general statement which shall embrace the total of what has been collected and paid out.

6. Any reform of the system of duties and taxes shall be made in agreement with the American Government, and therefore the present tariff and port duties may not be reduced except with its consent as long as the whole of the debt which it guarantees shall not have been completely paid, with the exception of the export duties upon the national products, which the Dominican Government remains authorized to abolish or reduce immediately.

7. The American Government, at the request of the Dominican Republic, shall grant such other assistance as may be in its power to restore the credit, preserve the order, increase the efficiency of the civil administration, and advance to material progress and the welfare of the Republic.

8. This agreement shall begin to take effect from and after the 1st of February of the current year.

Done in four originals, two being in the Spanish language and two in the English, and the representatives of the high contracting parties signing them in the city of Santo Domingo on the 20th day of the month of January of the year nineteen hundred and five.

ALBERT C. DILLINGHAM.  
THOMAS C. DAWSON.  
JUAN FCO. SANCHEZ.  
FEDERICO VELASQUEZ.

*The Acting Secretary of State to Minister Dawson.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, January 24, 1905.

Cable full text of agreement signed by you and Dillingham.

LOOMIS.

*Minister Dawson to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Santo Domingo, January 25, 1905.

[Text of telegram same as Inclosure 3 of No. 107, printed p. 311.]

*The Acting Secretary of State to Minister Dawson.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 25, 1905.*

It is necessary in order to insure approval of protocol to make some alterations. Secure signature to draft which follows. This is to take the place of agreement signed by you and Dillingham on the 20th. It should be thoroughly satisfactory to the Dominican Government, as the changes are not considerable and only relate to matters which will contribute toward our success in relieving the Dominican Republic of its difficulties.

You will explain to the Dominican Government that whatever you signed was ad referendum.

Desirable to avoid undue publicity during negotiations. Suggest this to Dominicans also.

Whereas the Dominican Government, in view of the debts which burden the Republic, the imminent peril and urgent menace of intervention on the part of nations whose citizens have claims already established or to be established, finding itself, as it does, unable peremptorily to fulfill its obligations, on account of the condition to which political disturbances and other causes have brought the treasury, the result being that these obligations are falling due without its having been possible to pay them, or even the interest thereon, desires to reach an agreement with all its creditors, and that the government itself succeed in assuring the regular receipt of revenues sufficient for the payment of its internal administration and the maintenance of its administrative autonomy without any interruption by the exigencies of foreign creditors by internal political disturbances; and

Whereas the Government of the United States of America, viewing any attempt on the part of governments outside of this hemisphere to oppress or control the destiny of the Dominican Republic as a manifestation of an unfriendly disposition toward the United States, is in compliance with the request of the Dominican Government disposed to lend its assistance toward effecting a satisfactory arrangement with the creditors of the Dominican Government.

Whereas the Government of the United States of America, guaranteeing the territorial integrity of the Dominican Republic, and in compliance with the request of the Dominican Government, is disposed to lend its assistance toward effecting a satisfactory arrangement with all the creditors of the Dominican Government.

The Dominican Government, represented by the secretary of state, of finance and commerce, Citizen Federico Velasquez, and the United States Government, represented by its minister resident, Thomas C. Dawson, have agreed and covenanted as follows:

First. The United States Government agrees to attempt the adjustment of all the obligations of the Dominican Government, foreign as well as domestic; the adjustment of the payment and of the conditions of amortization; the consideration of conflicting and unreasonable claims; and the determination of the validity and amount of all pending claims. If in order to reach such adjustment it shall be considered necessary to name one or more commissions, the Dominican Government shall be represented on said commissions.

Second. In order to enable the United States Government to render the assistance above mentioned, it shall take charge of the existing custom-houses and those which may be hereafter created, shall name the employees necessary to their management, and shall collect and take charge of all custom-house receipts. The Dominican Government may appoint in each of the custom-houses an officer for the purpose of making an inspection on behalf of its interests.

Third. Out of the revenues which shall be collected in all the custom-houses of the Republic, the Government of the United States shall deliver to the Dominican Government a sum which shall not be less than 45 per cent of the total amount collected, for the purpose of meeting the need of the public service, and which the Dominican Government shall receive in monthly payments from the date of the taking possession of the custom-houses by the officials of the United States, divided into four installments in the following manner: Forty-five per cent of the total sum collected monthly in periods ending on the 8th, 15th, 22d, and last day of each month.

Fourth. The Government of the United States will apply the 55 per cent which it retains toward the payment of:

(a) The employees of all the custom-houses.

(b) The interest, amortization, and installments of the Dominican debt, foreign and domestic, in accordance with what is hereinbefore provided, according as it shall be fixed and liquidated.

(c) The whole surplus which may remain at the end of each fiscal year shall be delivered to the Dominican Republic or shall be devoted to the payment of its debts, if it shall so determine.

Fifth. The collectors of the custom-houses must send monthly to the contaduria-general and the department of treasury statements of the corresponding income and outgo, and annually a general statement which shall embrace the total of what has been collected and paid out.

Sixth. Any reform of the system of duties and taxes shall be made in agreement with the President of the United States, and therefore the present tariff and port dues may not be reduced except with his consent as long as the whole of the debt shall not have been completely paid, with the exception of the export duties upon national products, which the Dominican Government remains authorized to abolish or reduce immediately, but not to increase said export duties or its public debt without the consent of the President of the United States.

Seventh. The Government of the United States, at the request of the Dominican Republic, shall grant such other assistance as the former may deem proper to restore the credit, preserve the order, increase the efficiency of the civil administration, and advance the material progress and welfare of the Dominican Republic.

Eighth. This agreement shall take effect after its approval by the United States Senate.

Done in four originals, two being in the Spanish language and two in English, and the representatives of the high contracting parties signing them in the city of Santo Domingo, — of January, 1905.

LOOMIS.

*The Italian Embassy to the Department of State.*

[Memorandum.—Translation.]

ROYAL EMBASSY OF ITALY,  
*Washington, D. C., January 27, 1905.*

By the three Italo-Dominican protocols of May 1, 1904, a part of which was merely a confirmation of the previous protocol of July 4, 1903, and which deal with debts of as long standing as those of the Improvement Company that come under the arbitral award of July 14, 1904, 5 per cent of the revenues of the custom-house of Puerto Plata were assigned to the Italian creditor.

Messrs. C. H. Loinaz & Co., of Puerto Plata, who had been charged to collect this amount, called on the American fiscal agent on the first day set for the payments (November 1 last), and the latter replied that there was no provision in the award for the payment of such a quota and that he could do nothing without special instructions.

Our chargé d'affaires, Chevalier Cambiaso, applied to the minister of the United States, Mr. Thomas C. Dawson, who, under date of November 14 last, replied as follows:

I take pleasure in acknowledging the receipt of your letter of the 12th instant in regard to the collection at Puerto Plata of the 5 per cent of the customs revenues provided for by the Italian protocol of May 1, 1904.

I have sent a copy thereof to my government and asked for instructions, which I will promptly communicate to you when received. It appears that the arbitrators who made the award of July 14, 1904, under which the American financial agent has entered upon the collection of the revenues at Puerto Plata had no information about the consolidated Italian claims, and therefore could not make provision for their payment, as they did in case of the Vicini claim. My government is now informed of the existence of the protocol of May 1, and will doubtless promptly take such action as the equities of the case demand.

As I have already had the honor of saying to you in our personal conversations, it seems to me that an understanding as to their relative rights satisfactory to both the Italian and American governments can be reached more speedily and certainly at Washington, where the subject can be treated upon a broad basis of all the true interests of the nations interested.

Here you and I could do nothing more than discuss the strict legal rights under the respective protocols, and this would be probably barren of any beneficial practical results.

Should your government bring this matter directly to the attention of our State Department, it will find the latter well disposed and already in possession of all the information I have been able to gather.

I think you will agree with me in thinking that in the present financial and political situation of the Dominican Government it is doubtful, to say the least, whether the payments provided for by the protocol of May 1, 1904, would not be neglected, just as those provided for by the protocol of July 4, 1903, have been. It is my firm conviction that the execution of the award of July 14, 1904, will strengthen and change this regrettable situation, and if followed up by prudent action will very likely make the collection of the Italian claims more certain.

The royal embassy at Washington has recourse to the good offices of the Federal Department to the end that in compliance with the foregoing assurances and by virtue of the powers recently assumed at Santo Domingo the Federal Government will kindly make arrangements for the payment of the above-mentioned 5 per cent from the date set (November 1, 1904) agreeably to the obligations entered into by the Dominican Government in the above-mentioned protocols.

*The Secretary of State to Minister Dawson.*

No. 46.]

DEPARTMENT OF STATE,  
*Washington, February 6, 1905.*

SIR: I inclose the President's full powers authorizing you to sign the protocol with reference to the collection and disbursement by the United States of the custom revenues of the Dominican Republic, and confirm the telegram which I sent to you this morning in the following language:

The President has to-day telegraphed the President of Santo Domingo full powers for you to sign protocol. See him and sign at once.

I am, etc.,

JOHN HAY.

*Minister Dawson to the Secretary of State.*

No. 109.]

AMERICAN LEGATION,  
*Santo Domingo, February 7, 1905.*

SIR: I herewith inclose originals in English and in Spanish of the protocol between the American and the Dominican Governments signed by me in virtue of the full powers telegraphed on February 6 by the President of the United States to the President of the Dominican Republic.

I have, etc.,

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 110.]

AMERICAN LEGATION,  
*Santo Domingo, February 13, 1905.*

SIR: Continuing the subject of my No. 107 of January 23, 1905, I have the honor to confirm Captain Dillingham's telegram, as follows:

SECRETARY OF STATE, *Washington:*SANTO DOMINGO, *January 24, 1905.*

Sail to-night for north coast, with Sigsbee, aboard *Newark*. Situation acute, but quiet.  
DILLINGHAM.

and to report that he, the minister of finance, and a special agent of President Morales departed that same evening for the northern coast on board Admiral Sigsbee's flagship, the *Newark*. It was the intention of Commander Dillingham and the Dominican special agent to proceed to Monte Christi to obtain Governor Arias's peaceful compliance. The subsequent correspondence in relation to their mission is the subject of a separate dispatch. The minister of finance went to Sanchez, La Vega, Moca, and Santiago to explain the proposed financial arrangement to the people and authorities of those provinces and to secure their adhesion thereto.

I further confirm the Department's telegram, as follows:

DAWSON, *Minister, Santo Domingo:*WASHINGTON, *January 24, 1905.*

Cable full text of agreement signed by you and Dillingham.

LOOMIS.

This instruction I immediately complied with, the full text being telegraphed on the evening of the 24th. [For full text see inclosure 3, p. 311.] On the evening of January 26 I received the following telegram from the Department:

WASHINGTON, *January 25, 1906.*  
(Received January 26.)

DAWSON, *Minister, Santo Domingo:*

It is necessary, in order to secure approval of protocol, to make some alterations. Secure signature to draft which follows. This is to take the place of agreement signed by you and Dillingham on the 20th. It should be thoroughly satisfactory Dominican Government, as the changes are not considerable and only relate to matters which will contribute toward our success in relieving Dominican Government of its difficulties. You will explain to the Dominican Government that whatever you signed was ad referendum. Desirable to avoid undue publicity during negotiations. Suggests this to Dominicans also.

LOOMIS.

On the morning of the 27th I received by telegraph the draft protocol referred to, and I inclose herewith exact copy of same. [For full text see telegram printed, p. 313.]

I immediately went to the President, who called in the minister of foreign affairs and the ad interim minister of finance, Señor Lamarche. After impressing upon them the necessity for avoiding premature or undue publicity, I submitted the Department's draft, briefly explaining the more important points wherein it differed from the ad referendum arrangement of January 20. Though disappointed that the arrangement could not go into effect on February 1, they did not take the position that the former arrangement was, so far as the United States was concerned, anything more than an ad referendum agreement, and added that, now that the general outlines of the proposed action of the United States were known to the country without having excited a revolution, it was convenient for the Dominican Government also to submit the matter to its own Congress.

What alarmed President Morales most was the intimation that the American Senate might reject it. In such a case he thought his government would surely fall, as that of Santana had fallen in 1864, because the Spaniards had not backed him up, and as Baez had been overthrown in 1873, when the American Senate rejected the annexation treaty.

I answered that I appreciated the reasons which ten days ago had induced him not to raise the question of the necessity for ratification, and well understood that his only hope to prevent a revolution had been immediately to present the matter to the excited country as an accomplished fact, thus cutting off discussion and leaving the malcontents confronted with the alternative of undertaking a hopeless fight for which they had had no chance to prepare themselves or of submitting without resistance. I said that in view of the then political situation of this Republic I was not disposed to criticise him for making public the preliminary terms suggested by the United States, although such publicity had seriously embarrassed the State Department. But the political situation had changed in the meantime, and it was now evident that the Dominican Congress would doubtless ratify a protocol drawn in accordance with the draft now submitted by the State Department, which, so far as Dominican interests were affected, was substantially the same as the ad referendum agreement already published.

They then demanded to know what guaranty I could give them that the American Senate would ratify. I told them none, except the assurance that President Roosevelt and the State Department would do everything in their power to secure ratification.

They then said that so far as they were individually concerned they were inclined to accept the new protocol, but that they could give no assurances as to the attitude of Minister Velasquez, Vice-President Caceres, and the leaders in Congress. At my suggestion they agreed to send at once for Minister Velasquez.

This brought us to what I had known from the beginning would be the main difficulty, namely, a financial arrangement which would give them enough money to run the government for the next few weeks. They said there was not a cent in the treasury, and they had hypothecated for previous advances all the promissory notes given for importations made until the end of January; that under their tariff system no cash duties were collected, but promissory notes were taken, some of which run as long as sixty days. After the 1st of January no money would be coming into the treasury, and none of the local merchants would lend them money with the protocol pending. They would therefore be unable to pay the governors, troops, and officials, and such interruption of payments would, of course, be followed by the immediate disintegration of the government. They asked me to help them make some arrangement by which they could obtain enough money to tide over the interval from February 1 to the date of ratification. I answered that this would be very difficult, since I had no authority to take any action under the agreement signed January 20, but said that, with the consent of the Department, I would be willing to act as their mouthpiece in endeavoring to induce some local banker to advance the necessary funds.

Accordingly, after some reflection, I sent for Mr. Santiago Michelena, an American citizen and merchant, who conducts one of the two largest banking businesses on the island. Mr. Michelena I found to be perfectly willing to act as temporary financial intermediary for the United States, and, indeed, that he had expected to be called upon to act in such capacity. I told him that I was not authorized to make any appointment, but that I thought the Dominican Government could give him ample security for the necessary advances.

After ascertaining what compensation Mr. Michelena desired, I returned to President Morales and the ad interim minister of finance and assured myself that in their present extremity they would agree to Mr. Michelena's terms. I then telegraphed to the Department as follows:

SANTO DOMINGO, *January 27, 1905.*

SECSTATE, *Washington:*

Twenty-seventh. Draft of protocol submitted to Dominican Government. I can get it signed if Department can arrange or authorize some way to tide over financial difficulty for few weeks. Duties are payable in promissory notes instead of cash. Dominican Government has no funds on hand or due; Improvement Company absorbs largest part. Because protocol is pending local bankers have ceased advancing daily sums on which Government subsists. Stoppage payment of troops would mean overthrow government and anarchy. Temporary credit for \$40,000 sufficient, which could be procured here if I were authorized to join Dominican Government in transferring to banker temporary right to collect revenues. Immediate reply necessary.

DAWSON.

To this the Department replied as follows:

WASHINGTON, *January 28, 1905.*

DAWSON, *Minister, Santo Domingo:*

Inasmuch as protocol is neither signed or ratified by Senate, Department has no authority to act, but it approves the Dominican Government transferring to banker temporary right to collect revenues, but this right should be limited and so guarded as not to interfere with the carrying out of the arrangements commenced in the protocol by the two governments and so as not to interfere with the rights of the Dominican Improvement Company under its award beyond what is absolutely necessary to raise the \$40,000.

LOOMIS.

Immediately on receiving this I again sent for Mr. Michelena and told him that his contract must be made directly with the Dominican Government, but that I believed that it could be so drafted as to amply secure him. He answered that he would accept any contract for whose faithful execution the Dominican Government would agree to be responsible to me; that he would expect me to do every thing in my power to see that his rights were respected and to continue to act as intermediary between him and the Dominican Government.

Accordingly I drafted in English the inclosed contract, which was translated into Spanish and signed on January 29, by the acting minister of finance. On the same day I addressed Mr. Michelena the inclosed letter. I informed Mr. Michelena and the Dominican Government that the rights acquired by the former must not be so exercised as to interfere with the execution of the Improvement Company award, and that therefore the receipts at Puerto Plata could not be included. Mr. Michelena calculated that without Puerto Plata the receipts for the month of February would reach \$110,000, although a considerable portion of this sum will still be in the form of promissory notes not yet due at the end of the month. The central Dominican Government has never been able to make a similar contract, covering the customs receipts of all the ports, because it could never give practically satisfactory assurances that the local custom-house authorities would permit the promissory notes to be made out in a single banker's name. Each port has always insisted on making its own loans and arrangements with local capitalists. But with the financial agreement pending and public, Mr. Michelena felt sure that the customs officials and importing merchants would not dare to resist, and the fact that the central Dominican Government was responsible to me for the faithful execution of the contract removed all danger of repudiation by it.

SANTO DOMINGO, *January 30, 1905.*

SECRETARY OF STATE, *Washington:*

I have arranged financial difficulties as follows: Dominican Government transfers to banker, who is a citizen of the United States, temporary right to collect all revenues except Puerto Plata. Banker will pay \$75,000 a month for administrative expenses. Contract terminable on notice from me. Dominican Government responsible to me for faithful fulfillment. Unless unexpected revolt breaks out Improvement rights need not be interfered with at all. Certainty of regular income immensely strengthens Dominican Government. Latest news from different parts of the Republic encouraging. Minister of finance will return in a few days and sign new protocol.

DAWSON.

On the same day Mr. Michelena started on a journey around the island to arrange for the collection of the promissory notes and the payment of the budget at the different ports. He has not yet returned, but his representatives here inform me that so far as they have heard the arrangement is working well. Importers seem to be pay-



ing them without protest, but difficulty is experienced in collecting the port charges from the steamship lines who have contracts. The placing of Monte Christi under the award reduces the available income, and it may be that I will have to call on both it and Puerto Plata to make up a deficit. However, this is extremely unlikely.

On the next morning I received the following telegram:

WASHINGTON, *January 31, 1905.*

DAWSON, *Minister, Santo Domingo:*

You will substitute for the second clause of the preamble sent you in our draft of protocol January 25, beginning, "Whereas the Government of the United States of America," the following, which is to take the place of the paragraph of the preamble containing the territorial guaranty: "Whereas the Government of the United States, viewing any attempt on the part of the governments outside of this hemisphere to oppress or control the destiny of the Dominican Republic as a manifestation of an unfriendly disposition toward the United States, is, in compliance with the request of the Dominican Government, disposed to lend its assistance toward effecting a satisfactory arrangement with the creditors of the Dominican Government."

LOOMIS.

I immediately submitted the proposed change to the minister of foreign affairs. At first he said that, so far as he was individually concerned, he preferred the new form, but that he could not answer for the minister of finance, President Morales, or the vice-president. I then saw the President, who also declined to agree positively, and seized the opportunity to suggest several changes to the draft protocol.

In the most friendly spirit I explained to him and Mr. Sanchez the advisability of accepting the protocol just as it had come from the Department, and refused to submit to the Department most of their suggestions. On four points, however, I was unable to move them. They insisted that they could not wound the national pride and violate the Dominican constitution by granting complete extra-territoriality to the customs employees appointed by the American Government; that if the protocol must be submitted to the American Senate, it must also be submitted to the Dominican House of Congress, and that the arrangement must be limited to the time required for the payment of the debt. All of these positions seem to me more or less reasonable, and I accordingly telegraphed the Department as follows:

SANTO DOMINGO, *February 2, 1905.*

SECRETARY OF STATE, *Washington:*

Suggested change of preamble most probably will be accepted. Minister of finance returns February 4. On account of urgent political reasons, Dominican Government wishes following additions: Article 2, after "receipts," "these employees shall be subject to the civil and criminal jurisdiction of the Dominican Republic, and may claim no exemption on account of their personal status." Article 8, after "Senate," "and the Congress of the Dominican Republic." Article 9. "This agreement shall continue in force during the time required for the amortization of the debt of which the Government of the United States takes charge." I hope to send the protocol San Juan 5th.

DAWSON.

I hereby confirm the Department's reply:

WASHINGTON, *February 2, 1905.*

DAWSON, *Minister, Santo Domingo:*

There appears to be no objections to changes suggested in your telegram of February 2. Article 2, however, after the word "receipts," should read: "These employees shall be subject to the civil and criminal jurisdiction of the Dominican Republic." This is to be substituted for your paragraph.

LOOMIS.

On February 3 the Department sent me the following telegram:

WASHINGTON, *February 3, 1905.*

DAWSON, *Minister, Santo Domingo:*

Press report here states that United States took control of the custom-house receipts at Santo Domingo city yesterday. Department assumes that this is incorrect, as of course you have no authority whatsoever under draft agreement signed the 20th. Answer.

LOOMIS.

To this I replied as follows:

SANTO DOMINGO, *February 3, 1905.*

SECSTATE, *Washington:*

I have taken no action whatsoever under the agreement signed 20th. Dominican authorities have not seen fit to publish pending negotiations, hence popular misapprehension as to source authority American banker.

DAWSON.

On February 1 I had received the following telegram from the Department:

WASHINGTON, *February 1, 1905.*

DAWSON, *Minister, Santo Domingo:*

Your telegram January 30 shows minister will sign new protocol. The protocol being acceptable to the Dominican Government, forward it as soon as possible. Advise Department as soon as it is signed. Time would probably be saved by having *Stewart* convey it to San Juan.

LOOMIS.

and on February 2 another telegram, urging haste, which I hereby confirm:

WASHINGTON, *February 2, 1905.*

DAWSON, *Minister, Santo Domingo:*

Owing to the fact that Congress expires so soon, it is highly important to have protocol here at earliest possible moment. Is signature of minister of finance necessary?

LOOMIS.

This telegram I showed to the minister of foreign affairs and the President, but they assured me that to substitute anyone else as commissioner for Mr. Velasquez would most certainly offend him and bring about an Horacista revolt in the Cibao.

When the minister of finance returned, he proved to be, even more than I had expected, stubbornly determined to reject the suggestions of the Department and to reintroduce modifications which he had been obliged to abandon in the former negotiations. However, in our first interview after his return he reserved his fire on every subject except the change of the preamble. I gave him clearly to understand that the United States would not assume the responsibility implied in making a general guaranty of Dominican territorial integrity, although we were willing to guarantee the Republic against European interference, and disclaimed any intention of ourselves committing aggression. The minister of foreign affairs suggested that the phrase might be less objectionable if inserted as a mere recitation in the first clause of the preamble, and at his earnest solicitation and the demand of the minister of finance I sent the following telegram to the Department before giving them my final answer:

SANTO DOMINGO, *February 4, 1905.*

SECSTATE, *Washington:*

Fourth. Minister of finance insists on insertion after the word "assuring," in the first paragraph preamble, of following: "the territorial integrity of the Republic, and."

DAWSON.

To this the Department replied:

WASHINGTON, *February 5, 1905.*

DAWSON, *Minister, Santo Domingo:*

Is not the guaranty in the second paragraph of preamble in our draft sufficient? The phrase suggested by the minister of finance does not fit in smoothly. Important to insist on our draft.

LOOMIS.

The same day I had a long and almost painful interview with the Dominican commissioners, in the course of which I learned that the whole cabinet had become seriously alarmed as to our intentions, and that Leonte Vasquez, the Dominican consul-general in New York, and brother of ex-President Vasquez, had sent a private telegram to Vice-President Caceres, in which he stated he had learned from American sources that the real intention of our government was to use the present arrangement as an opening wedge for annexation. I reluctantly came to the conclusion that some assurance on the subject must be included in the protocol, or that the negotiations would fail. I chose the form that seemed to me most likely to meet with objections on the part of Americans who dread the responsibility implied in a general protectorate, and sent the following telegram:

SANTO DOMINGO, *February 5, 1905.*

SECSTATE, *Washington:*

Dominican Government insists that suggested guaranty is effective only against European powers and not against the United States itself. Vice-President has received a telegram from Dominican consul-general at New York, which convinces him that change in preamble means ultimate annexation. Dominican authorities suspicious, and alarmed as to our intentions. They insist on inserting following at end of second paragraph preamble: "agreeing to respect the complete territorial integrity of the Dominican Republic."

DAWSON.

To this the Department replied as follows:

WASHINGTON, *February 6, 1905.*

DAWSON, *Minister, Santo Domingo:*

You may add at end of second paragraph of preamble the words "agreeing to respect the complete territorial integrity of the Dominican Republic."

HAY.

In the meantime the minister of finance, in spite of my repeated categorical statements that I had no power to agree to any changes and that I knew that my government would consent to none, and in spite of my warnings that the signed protocol must catch the mail boat at San Juan on the 8th in order to reach the United States in time to have a chance of confirmation by the Senate, persisted in presenting numerous changes. He was especially desirous of procuring the insertion of a clause requiring "extraordinary" expenses to be charged against the capital account due the creditors, and of another insuring the appointment of Dominicans as subordinates in the customs service. He also said that, while they had no intention of increasing the debt and were willing to pledge themselves unconditionally on the subject, they thought it unnecessarily wounding to their national pride virtually to agree that they would increase the debt when the President of the United States should require it.

To resist the importunities of Minister Velasquez, who is a thoroughly honest, patriotic man, whose exceptional integrity has justly earned him the prestige he enjoys among the better classes of Dominicans, was extremely embarrassing, especially as the President and

Minister Sanchez, fearing that he would resign, did not dare oppose him, but joined their arguments to his. Members of Congress and confidential representatives of Vice-President Caceres and the Cibao governors also came to see me, seeming to see no impropriety in coming to me and giving me their own views. But I tried not to lose sight of the fact that this was a matter in which every Dominican is vitally interested. \* \* \*

On the morning of the 6th, came your telegram in regard to my full powers—

WASHINGTON, *February 6, 1905.*

DAWSON, *American Minister, Santo Domingo:*

The President has to-day telegraphed to the President of Santo Domingo full powers for you to sign protocol. See him and sign at once.

HAY.

to which at once I replied:

SANTO DOMINGO, *February 6, 1905.*

SECSTATE, *Washington:*

Full powers received. Dominican commissioners refuse to sign unless clause "agreeing to respect territorial integrity" is inserted. Please send instructions as to this point.

DAWSON.

Shortly afterwards, and while the Dominican commissioners were still in my office, your telegram came authorizing the amendment of the protocol on the most important point. I have already confirmed it herein.

In the meantime, such was the anxiety to secure the signing of the protocol at once that I deemed it wise to send the following telegram, believing that whatever the reply might be, the Dominican negotiators would, when it came, realize that at last they must either sign or refuse:

SANTO DOMINGO, *February 6, 1905.*

SECSTATE, *Washington:*

Minister of finance prefers unconditional agreement not to increase debt, and asks that words "without the consent of the President of the United States" be erased at the end of article 6. Last night he refused to sign substituted protocol, but this morning consented if "agreeing to respect" was inserted and above change made.

DAWSON.

I confirm your reply, as follows, which came late in the evening of the 6th:

WASHINGTON, *February 6, 1905.*

DAWSON, *Minister, Santo Domingo:*

The President regrets his inability to consent to any further changes in protocol. The words "without the consent of the President of the United States" at the end of article 6 are indispensable to the success of the plan to relieve the Dominican Republic from its hopeless financial condition, which is rapidly growing worse and threatens serious disasters. Other governments have repeatedly threatened to intervene, and the United States can not extend financial protection unless it can have the confidence of the Dominican Government and of other parties concerned, so as to enable the United States to carry out the plan successfully.

HAY.

Early the next morning I showed it to the minister of finance, telling him firmly, although in the friendliest spirit, that he could see for himself that it was useless to prolong his resistance. It produced a decidedly favorable effect in his mind, but, nevertheless, he would not decide until the important congressional leaders and Emiliano Tejera had been consulted and a cabinet meeting held. I spent the day in having the English copies of the protocol prepared, and at 2 o'clock I

received a telephone message to the effect that the Dominicans were doing the same with the Spanish. Shortly afterwards the minister of finance came and told me he had determined to sign, but that he desired first to have me answer, in writing, a communication which he had prepared. I told him that he could, of course, state his own position in any way he liked, and that I saw no objection to my putting in writing what I had said so often verbally, viz, that the American Government regarded any further changes in the draft protocol as inadmissible.

Accordingly he and Minister Sanchez sent me the note, of which I inclose a copy and translation, and I replied as inclosed copy.

At 4 o'clock on the 7th the protocol was signed, and half an hour later the *Stewart* started for San Juan, where she arrived in the morning of the 8th in time to catch the New York mail steamer, the *Philadelphia*.

I confirm my telegram as follows:

SANTO DOMINGO, February 7, 1905.

SECRETARY OF STATE, *Washington*:

Seventh. Protocol signed 4 this afternoon. *Stewart* is taking it to San Juan.

DAWSON.

It is with satisfaction that I am able to report to the Department that, notwithstanding the determined fight made by the Dominican commissioners, there has been no interruption of the relations of friendship and mutual confidence which have existed between myself and them ever since this negotiation began six weeks ago. They appreciate—and the conviction is now very generally entertained among all Dominican factions, even those bitterly opposed to any arrangement with the United States—that the State Department and its representatives here are sincerely well disposed and sympathize with and understand Dominican susceptibilities; that the United States has no selfish or ulterior purposes, and that the protocol was framed and will be carried out in a spirit of forbearance and helpfulness. I am also much gratified that President Morales has been able to hold his supporters together in this crisis and avoid any outbreak, which might have left an enduring hatred of the United States, even if it had been suppressed. He and Mr. Sanchez have shown at every stage admirable coolness, shrewdness, and knowledge of the peculiarities of their people. It is true that at times they apparently threw obstacles in my way, but it was always with the purpose of reaching with the least political friction the result both sides were aiming at.

I also desire to express my appreciation of the good sense shown by Commanders Dorn and Nicholson in taking measures which avoided any difficulties between their crews and the Dominican populace. Though the presence of the ships has had a powerful moral effect on the rash and ignorant elements, who unhappily are in the majority and who do not yet understand the real benefits the country will derive from the arrangement, not a disagreeable incident has occurred.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Contract between the Dominican Government and Santiago Michelena.*

Santiago Michelena is hereby authorized to collect all the custom-house revenues of the Dominican Republic. All promissory notes and other documents given by persons causing duties of any kind shall be made out to him, and all custom-house revenues shall be paid to him. All custom-house employees and officials shall be under his orders and directly responsible to him in all matters concerning the payment of the customs revenues.

The powers herein granted shall begin on February 1, 1905, and continue in force until the minister resident of the United States of America shall notify the Dominican Government and the said Michelena of his desire that the same be terminated.

The said Michelena is to pay to such fiscal representatives of the Dominican Government as may be designated by the said minister resident the sum of \$18,750 on the 1st, 8th, 15th, and 22d days of each month so long as he continues to act hereunder, less the commissions and interest hereinafter provided for. He shall also pay the salaries of all custom-house officials and employees.

Upon the \$75,000 per month so advanced he shall apply all the revenues, except those necessary for the payment of the custom-house officials and employees, until there shall be no balance in his favor against the Dominican Government. Then he shall hold the surplus in trust to the Dominican Government, subject to the order of the said minister resident.

He shall receive one-half per cent per month interest on all sums due him and, as compensation for his services, 2 per cent commission for the collection of said revenues as shall be supplied on the \$75,000 per month paid the Dominican Government; also 1 per cent commission for the transfer of said funds.

He shall receive such commissions for collection and transfer of the surplus funds as may hereafter be agreed upon between him and the minister resident.

The Dominican Government guarantees before the minister resident of the United States of America all the rights that the said Michelena acquires hereunder, and holds itself responsible to said minister resident for the faithful performance of the stipulations of this contract.

Accepted.

LAMARCHE,  
*Minister of Hacienda.*

SANTIAGO MICHELENA.

Seen and approved:

THOMAS C. DAWSON,  
*Minister Resident of the United States of America.*

[Inclosure 2.]

*Minister Dawson to Mr. Michelena.*

AMERICAN LEGATION,  
*Santo Domingo, January 29, 1905.*

SIR: Confirming our conversation of yesterday, I beg to say that the contract in regard to your collecting all the customs revenue of the Republic, signed to-day on behalf of the Dominican Government by the minister of finance, was drafted by me after receiving instructions from the Government of the United States, that I have been authorized by my government to approve the making of the same, and that I will use all the powers at my command to see that your rights thereunder are faithfully observed.

Referring to the payment of your interest and commissions, I have to say that I approve of the verbal arrangement made by you with the minister of finance to the effect that the collection of the same be deferred for the time being and the Dominican Government receive the full amount of \$18,750 per week during the present crisis in its affairs.

Yours, respectfully,

T. C. DAWSON.

[Inclosure 3.—Translation.]

*Messrs. Sanchez and Velasquez to Minister Dawson.*

MINISTRY OF HACIENDA AND COMMERCE,  
*Santo Domingo, February 7, 1905.*

SIR: We, the undersigned signatories of the convention of January 20 last, as representatives of the Dominican Government, which was also signed by you and by Albert C. Dillingham, as representative of the Government of the United States, have the honor to bring to your attention by these presents that the only modification which we believe proper in the already signed convention are: That declaring it to be ad referendum by an additional clause, and that adding an article which provides that "this convention shall last as long as shall be necessary for the amortization of the debt which the Government of the United States takes charge of," these being the only modifications which on behalf of the Dominican Government we find ourselves authorized to sign, ratifying at the same time all that has been agreed and covenanted.

We salute you attentively.

JUAN FCO. SANCHEZ.  
 FEDERICO VELASQUEZ.

[Inclosure 4.]

*Minister Dawson to Messrs. Sanchez and Velasquez.*

FEBRUARY 7, 1905.

SIRS: I have the honor to acknowledge the receipt of your communication of to-day in regard to the modifications from the convention signed on January 20 desired by yourselves, and those modifications which I have been instructed by my government to present.

After most carefully considering this important matter my government agrees with your excellencies that the two modifications referred to in your note should be made, but believes that still other modifications are necessary to enable the United States successfully to bring about a settlement of the Dominican debt.

Pursuant to explicit instructions of my government I have had the honor of presenting for your consideration a draft protocol, and have, after informing myself as to your views, secured by telegraph the consent of my government to various additions which make it approximate more closely to your views. Further changes I am, however, not authorized to agree to, and my duties in this matter are strictly defined by the inclosed telegram, which I received yesterday from Mr. Hay, the Secretary of State.

I improve the opportunity, etc.,

*Minister Dawson to the Secretary of State.*

No. 111.]

AMERICAN LEGATION,  
*Santo Domingo, February 13, 1905.*

SIR: Referring to the efforts to secure a peaceful acceptance of the pending negotiations on the part of the virtually independent governor of Monte Christi, I have the honor to report that on the morning of January 25 President Morales showed me a telegram from Governor Arias, in which the latter protests against any arrangement with the American Government, and announces his intention of resigning his office. I thereupon telegraphed to Consular Agent Petit as follows:

SANTO DOMINGO, *January 25, 1905.*

AMERICAN CONSUL, *Monte Christi:*

Strongly advise governor to defer action until he knows the real provisions of financial arrangement. Interests of Monte Christi will be respected.

DAWSON.

And to Admiral Sigsbee as follows:

SANTO DOMINGO, *January 25, 1905.*

SIGSBEE, *care American Consul, Puerto Plata:*

Arias telegraphed the President last night he would resign to-day. Probably means trouble there.

DAWSON.

A few hours later I received the following telegram from Petit:

MONTE CHRISTI, *January 25, 1905.*

AMERICAN MINISTER, *Santo Domingo:*

Action deferred pending receipt details agreement.

PETIT.

I thereupon sent the following telegram to the Department:

SANTO DOMINGO, *January 25, 1905.*

SECSTATE, *Washington:*

Governor of Monte Christi last night telegraphed his resignation. This indicated refusal to accept convention and probable revolt. On my telegraphic instructions consular agent counseled governor, who agrees to defer action. Have advised Sigsbee, Puerto Plata. The rest of the Republic quiet. Unless I receive contrary instructions will make following temporary arrangements pending arrival expert: Leave Puerto Plata as it is; name Balch, American citizen now in Abbott's employ, collector of Monte Christi. At the other ports present Dominican collectors, requiring them to account to me.

DAWSON.

And to Admiral Sigsbee the following:

SANTO DOMINGO, *January 25, 1905.*

SIGSBEE, *care American Consul, Puerto Plata:*

I instructed consular agent Monte Christi to advise governor against hasty action. Consular agent answers that action is deferred pending receipt details agreement.

DAWSON.

Shortly afterwards Admiral Sigsbee and Commander Dillingham reached Puerto Plata, and the former telegraphed me as follows:

PUERTO PLATA, *January 27, 1905.*

AMERICAN MINISTER, *Santo Domingo:*

Have wired consul Monte Christi to arrange conference with governor for to-morrow. This allows time for consideration. Notified governor that Newark takes with her terms of agreement.

SIGSBEE.

When the contract with Mr. Michelena—referred to in my No. 110, of this date—was made on January 29, the Dominican Government requested Governor Arias by telegraph to secure the observance of its terms at Monte Christi, and suggested that I secure Admiral Sigsbee's and Commander Dillingham's cooperation. Thinking that an order to this effect should properly come from the Department, I telegraphed you as follows:

SANTO DOMINGO, *January 31, 1905.*

SECSTATE, *Washington:*

Respectfully suggest State Department instructing Dillingham to facilitate operations American banker. Believe governor will yield if firm attitude is maintained by us.

DAWSON.



On February 1 Commander Dillingham telegraphed me as follows:

MONTE CHRISTI, *February 1, 1905.*

DAWSON, *Santo Domingo:*

Have General Government telegraph at once to Governor Arias definite instructions to carry out terms of the convention. Governor Arias is inclined to carry out these terms for Monte Christi, but Arias awaits instructions, which he should have. Arias should have the greatest consideration. His position is very difficult.

DILLINGHAM.

and on the same day I received through Lieutenant Sellers, of the *Stewart*, the letters from Admiral Sigsbee and Commander Dillingham, of which I inclose copies.

In view of the fact that I was not authorized to take any action under the ad referendum agreement of January 20, I could not comply literally with Commander Dillingham's telegraphic request to have this government send instructions to Governor Arias to carry out the terms of that agreement, but I replied to Admiral Sigsbee as follows, Commander Nicholson, of the *Tacoma*, kindly putting the message into the navy cipher:

SANTO DOMINGO, *February 2, 1905.*

SIGSBEE, *Monte Christi:*

Congratulations on success. At present only necessary that Michelena, American banker, receive customs pagares. He will pay Arias weekly budget in cash, and arrive *Cherokee*. Please facilitate his understanding with Arias.

DAWSON.

To this Commander Dillingham replied as follows:

MONTE CHRISTI, *February 3, 1905.*

DAWSON, *Santo Domingo:*

Awaiting Michelena. All quiet. Congratulations. Sigsbee wires Nicholson place *Stewart* your disposal for communication whenever needed.

DILLINGHAM.

The same day came the following telegram from the Department:

WASHINGTON, *February 3, 1905.*

DAWSON, *Minister, Santo Domingo:*

The United States Government, deeming it necessary under the terms of the award in the Santo Domingo Improvement Company case, proposes to take possession of the custom-house at Monte Christi, with the consent of the Dominican Government. The Department is informed by Dillingham and Sigsbee that the governor of Monte Christi now favorable to this step and that immediate possession should be taken. Act promptly.

LOOMIS.

I immediately telegraphed Commander Dillingham as follows:

SANTO DOMINGO, *February 3, 1905.*

DILLINGHAM, *Monte Christi:*

You will soon receive instructions from Washington. Until they come have Michelena defer action as to Monte Christi.

DAWSON.

To which he replied as follows:

MONTE CHRISTI, *February 4, 1905.*

DAWSON, *Santo Domingo:*

All action suspended pending instructions.

DILLINGHAM.

In the meantime I had gone to President Morales and urged him at once to call a cabinet council to enact a formal resolution requesting American Government to take possession of Monte Christi cus-

tom-house under the Improvement Company award. I encountered an unexpected reluctance to do so, both on his part and on that of the ministers, who were called in for consultation. They said they feared that such a step would drive Arias to revolt, and that it would be safer to let the Michelena contract apply to Monte Christi until the protocol should go into effect. However, I soon satisfied myself that their real reason for objecting was the fear that Judge Abbott would be placed in charge. I refused to give them any assurance on this point, not positively knowing what the Department might intend to do, although I have slowly come to the conclusion that it is impossible to ignore or overcome the dislike of the Improvement Company, and of all persons who have been connected with it, which is felt by Dominicans of all parties. This hatred originally arose from the widely entertained belief that the main cause of all their present financial troubles was an alleged corrupt alliance between President Heureaux and the Improvement Company. This feeling has been exacerbated by the bitter controversies which have continually gone on during the last five years between representatives of the Improvement Company and the various Dominican administrations. While this feeling of distrust is not really directed against Judge Abbott personally, its existence was the principal reason why three months ago the Dominican Government refused to ask the United States to take over Sanchez, Samana, and Monte Christi custom-houses under award, notwithstanding that the terms offered by Judge Abbott were so advantageous and liberal to this government.

It was hopeless to try to persuade the president and cabinet on this point, even if there had been time, and I confined myself to representing that the present delivery of Monte Christi custom-house would put a stop to the surreptitious introduction of ammunition through that port; would immediately and effectively destroy Governor Arias's power, and that anyway the step ought to be taken by them simply because my government, which deserved and must have their confidence, regarded it as essential.

They yielded, and within a few hours a formal cabinet meeting had been held, and I had received the communication, of which I inclose a copy and translation.

I thereupon sent the Department the following telegram:

SANTO DOMINGO, *February 4, 1905.*

SECSTATE, *Washington:*

Dominican Government requests through me that the provisions of the improvement award be extended to Monte Christi until the protocol takes effect. Abbott is gone. Please send necessary orders direct to Monte Christi informing me. It is very important that security for banker advancing budget should not be seriously impaired. If he withdraws this government will break up. Dominican Government fears present demand foreshadows complete control by hated Improvement Company after the protocol takes effect, but they yielded to pressure. Signature of minister of finance absolutely necessary; will return 5th. *Stewart* can catch New York steamer at San Juan 8th.

DAWSON.

To this I received the following reply:

WASHINGTON, *February 4, 1905.*

DAWSON, *Minister, Santo Domingo:*

Orders have been given directing a naval officer to take possession of custom-house as fiscal agent of this government in conformity with the terms of the award of the Santo Domingo Improvement Company arbitration at the request of the Dominican Government. Assure the Dominican Government in case pending arrangement between the two govern-

ments is consummated the Santo Domingo Improvement Company will not have possession nor control of the custom-houses. The United States itself would collect the revenues and make distribution as contemplated by the pending arrangement. Explain fully and explicitly to Department the terms of the security for banker advancing expenses of budget. Is the sum \$40,000 or \$75,000? You have mentioned both.

LOOMIS.

I regret that my former telegrams in regard to the Michelena contract had not been sufficiently explicit. In my first message I mentioned \$40,000, because I estimated that to be the maximum cash sum which the Dominican Government would owe at any given time on the advances of \$18,750 a week, plus the salaries of the custom-house employees, and when I sent it I did not know whether the Department might not prefer to ask the Improvement Company to supply the necessary funds. In that case it would have been essential for you to know at once the exact credit to be opened.

I hereby confirm my reply, which I hope made the matter clear to the Department:

SANTO DOMINGO, *February 5, 1905.*

SECSTATE, *Washington:*

American banker's contract is simply that the notes representing duties shall be delivered to him as security for advancing \$18,750 weekly. He will apply collection, when made by him, on the amount advanced. Balance will probably never reach \$40,000, and be extinguished before 4th of March, without Puerto Plata. He understands that he takes subject to award, and will do what we desire in regard to Monte Christi. At his request contract is terminable on notice from me, and he will retain surplus in trust for Dominican Government, which agrees not to use it without my consent. This provision is intended to furnish fund to cover discrepancy between 45 per cent cash collections and Dominican expenditures during the first few weeks after the protocol takes effect.

DAWSON.

On February 8 I received the following telegram from Admiral Sigsbee:

MONTE CHRISTI, *February 6, 1905.*

NICHOLSON, *Tacoma, Santo Domingo:*

Notify the minister Commander A. C. Dillingham is ordered home without delay. His dispatch referring to the Clyde Line steamer received. Lieut. Commander E. F. Leiper has been appointed collector Monte Christi provisionally, under arbitration award. Installed probably Tuesday.

SIGSBEE.

On the morning of February 9 I received the following alarming telegram from Admiral Sigsbee:

PUERTO PLATA, *February 9, 1905.*

AMERICAN MINISTER, *Santo Domingo:*

Governor Monte Christi withholds consent to American occupation Monte Christi custom-house under award of arbitrators Santo Domingo Improvement Company, and as directed from Washington. Much excitement here thereby. Please request Morales Government telegraph governor immediately. Situation threatening by delay.

SIGSBEE.

At the moment I was confined to my bed, but in response to my urgent request the minister of foreign affairs kindly drove out to the legation, and from him I ascertained that through the neglect of a subordinate in the interior department the requisite order had not been telegraphed to Governor Arias immediately on the issuing of the order of the cabinet council. (Inclosure No. 3 herewith.) He also told me that telegrams had been received from Arias the night before (February 8) complaining that Lieutenant-Commander Leiper had surreptitiously and without due notice taken possession of the cus-

tom-house. These telegrams, he told me, had already been answered by the President in person, but I insisted that another and explicit message be immediately sent in a form which would remove the governor's scruples, or at least demonstrate whether he was acting in good faith with Admiral Sigsbee.

As soon as I was assured that the telegram had gone, I telegraphed Admiral Sigsbee as follows:

SANTO DOMINGO, *February 9, 1905.*

SIGSBEE, *Newark, Puerto Plata:*

I have seen the government. Order has been sent to governor.

DAWSON.

That day and the next passed, however, without my receiving any news from Admiral Sigsbee and without the Dominican Government hearing from Governor Arias. My anxiety was temporarily relieved on receiving the following telegram from the Department:

WASHINGTON, *February 10, 1905.*

DAWSON, *Minister, Santo Domingo:*

The agent of the United States Government is in peaceful possession of Monte Christi custom-house under award.

LOOMIS.

but it was renewed when the following came late the same evening:

WASHINGTON, *February 10, 1905.*

DAWSON, *Minister, Santo Domingo:*

Sigsbee cables that the governor of Monte Christi has not yet been instructed by the Dominican Government to turn custom-house over under award to Lieutenant-Commander Leiper, who has been designated as fiscal agent for the government. As Dominican Government consented to this arrangement, kindly have proper orders promptly forwarded to the authorities at Monte Christi. Telegraph lines reported down. If communication by wire still interrupted request senior naval officer present to forward Dominican Government's instructions to Monte Christi by torpedo boat.

HAY.

I immediately called up the President by telephone and he told me that he had as yet received no answer from Arias, and that he did not believe the telegraph line was or had been interrupted, because he had been receiving messages from other persons at Monte Christi. Next morning I saw Commander Nicholson, who ordered the *Stewart* to get ready, while I went to the telegraph office, where I soon assured myself that telegraphic communication with Monte Christi was open by having a test message sent. Thereupon I telegraphed the Department as follows:

SANTO DOMINGO, *February 11, 1905.*

SECSTATE, *Washington:*

Dominican Government telegraphed governor 9th to deliver custom-house. Telegraph communication open. Nevertheless governor has not replied.

DAWSON.

and to Admiral Sigsbee, as follows:

SANTO DOMINGO, *February 11, 1905.*

SIGSBEE, *Newark, Puerto Plata:*

Please telegraph me present situation there. All quiet here.

DAWSON.

The latter telegram was directed to Puerto Plata because Admiral Sigsbee's telegram to me of the 9th was dated there. But as I have received no reply I infer that he had in the meantime returned to Monte Christi, if, indeed, he had left there at all.

Late the same afternoon the President telephoned me that he had just received a telegram from Governor Arias saying that the custom-house had been peacefully delivered, and I thereupon telegraphed the Department as follows:

SANTO DOMINGO, February 11, 1905

SECSTATE, Washington:

Dominican Government has received a telegram from governor Monte Christi that he has delivered custom-house.

DAWSON.

It is probable that the recent misunderstanding on the part of Governor Arias was partly due to the oversight of this government in not sending him timely official notice.

It is clear to me that Admiral Sigsbee and Lieutenant-Commander Leiper must have conducted these negotiations with him most tactfully.

Their success, and that of Commander Dillingham, in securing Governor Arias's peaceful acceptance, takes away from the malcontents their last hope of being able to start a rebellion in possession of a port as a base of operation, and with an existing government as a nucleus. All the ports and large towns now seem secure, and while undoubtedly there is much loud talk going on among Jimenista sympathizers in the interior villages, they are without leaders of financial resources or real political prestige, and the government is confident that it can prevent any sporadic local uprisings. Nevertheless I feel that all concerned must continue to take every precaution.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Admiral Sigsbee to Minister Dawson.*

OFFICE OF THE COMMANDER, CARIBBEAN SQUADRON,  
*Monte Christi, January 29, 1905.*

MY DEAR MR. DAWSON: I send this by the destroyer *Stewart*, which will remain at Santo Domingo City in order to preserve communications between you and myself in the event that wires are down across the island.

I send you herewith a translation of cipher telegram received by me from the Navy Department in order to show you the conditions prescribed for me.

Dillingham and I interviewed a lot of the leading men here yesterday, including Governor Arias and Gen. Dimetrio Rodriguez. Dillingham, I believe, has written you in the matter. Arias and Rodriguez go inland to-day, ostensibly for the purpose of communicating with other leaders. They say they will communicate with Velasquez and Casceres. They have spent all of last night, so I hear, preparing a protest to the Government at Santo Domingo. The ground of the protest, I am informed, is that the convention was not referred to the Dominican Congress. If nothing goes wrong at other points, I think that Monte Christi will come to a favorable conclusion after they have talked fully on the subject.

I have informed the Navy Department that I do not meditate any initiative in regard to the transfer of custom-house. That, I conceive, is not my affair. When I was asked yesterday at the interview what would be done in the event that the people here declined to transfer the custom-house, I replied that the convention stipulated that on and after February 1 the administration of the custom-houses were under the control of the United States, and that if Monte Christi took contrary action they themselves would be responsible for such action. I gave no other reply. I trust all is going well in Santo Domingo City.

Please communicate the contents of this letter and of the telegrams from the Navy Department to the senior officer present at Santo Domingo.

Yours, etc.,

C. D. SIGSBEE.

P. S. Later.—Since writing in the foregoing, I have been informed by the United States consular agent here that Minister Velasquez has been recalled to the capital, hence the projected visit of this gentleman here can not take place. Also, I am informed from the same source that it is now intended to submit the convention to the Dominican Congress.

[Inclosure 2.]

*Commander Dillingham to Minister Dawson.*U. S. FLAGSHIP NEWARK,  
*Monte Christi, D. R., January 29, 1905.*

MY DEAR MINISTER: Arriving at Sanchez, the admiral landed Mr. Velasquez and offered to take him to Puerto Plata if he did not find it necessary to go up the valley. Mr. Velasquez decided that he would go to La Vega, Moca, Santiago, and Puerto Plata.

We proceeded on to Puerto Plata, and found that everything was quiet and very favorable. There had been on one night a few shots fired at Moca and La Vega, but it amounted to absolutely nothing, and I can safely say that the entire country up to Monte Christi will accept the agreement without the slightest trouble. We arrived at Monte Christi yesterday, and, after receiving Mr. Petit, went on shore to meet Arias, Rodriguez, two or three members of Congress, and other important men that Arias desired to be present.

Arias declined to come on board ship; I think not from any fear or anything of that kind, but because he believed that if he came off to the ship the people thought he was making some secret arrangement; and I have no doubt that his decision to remain on shore, where people could hear what was being said, was the wiser one. The argument against the acceptance of the agreement by the politicians here is that it is not constitutional, and should be presented to Congress for approval before being signed; and this opinion is caused only by the distrust that the people of this province have for the Morales administration. Of course there was the usual talk—and then politicians seem to forget, as they always do, the great benefits to be derived from this agreement, and were ready to argue against it legally, but I am sure had not the slightest idea of resisting.

Arias goes to meet Velasquez and Caceres to-day, and I am sure that he will return and declare that the agreement is acceptable to the people of Monte Christi, his province.

Arias says nothing, but I am convinced by his manner that he sees for himself the only hope possible for his future in the acceptance of the agreement.

A curious coincidence occurred at the meeting. Dimetrio Rodriguez presented a letter from the minister of war, in which it was stated that the object of the Americans was occupation; and, though I did not read the letter, I took it that the minister of war was absolutely opposed to any kind of convention. This letter was read when we were discussing the favorable opinion of the cabinet concerning the agreement.

It was difficult to explain the position of the minister of war, but at this moment there arrived a telegram from the minister of war saying, "Long live the Republic. Accept the agreement." This telegram closed the incident.

Admiral Sigsbee conducted the interview so adroitly as to make a most favorable impression, and my experience with Arias and Rodriguez makes me feel positive that we will have no trouble here.

Arias was to have left this morning to meet Velasquez and Caceres, as I have stated above, and we are only waiting the return of Arias to be convinced that everything will go on well in Monte Christi.

The defense of the reasons for not waiting for Congress to act in the premises was the emergency of the situation with regard to intervention by foreign powers with force and no consideration for Santo Domingo, and the necessity for accepting at once, without the delay of a day, the friendly offer of the United States, thus preventing the absolute partition of Santo Domingo.

After the return of Arias I will telegraph you, and if the cipher is necessary I will use the navy cipher.

The admiral joins me in very kind remembrances, etc.

DILLINGHAM,  
*Commander, U. S. Navy.*

Telegraph the substance of this to State Department if you see fit.

[Inclosure 3.]

*Mr. Garcia to Minister Dawson.*MINISTRY OF HACIENDA AND COMMERCE,  
*Santo Domingo, February 3, 1905.*

DEAR SIR: The council of the government held to-day has ordered that it should communicate to you for the purposes set out that, the provisions of the award being so extended, the functionary that you designed should take charge of the custom-house of Monte Christi until the convention shall begin to take effect.

M. LAMARCHE GARCIA,  
*Ad Interim Minister of Finance and Commerce.*

*Message from the President of the United States, transmitting a protocol of an agreement between the United States and the Dominican Republic, providing for the collection and disbursement by the United States of the customs revenues of the Dominican Republic, signed on February 7, 1905.*

FEBRUARY 15, 1905.—Read; protocol of agreement read the first time and referred to the Committee on Foreign Relations, and, together with the accompanying papers, ordered to be printed in confidence for the use of the Senate.

FEBRUARY 16, 1905.—Injunction of secrecy removed.

*To the Senate:*

I submit herewith a protocol concluded between the Dominican Republic and the United States.

The conditions in the Republic of Santo Domingo have been growing steadily worse for many years. There have been many disturbances and revolutions, and debts have been contracted beyond the power of the Republic to pay. Some of these debts were properly contracted and are held by those who have a legitimate right to their money. Others are without question improper or exorbitant, constituting claims which should never be paid in full and perhaps only to the extent of a very small portion of their nominal value.

Certain foreign countries have long felt themselves aggrieved because of the nonpayment of debts due their citizens. The only way by which foreign creditors could ever obtain from the Republic itself any guaranty of payment would be either by the acquisition of territory outright or temporarily, or else by taking possession of the custom-houses, which would of course in itself, in effect, be taking possession of a certain amount of territory.

It has for some time been obvious that those who profit by the Monroe doctrine must accept certain responsibilities along with the rights which it confers; and that the same statement applies to those who uphold the doctrine. It can not be too often and too emphatically asserted that the United States has not the slightest desire for territorial aggrandizement at the expense of any of its southern neighbors, and will not treat the Monroe doctrine as an excuse for such aggrandizement on its part. We do not propose to take any part of Santo Domingo, or exercise any other control over the island save what is necessary to its financial rehabilitation in connection with the collection of revenue, part of which will be turned over to the government to meet the necessary expense of running it, and part of which will be distributed pro rata among the creditors of the Republic upon a basis of absolute equity. The justification for the United States taking this burden and incurring this responsibility is to be found in the fact that it is incompatible with international equity for the United States to refuse to allow other powers to take the only means at their disposal of satisfying the claims of their creditors and yet to refuse, itself, to take any such steps.

An aggrieved nation can without interfering with the Monroe doctrine take what action it sees fit in the adjustment of its disputes with American States, provided that action does not take the shape of interference with their form of government or of the despoilment of their territory under any disguise. But, short of this, when the question is one of a money claim, the only way which remains, finally, to collect it is a blockade, or bombardment, or the seizure of the custom-houses,

and this means, as has been said above, what is in effect a possession, even though only a temporary possession, of territory. The United States then becomes a party in interest, because under the Monroe doctrine it can not see any European power seize and permanently occupy the territory of one of these republics; and yet such seizure of territory, disguised or undisguised, may eventually offer the only way in which the power in question can collect any debts, unless there is interference on the part of the United States.

One of the difficult and increasingly complicated problems, which often arise in Santo Domingo, grows out of the violations of contracts and concessions, sometimes improvidently granted, with valuable privileges and exemptions stipulated for upon grossly inadequate considerations which were burdensome to the State, and which are not infrequently disregarded and violated by the governing authorities. Citizens of the United States and of other governments holding these concessions and contracts appeal to their respective governments for active protection and intervention. Except for arbitrary wrong, done or sanctioned by superior authority, to persons or to vested property rights, the United States Government, following its traditional usage in such cases, aims to go no further than the mere use of its good offices, a measure which frequently proves ineffective. On the other hand, there are governments which do sometimes take energetic action for the protection of their subjects in the enforcement of merely contractual claims, and thereupon American concessionaries, supported by powerful influences, make loud appeal to the United States Government in similar cases for similar action. They complain that in the actual posture of affairs their valuable properties are practically confiscated, that American enterprise is paralyzed, and that unless they are fully protected, even by the enforcement of their merely contractual rights, it means the abandonment to the subjects of other governments of the interests of American trade and commerce through the sacrifice of their investments by excessive taxes imposed in violation of contract, and by other devices, and the sacrifice of the output of their mines and other industries, and even of their railway and shipping interests, which they have established in connection with the exploitation of their concessions. Thus the attempted solution of the complex problem by the ordinary methods of diplomacy reacts injuriously upon the United States Government itself, and in a measure paralyzes the action of the Executive in the direction of a sound and consistent policy. The United States Government is embarrassed in its efforts to foster American enterprise and the growth of our commerce through the cultivation of friendly relations with Santo Domingo, by the irritating effects on those relations, and the consequent injurious influence upon that commerce, of frequent interventions. As a method of solution of the complicated problem arbitration has become nugatory, inasmuch as, in the condition of its finances, an award against the Republic is worthless unless its payment is secured by the pledge of at least some portion of the customs revenues. This pledge is ineffectual without actual delivery over of the custom-houses to secure the appropriation of the pledged revenues to the payment of the award. This situation again reacts injuriously upon the relations of the United States with other nations. For when an award and such security are thus obtained, as in the case of the Santo Domingo Improvement Company, some foreign government complains that the



award conflicts with its rights, as a creditor, to some portion of these revenues under an alleged prior pledge; and still other governments complain that an award in any considerable sum, secured by pledges of the customs revenues, is prejudicial to the payment of their equally meritorious claims out of the ordinary revenues; and thus controversies are begotten between the United States and other creditor nations, because of the apparent sacrifice of some of their claims, which may be just or may be grossly exaggerated, but which the United States Government can not inquire into without giving grounds of offense to other friendly creditor nations. Still further illustrations might easily be furnished of the hopelessness of the present situation growing out of the social disorders and the bankrupt finances of the Dominican Republic, where for considerable periods during recent years the bonds of civil society have been practically dissolved.

Under the accepted law of nations foreign governments are within their right, if they choose to exercise it, when they actively intervene in support of the contractual claims of their subjects. They sometimes exercise this power, and on account of commercial rivalries there is a growing tendency on the part of other governments more and more to aid diplomatically in the enforcement of the claims of their subjects. In view of the dilemma in which the Government of the United States is thus placed, it must either adhere to its usual attitude of nonintervention in such cases—an attitude proper under normal conditions, but one which in this particular kind of case results to the disadvantage of its citizens in comparison with those of other States—or else it must, in order to be consistent in its policy, actively intervene to protect the contracts and concessions of its citizens engaged in agriculture, commerce, and transportation in competition with the subjects and citizens of other States. This course would render the United States the insurer of all the speculative risks of its citizens in the public securities and franchises of Santo Domingo.

Under the plan in the protocol herewith submitted to the Senate, insuring a faithful collection and application of the revenues to the specified objects, we are well assured that this difficult task can be accomplished with the friendly cooperation and good will of all the parties concerned, and to the great relief of the Dominican Republic.

The conditions in the Dominican Republic not only constitute a menace to our relations with other foreign nations, but they also concern the prosperity of the people of the island, as well as the security of American interests, and they are intimately associated with the interests of the South Atlantic and Gulf States, the normal expansion of whose commerce lies in that direction. At one time, and that only a year ago, three revolutions were in progress in the island at the same time.

It is impossible to state with anything like approximate accuracy the present population of the Dominican Republic. In the report of the commission appointed by President Grant in 1871, the population was estimated at not over 150,000 souls, but according to the Statesman's Yearbook for 1904 the estimated population in 1888 is given as 610,000. The Bureau of the American Republics considers this the best estimate of the present population of the Republic. As shown by the unanimous report of the Grant commission the public debt of the Dominican Republic, including claims, was \$1,565,831.59½. The total revenues were \$772,684.75¼. The public indebtedness of the Dominican

Republic, not including all claims, was on September 12 last, as the Department of State is advised, \$32,280,000; the estimated revenues under Dominican management of custom-houses were \$1,850,000; the proposed budget for current administration was \$1,300,000, leaving only \$550,000 to pay foreign and liquidated obligations, and payments on these latter will amount during the ensuing year to \$1,700,000, besides \$900,000 of arrearages of payments overdue, amounting in all to \$2,600,000. It is therefore impossible under existing conditions, which are chronic, and with the estimated yearly revenues of the Republic, which during the last decade have averaged approximately \$1,600,000, to defray the ordinary expenses of the government and to meet its obligations.

The Dominican debt owed to European creditors is about \$22,000,000, and of this sum over \$18,000,000 is more or less formally recognized. The representatives of European governments have several times approached the Secretary of State, setting forth the wrongs and intolerable delays to which they have been subjected at the hands of the successive governments of Santo Domingo in the collection of their just claims, and intimating that unless the Dominican Government should receive some assistance from the United States in the way of regulating its finances, the creditor governments in Europe would be forced to resort to more effective measures of compulsion to secure the satisfaction of their claims.

If the United States Government declines to take action and other foreign governments resort to action to secure payment of their claims, the latter would be entitled, according to the decision of the Hague tribunal in the Venezuelan cases, to the preferential payment of their claims; and this would absorb all the Dominican revenues and would be a virtual sacrifice of American claims and interests in the island. If, moreover, any such action should be taken by them, the only method to enable them to secure the payment of their claims would be to take possession of the custom-houses, and considering the state of the Dominican finances this would mean a definite and very possibly permanent occupation of Dominican territory, for no period could be set to the time which would be necessarily required for the payment of their obligations and unliquidated claims. The United States Government could not interfere to prevent such seizure and occupation of Dominican territory without either itself proposing some feasible alternative in the way of action, or else virtually saying to European governments that they would not be allowed to collect their claims. This would be an unfortunate attitude for the Government of the United States to be forced to maintain at present. It can not with propriety say that it will protect its own citizens and interests, on the one hand, and yet on the other hand refuse to allow other governments to protect their citizens and interests.

The actual situation in the Dominican Republic can not, perhaps, be more forcibly stated than by giving a brief account of the case of the San Domingo Improvement Company.

From 1869 to 1897 the Dominican Government issued successive series of bonds, the majority of which were in the hands of European holders. Successive issues bore interest at rates ranging from  $2\frac{3}{4}$  to 6 per cent, and what with commissions and other deductions and the heavy discount in the market the government probably did not receive

over 50 to 75 per cent of their nominal value. Other portions of the debt were created by loans, for which the government received only one-half of the amount it was nominally to repay, and these obligations bore interest at the rate of 1 to 2 per cent a month on their face, some of them compounded monthly.

The improvidence of the government in its financial management was due to its weakness, to its impaired credit, and to its pecuniary needs, occasioned by frequent insurrections and revolutionary changes and by its inability to collect its revenues.

In 1888 the government, in order to secure the payment of an issue of bonds, placed the custom-houses and the collection of its customs duties, which are substantially the only revenues of the Republic, in the hands of the Westendorps, bankers of Amsterdam, Holland. But the national debt continued to grow and the government finally intrusted the collection of its revenues to an American corporation, the San Domingo Improvement Company, which was to take over the bonds of the Westendorps. The Dominican Government finally became dissatisfied with this arrangement, and, in 1901, ousted the Improvement Company from its custom-houses and took into its own hands the collection of its revenues. The company thereupon appealed to the United States Government to maintain them in their position, but their request was refused. The Dominican Government then sent its minister of foreign affairs to Washington to negotiate a settlement. He admitted that the improvement company had equities which ought not to be disregarded, and the Department of State suggested that the Dominican Government and the improvement company should effect by private negotiation a satisfactory settlement between them. They accordingly entered into an arrangement for a settlement, which was mutually satisfactory to the parties. A similar arrangement was likewise made between the Dominican Government and the European bondholders. The latter arrangement was carried into execution by the Dominican Government and payments made toward the liquidation of the bonds held by the European holders. The Dominican Congress refused to ratify the similar arrangement made with the improvement company, and the government refused to provide for the payment of the American claimants. In this state of the case it was evident that a continuance of this treatment of the American creditors, and its repetition in other cases, would, if allowed to run its course, result in handing over the island to European creditors, and in time would ripen into serious controversies between the United States and other governments, unless the United States should deliberately and finally abandon its interests in the island.

The improvement company and its allied companies held, besides bonds, certain banking and railway interests in the island. The Dominican Government, desirous to own and possess these properties, agreed with the companies that the value of their bonds and properties was \$4,500,000, and they submitted to arbitration the question as to the installments in which this sum should be paid and the security that should be given. The Hon. George Gray, judge of the United States circuit court of appeals, and the Hon. Manuel de J. Galvan, both named by the Dominican Republic, and the Hon. John G. Carlisle, named by the United States, were the arbitrators and rendered their award on July 14, 1904. By its terms the Dominican Government was to pay the above-mentioned sum of \$4,500,000, with 4 per

cent interest per annum, in monthly installments of \$37,500 each during two years, and of \$41,666.66 each month thereafter, beginning with the month of September, 1904, said award to be secured by the customs revenues and port dues of all the ports on the northern coast of Santo Domingo. The award further provides for the appointment of a financial agent of the United States, who was authorized in case of failure during any month to receive the sum then due to enter into possession of the custom-house at Puerto Plata in the first instance and assume charge of the collection of customs duties and port dues and to fix and determine these duties and dues and secure their payment; in case the sums collected at Puerto Plata should at any time be insufficient for the payment of the amounts due under the award, or in case of any other manifest necessity, or in case the Dominican Government should so request, the financial agent of the United States was authorized to have and exercise at any and all of the other ports above described all the rights and powers vested in him by the award in respect of Puerto Plata. Under the award the financial agent could only apply the revenues collected toward its payment after he had first paid the expenses of collection and certain other obligations styled "apardos," which constituted prior charges on the revenues assigned. These prior charges are specified in the award. The Dominican Government defaulted in their payments; and in virtue of the award and the authority conferred by the Dominican Government, and at its request, possession was delivered of the custom-house of Puerto Plata to the fiscal agent appointed by the United States to collect the revenues assigned by the arbitrators for the payment of the award; and in virtue of the same authority possession of the custom-house of Monte Christi has also been handed over. I submit herewith a report of Mr. John B. Moore, agent of the United States in this case, and a copy of the award of the arbitrators.

During the past two years the European claimants, except the English, whose interests were embraced in those of the American companies, have, with the support of their respective governments, been growing more and more importunate in pressing their unsatisfied demands. The French and the Belgians in 1901 had entered into a contract with the Dominican Government, but after a few payments were made on account it fell into neglect. Other governments also obliged the Dominican Government to enter into arrangements of various kinds by which the revenues of the Republic were in large part sequestered, and under one of the agreements, which was concluded with Italy in 1903, the minister of that government was empowered directly to collect from the importers and exporters that portion of the customs revenues assigned to him as security. As the result of chronic disorders, attendant with a constant increase of debt, the state of things in Santo Domingo has become hopeless, unless the United States or some other strong government shall interpose to bring order out of the chaos. The custom-houses, with the exception of the two in the possession of the financial agent appointed by the United States, have become unproductive for the discharge of indebtedness, except as to persons making emergency loans to the government or to its enemies for the purpose of carrying on political contests by force. They have, in fact, become the nuclei of the various revolutions. The first effort of revolutionists is to take possession

of a custom-house so as to obtain funds, which are then disposed of at the absolute discretion of those who are collecting them. The chronic disorders prevailing in Santo Domingo have, moreover, become exceedingly dangerous to the interests of Americans holding property in that country. Constant complaints have been received of the injuries and inconveniences to which they have been subjected. As an evidence of the increasing aggravation of conditions the fact may be mentioned that about a year ago the American railway, which had previously been exempt from such attacks, was seized, its tracks torn up, and a station destroyed by revolutionary bands.

The ordinary resources of diplomacy and international arbitration are absolutely impotent to deal wisely and effectively with the situation in the Dominican Republic, which can only be met by organizing its finances on a sound basis and by placing the custom-houses beyond the temptation of insurgent chieftains. Either we must abandon our duty under our traditional policy toward the Dominican people, who aspire to a republican form of government while they are actually drifting into a condition of permanent anarchy, in which case we must permit some other government to adopt its own measures in order to safeguard its own interests, or else we must ourselves take seasonable and appropriate action.

Again and again has the Dominican Government invoked on its own behalf the aid of the United States. It has repeatedly done so of recent years. In 1899 it sought to enter into treaty relations by which it would be placed under the protection of the United States Government. The request was refused. Again, in January, 1904, its minister of foreign affairs visited Washington and besought the help of the United States Government to enable it to escape from its financial and social disorders. Compliance with this request was again declined, for this government has been most reluctant to interfere in any way, and has finally concluded to take action only because it has become evident that failure to do so may result in a situation fraught with grave danger to the cause of international peace.

In 1903 a representative of a foreign government proposed to the United States the joint fiscal control of the Dominican Republic by certain creditor nations, and that the latter should take charge of the custom-houses and revenues and give to the Dominican Government a certain percentage and apply the residue to the payment ratably of claims of foreign creditors. The United States Government declined to approve or to enter into such an arrangement. But it has now become evident that decided action of some kind can not be much longer delayed. In view of our past experience and our knowledge of the actual situation of the Dominican Republic, a definite refusal of the United States Government to take any effective action looking to the relief of the Dominican Republic and to the discharge of its own duty under the Monroe doctrine can only be considered as an acquiescence in some such action by another government.

That most wise measure of international statesmanship, the Platt amendment, has provided a method for preventing such difficulties from arising in the new Republic of Cuba. In accordance with the terms of this amendment the Republic of Cuba can not issue any bonds which can be collected from Cuba, save as a matter of grace, unless with the consent of the United States, which is at liberty at all times to take measures to prevent the violation of the letter and spirit of the

Platt amendment. If a similar plan could now be entered upon by the Dominican Republic, it would undoubtedly be of great advantage to them and to all other peoples, for under such an arrangement no larger debt would be incurred than could be honestly paid, and those who took debts not thus authorized would, by the mere fact of taking them, put themselves in the category of speculators or gamblers, who deserved no consideration and who would be permitted to receive none; so that the honest creditor would on the one hand be safe while on the other hand the Republic would be safeguarded against molestation in the interest of mere speculators.

But no such plan at present exists; and under existing circumstances, when the condition of affairs becomes such as it has become in Santo Domingo, either we must submit to the likelihood of infringement of the Monroe doctrine or we must ourselves agree to some such arrangement as that herewith submitted to the Senate. In this case, fortunately, the prudent and far-seeing statemanship of the Dominican Government has relieved us of all trouble. At their request we have entered into the agreement herewith submitted. Under it the custom-houses will be administered peacefully, honestly, and economically, 45 per cent of the proceeds being turned over to the Dominican Government and the remainder being used by the United States to pay what proportion of the debts it is possible to pay on an equitable basis. The Republic will be secured against over-seas aggression. This in reality entails no new obligation upon us, for the Monroe doctrine means precisely such a guaranty on our part.

It is perhaps unnecessary to state that no step of any kind has been taken by the Administration under the terms of the protocol which is herewith submitted.

The Republic of Santo Domingo has by this protocol wisely and patriotically accepted the responsibilities as well as the privileges of liberty, and is showing with evident good faith its purpose to pay all that its resources will permit of its obligations. More than this it can not do, and when it has done this we should not permit it to be molested. We on our part are simply performing in peaceful manner, not only with the cordial acquiescence, but in accordance with the earnest request of the government concerned, part of that international duty which is necessarily involved in the assertion of the Monroe doctrine. We are bound to show that we perform this duty in good faith and without any intention of aggrandizing ourselves at the expense of our weaker neighbors or of conducting ourselves otherwise than so as to benefit both these weaker neighbors and those European powers which may be brought into contact with them. It is in the highest degree necessary that we should prove by our action that the world may trust in our good faith and may understand that this international duty will be performed by us within our own sphere, in the interest not merely of ourselves, but of all other nations, and with strict justice toward all. If this is done, a general acceptance of the Monroe doctrine will in the end surely follow; and this will mean an increase of the sphere in which peaceful measures for the settlement of international difficulties gradually displace those of a warlike character.

We can point with just pride to what we have done in Cuba as a guaranty of our good faith. We stayed in Cuba only so long as to start her aright on the road to self-government, which she has since

trod with such marked and distinguished success; and upon leaving the island we exacted no conditions save such as would prevent her from ever becoming the prey of the stranger. Our purpose in Santo Domingo is as beneficent. The good that this country got from its action in Cuba was indirect rather than direct. So it is as regards Santo Domingo. The chief material advantage that will come from the action proposed to be taken will be to Santo Domingo itself and to Santo Domingo's creditors. The advantages that will come to the United States will be indirect, but nevertheless great, for it is supremely to our interest that all the communities immediately south of us should be or become prosperous and stable, and therefore not merely in name, but in fact independent and self-governing.

I call attention to the urgent need of prompt action on this matter. We now have a great opportunity to secure peace and stability in the island, without friction or bloodshed, by acting in accordance with the cordial invitation of the governmental authorities themselves. It will be unfortunate from every standpoint if we fail to grasp this opportunity; for such failure will probably mean increasing revolutionary violence in Santo Domingo, and very possibly embarrassing foreign complications in addition. This protocol affords a practical test of the efficiency of the United States Government in maintaining the Monroe doctrine.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *February 15, 1905.*

THE PRESIDENT:

The undersigned, Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to its ratification, should his judgment approve thereof, a protocol of an agreement between the United States and the Dominican Republic, signed by their respective plenipotentiaries at Santo Domingo City on February 4, 1905, providing for the collection and disbursement by the United States of the customs revenues of the Dominican Republic.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,  
*Washington, February 15, 1905.*

Whereas the Dominican Government in view of the debts which burden the Republic, the imminent peril and urgent menace of intervention on the part of nations whose citizens have claims already established or to be established, finding itself, as it does, unable peremptorily to fulfill its obligations on account of the condition to which political disturbances and other causes have brought the Treasury, the result being that these obligations are falling due without its having been possible to pay them, or even the interest thereon, desires to reach an arrangement with all its creditors and the government itself succeed in assuring the regular receipt of revenues sufficient for the payment of its internal administration and the maintenance of its administrative autonomy without any interruption by the exigencies of foreign creditors or by internal political disturbances, and,

Whereas the Government of the United States of America, viewing any attempt on the part of the governments outside of this hemisphere to oppress or control the destiny of the Dominican Republic as a manifestation of an unfriendly disposition toward the United States is, in compliance with the request of the Dominican Government, disposed to lend its assistance toward effecting a satisfactory arrangement with all the creditors of the

Dominican Government, agreeing to respect the complete territorial integrity of the Dominican Republic.

The Dominican Government represented by the secretary of state of foreign relations, Citizen Juan Francisco Sanchez, and the secretary of state of finance and commerce, Citizen Federico Velasquez, and the United States Government represented by its minister resident, Thomas C. Dawson, have agreed and covenanted as follows:

Article First. The United States Government agrees to attempt the adjustment of all the obligations of the Dominican Government, foreign as well as domestic; the adjustment of the payment and of the conditions of amortization; the consideration of conflicting and unreasonable claims, and the determination of the validity and amount of all pending claims.

If, in order to reach such adjustment, it shall be considered necessary to name one or more commissions, the Dominican Government shall be represented on said commissions.

Article Second. In order to enable the United States Government to render the assistance above mentioned, it shall take charge of the existing custom-houses and those which may hereafter be created, shall name the employees necessary to their management, and shall collect and take charge of all custom-house receipts.

These employees shall be subject to the civil and criminal jurisdiction of the Dominican Republic.

The Dominican Government may appoint in each of the custom-houses an officer for the purpose of making an inspection on behalf of Dominican interests.

Article Third. Out of the revenues which shall be collected in all the custom-houses of the Republic, the Government of the United States shall deliver to the Dominican Government a sum, which shall not be less than 45 per cent of the total amount collected, for the purpose of meeting the needs of the public service, and which the Dominican Government shall receive in monthly payments from the date of the taking possession of the custom-houses by the officials of the United States, divided into four installments in the following manner:

Forty-five per cent of the total sum collected monthly in periods ending on the 8th, 15th, 22d, and the last day of each month.

Article Fourth. The Government of the United States will apply the 55 per cent which it retains toward the payment of—

A. The employees of all the custom-houses.

B. The interest, amortization, and installments of the Dominican debt, foreign and domestic, in accordance with what is hereinbefore provided, according as it shall be fixed and liquidated.

C. The whole surplus which may remain at the end of each fiscal year shall be delivered to the Government of the Dominican Republic, or shall be devoted to the payment of its debts, if it shall so determine.

Article Fifth. The collectors in the custom houses shall send monthly to the contaduria-general and the Department of the Treasury statements of the corresponding income and outgo, and annually a general statement which shall embrace the total of what has been collected and paid out.

Article Sixth. Any reform of the system of duties and taxes shall be made in agreement with the President of the United States, and therefore the present tariff and port dues may not be reduced except with his consent, as long as the whole of the debt which the Government of the United States takes charge of shall not have been completely paid, with the exception of the export duties upon national products which the Dominican Government remains authorized to abolish or reduce immediately, but not to increase said export duties or its public debt without the consent of the President of the United States.

Article Seventh. The Government of the United States, at the request of the Dominican Republic, shall grant the latter such other assistance as the former may deem proper to restore the credit, preserve the order, increase the efficiency of the civil administration, and advance the material progress and welfare of the Dominican Republic.

Article Eighth. This agreement shall continue in force during the time required for the amortization of the debt of which the Government of the United States takes charge.

Article Ninth. This agreement shall take effect after its approval by the United States Senate and the Congress of the Dominican Republic.

Done in four originals, two being in the Spanish language, and two in the English and the representatives of the high contracting parties signing them in the city of Santo Domingo, February the seventh, nineteen hundred and five.

THOMAS C. DAWSON.  
JUAN FCO. SANCHEZ.

FEDRI. VELASQUEZ.



[Inclosure 1.]

NEW YORK, February 10, 1905.

## THE PRESIDENT:

In compliance with your request, I have the honor to submit a statement in relation to the award rendered on the 14th of July last in the case of the San Domingo Improvement Company of New York and its allied companies, the San Domingo Finance Company of New York, and the company of the Central Dominican Railway, all three being New Jersey corporations, and the National Bank of San Domingo, a company originally organized under a French charter, but owned and controlled by the San Domingo Finance Company.

In 1888 the firm of Westendorp & Co., bankers of Amsterdam, Holland, underwrote and issued, at 83½, for the Government of San Domingo 6 per cent gold bonds of that government to the amount of £770,000. The proceeds of these bonds were to be used for the payment of the interior debt of the Republic, which bore very high rates of interest, and also for the conversion of certain bonds issued in 1869 which were held in England.

As security for the new loan the Dominican Government created a first lien on all its customs revenues, and in order to make the lien effective the government authorized the Westendorps to collect and receive at the custom-houses all the customs revenues of the Republic, the Westendorps to retain for interest and sinking fund £55,645 annually, and to deliver the remainder to the government. As machinery for this purpose, the Westendorps were to create an establishment in Santo Domingo known as the Caisse Générale de la Regia (Caja de Recaudación), generally called the "Regie," to which the collection of the revenues was to be intrusted till the loan was cleared off. Moreover, in case of default, the Westendorps were empowered to create for the purpose of collection a European commission, which it was understood was to be international in character.

The Westendorps duly established the "Regie," sending out from Europe the necessary agents and employees, and they continued in the collection and disbursement of the revenues till the transfer of their rights to the San Domingo Improvement Company in May, 1892, which transfer was accepted and confirmed by the Dominican Congress in March, 1893.

Meanwhile the Westendorps had, in 1890, contracted to take a further amount of £615,000 6 per cent bonds, which were issued for the payment of additional interior debt and also for the partial construction of a railway from Puerto Plata, the principal seaport on the north coast, across and through the mountains to Santiago, the principal city of the interior. Security similar to that of 1888 was given for the new bonds, and the "Regie" was to pay the interest and the sinking fund out of the customs revenues. The Westendorps offered the new bonds at 77 to the public in Holland and Belgium in November, 1890, but, as the Baring failure took place within a week, the offer was unsuccessful, and they were obliged to take practically the entire issue themselves. The Westendorps began the construction of the railway and had finished about 11 miles up the mountain and had supplied some rolling stock when the improvement company, which had acquired the bonds belonging to the Westendorps (about \$1,500,000) and all their rights and obligations under their contracts with the Dominican Government, took possession. At the same time the improvement company contracted to complete the railway, which was subsequently done, to guarantee the conversion of the outstanding 6 per cent bonds, including bonds to be issued for the completion of the railway, into new 4 per cent consolidated bonds, amounting to £1,610,000, and to pay off and discharge certain large interior debts, aggregating \$659,000 silver or \$440,000 gold.

The Dominican Government also created a new class of bonds, called debentures, at 4 per cent, amounting to \$1,250,000. Both classes of new bonds were declared, in the law by which they were authorized, to "be guaranteed by the total amount of the customs receipts, which shall be collected by the San Domingo Improvement Company," and all the stipulations of the Westendorp contracts for the guaranty and validity of the bonds were declared to continue in full force and effect; and it was further expressly provided that, in order to strengthen the credit of the budget, the improvement company should, in case of default of interest or sinking fund, or in case of other manifest necessity, request the Governments of Holland, Belgium, England, France, and the United States, in which the bonds were held, each to appoint a member of a financial commission, which was to possess all the "Regie's" rights of collection. It was stipulated, however, that the power of appointment should not be exercised by a country in which less than £100,000 bonds were held.

The improvement company successfully carried out the conversion in Europe of 6 per cent bonds into 4 per cent bonds, but in 1894 the Dominican Government, having become further indebted locally, increased the debentures by \$1,250,000 additional, for which the company paid \$540,000 gold, besides disbursements, and incurred certain other obligations provided in the law.

Up to this time the fiscal operations of the Dominican Government, the purchase and sale of bonds, and the work upon the railway had all been conducted by the improvement company, but it was then thought best to separate these operations so that the sole office of the improvement company might be that of trustee in the collection and disbursement of the

revenues. The San Domingo Finance Company of New York, was therefore created, under the laws of New Jersey, in 1894, by the same Americans who organized and controlled the improvement company (of which the Hon. Smith M. Weed, of New York, was, and still is, president), for the purpose of carrying on the financial operations requisite for the purchase of bonds, as well as the construction of the railway. For the construction and equipment of the latter the Dominican Government agreed to pay the company in consols (6 per cent reduced to 4 per cent), and the road was to be operated through the medium of a company to be created for that purpose for a period of fifty years upon a fixed basis of distribution of profits between the Dominican Government and the operating company. The construction and equipment of the road cost the American companies more than \$650,000 gold in excess of the sums realized from the £425,000 Dominican bonds which were sold from time to time in the Brussels market. But the work was completed and the company of the Central Dominican Railway was organized under the laws of New Jersey as the operating company. This company took possession of the railway and still holds and operates it.

In 1895 the Dominican Government became embarrassed by the hostile action of a French fleet which appeared with peremptory demands. In 1889 a company called the Banque Nationale de Saint Domingue was created in France to exercise an exclusive franchise for a State bank in Santo Domingo. The bank was duly established and was in operation when, in 1892, a personal difference arose with President Heureaux, and upon his obtaining a judgment against the bank for a large sum execution was issued and a levy made upon its property. The French consul intervened, sealed the safe of the bank, and reported to his government. Diplomatic relations were severed, and a French fleet appeared before the Dominican capital. The dispute was submitted to the arbitration of Spain, but was not decided, and strained relations still continued when in January, 1895, a naturalized Frenchman was murdered near Samana Bay.

The French Government demanded redress in both matters and threatened to seize the custom-houses of the country and collect a large indemnity. President Heureaux appealed to the improvement company to help him, and upon the presentation of the matter to the President and Secretary of State of the United States, the American minister in Paris was directed to interpose, and in the end the French Government agreed to adjust the matter if the improvement company would guarantee the necessary payments. This the company eventually did, and the finance company agreed to purchase some additional debentures, which by law were called "French-American reclamation consols," and to buy control of the bank. Such control was purchased in June-October, 1895, the finance company acquiring, at something over par, more than three-quarters of all the shares, costing, with some extraordinary expenses and commissions, about \$750,000 in gold. The assets of the bank at that time, besides about 100,000 francs in cash, consisted chiefly of loans to the Dominican Government and the claim for damages resulting from the action of President Heureaux under his judgment. As the loans produced from 12 to 20 per cent, the bank, after it had passed into the control of the finance company, agreed to fund them and to accept payment in French-American reclamation consols (4 per cent), bringing the entire issue of that class of bonds up to \$4,250,000, which received as further security certain separate revenues previously pledged to the bank.

In 1897 the improvement company, at the urgent solicitation of the Dominican Government, brought about a consolidation of all the debts of the Republic, including both the exterior debts, and particularly the consolidated gold 4 per cent bonds of 1893, and the French-American reclamation consols of 1895, as well as the interior floating debts, so as to reduce the annual interest charges. This consolidation was effected through the finance company, to which the Dominican Government, under an act of its Congress of August 8, 1897, delivered for the purpose of consolidation two classes of new bonds, respectively denominated "Dominican unified debt 4 per cent bonds" and "obligations or de Saint Domingue 2½ per cent," the former to amount to £1,500,000 (of which upward of £350,000 were afterwards canceled, leaving £1,148,600) and the latter to the amount of £2,736,750. By this operation the total bonded debt of the country became £3,885,350, or about \$19,000,000. The "obligations or" or "gold obligations" are held chiefly in Holland and Belgium, though some of them are held in France and Germany, and a few in England [and] the United States. The unified bonds are held chiefly in the United States and the remainder in England and France; but those in England, and a large part of those held in France, belong to allies of the American companies.

The law of August 9, 1897, reaffirmed all previous guaranties, expressly declaring that the new 4 per cent and 2½ per cent bonds should be "conjointly" guaranteed by a first mortgage on the total amount of the general customs receipts and of the "special revenues" and "apartados" which had been appropriated to the debts which were about to be funded; that the revenues should be "collected directly by the 'Caisse de la Regie,'" and that "all the stipulations of the contracts of 1888 and 1890 with Messrs. Westendorp & Co. in force, and of the laws and contracts of 1893, 1894, and 1895, entered into with the 'San Domingo Improvement Company of New York' for the security and validity of the Republic's bonds,

shall remain in force, except such parts as may have been modified by the present law and by the contracts derived from it."

In carrying out the conversion under the law of 1897 the finance company was embarrassed by finding that certain representations made by the Dominican Government as to the amount of its floating indebtedness were erroneous. This discovery led to the withdrawal of certain English capitalists, with the result that the finance company was obliged itself to raise additional sums of money in order to carry the operation to completion.

In April, 1899, in spite of the fact that under the administration of the improvement company the amount of the revenues collected had steadily increased, the payment of the coupons was suspended, chiefly because the revenues had, under a governmental decree, become payable partly in depreciated paper currency, the market value of which fell from \$3 paper to \$1 of gold in September, 1898, to \$20 paper to \$1 of gold in August, 1899. It was impossible with this money, even with the help of such duties as were payable in gold coin, to meet the government budget and buy sufficient gold to pay the coupons. The causes of this unfortunate depreciation of the currency are a matter of public notoriety. Revolutionary movements, which had for some time been repressed, had become flagrant. On July 26, 1899, President Heuraux was assassinated, and as the result of the prevailing disturbances the interior or floating debt of the Republic rose by the latter part of 1899 to more than \$2,500,000, bearing interest in some cases at the ruinous rate of 2 per cent a month, compounded.

Efforts were made by the improvement company to relieve the government's situation, and to that end a new contract, which was ratified by the Dominican Congress on April 18, 1900, and duly promulgated as a law, was entered into. By this contract all duties were payable in gold; the amount of the interior debt was ascertained, and the interest on it was reduced to 6 per cent or less; and provision was made for the payment of all the government's floating debts. The contract was duly put into operation, but its performance was soon interrupted. After the assassination of Heuraux the government naturally fell into the hands of the men who had been his enemies and who were disposed to question and condemn all the acts of his long administration. Moreover, the great majority of those who came into temporary possession of public power were unfamiliar with administrative duties and were confessedly unacquainted with the contracts of the government and the rights, duties, and powers of the American companies thereunder, and the press began to urge the withdrawal of the American companies from the country. Some advocated a withdrawal as the result of friendly negotiation and some through forcible expulsion.

Late in 1899 Señor Juan Isidro Jimenez, who had become President on November 20 of that year, inquired of the American companies, through an agent in New York, whether they would be willing to sell all their interests to the government and withdraw from the country. The companies indicated their willingness to negotiate in that sense, and, upon further request, submitted a plan as a basis for negotiation. Subsequently the companies concluded with the government a contract of April 18, 1900, which was duly ratified by the Dominican Congress; but while it was before the Congress President Jimenez renewed the discussion as to the purchase of the companies' interests. Subsequently the companies submitted detailed propositions, but President Jimenez meanwhile changed his mind, and after a preliminary discussion he declined to proceed further in the negotiations. He then adopted the view which had been advanced in the Dominican press, that the contract of 1900, if not absolutely void, could not be legally put into execution, except as to those parts which increased the government's annual budget. In this position he derived encouragement from the attitude of certain Belgian and French interests, who were dissatisfied with the contract. The improvement company insisted on carrying out the contract as approved by the Congress, and, being in control of the "Regie," continued to disburse the moneys accordingly, including payments to the government itself.

About this time the Dominican Government instituted a proceeding in the local courts against the bank, alleging its bankruptcy on the ground of nonpayment of a small amount of bank notes, for which the government itself was in writing pledged as primary debtor under a contract by which the bank was released. These proceedings were decided nineteen months later in favor of the bank, but they had made any hope of rehabilitation under existing conditions impossible, since during all that time the bank was closed and in the possession of official liquidators.

Proceeding in a similar spirit, President Jimenez on January 10, 1901, by a mere executive order, peremptorily excluded the improvement company from the discharge of its functions in the collection of the revenues under the laws. To appreciate the far-reaching effect of this decree it is necessary to recall the fact that every bond of the Republic was issued, bought, and sold on the strength of the laws which provided that the security for their payment should be the customs revenues of the Republic, collected and administered by the San Domingo Improvement Company, and this assurance was printed in the bonds themselves.

The Jimenez decree, in ejecting the improvement company from the custom-houses, destroyed practically the only substantial security for the payment of the bonds, £825,000 of which were owned by the finance company and its allies. By the same decree by which

the company was ejected there was constituted a "commission of honorables," consisting of three members, to whom it was declared that the sums due to the company's creditors would be paid, to be kept on deposit pending the settlement. This professed security of course proved to be wholly specious. No moneys were kept on deposit with the commission. On the contrary, it became known late in 1901 that out of the large revenues of that year, amounting to more than \$2,100,000, the percentages for the foreign and domestic debt had not been set aside, that no payments had been made on the interior floating debt, but that the Jimenez "revolutionary" claims had been paid without warrant of law, and that there was besides a deficit.

The American companies applied to their government for relief against the decree of January, 1901, and almost immediately thereafter the Dominican Government sent its minister of foreign affairs, Dr. Henriquez y Carvajal, to the United States and Europe on a special mission. Doctor Henriquez laid his case before the Department of State, where he was advised to seek a direct arrangement with the American companies. He immediately opened negotiations with them, and on March 25, 1901, concluded with them a contract which was considered by him, as well as by the American companies, to be advantageous to his government. This contract, which embraced the purchase by the Dominican Government of the interests of the American companies, provided for the deposit with a trust company in New York of a fixed monthly sum pending the amicable settlement of all questions, which, so far as they could not be adjusted directly, were to be determined by arbitration. Each of the parties was to appoint an arbitrator; and an umpire, in case they could not agree, was to be designated by the King of Sweden, at the request of the American and Dominican Governments. The gross sum to be paid and the method of its payment, together with the security therefor, were also to be determined by the arbitrators.

After completing this negotiation Doctor Henriquez went to Europe, where, as the result of the contract made with the improvement company, he was able to effect, on June 3, 1901, a contract with the Belgian and French bondholders. Both contracts were submitted to the Dominican Congress in September, 1901. The Belgian contract was promptly ratified, but the American contract was rejected. The principal ground of its rejection seems to have been the objection to leaving it to the arbitrators to fix the sum to be paid.

The American companies then invoked the intervention of their government and filed with the Department of State, on January 6, 1902, their printed case. The Department gave suitable instructions to the American chargé d'affaires to Santo Domingo, with whose assistance another effort was made by the companies to effect a direct settlement. Negotiations had, however, scarcely begun when the existing government was overthrown and a new one set up.

In May, 1902, negotiations were resumed, the American companies being represented by Mr. John T. Abbott and the Dominican Government by its minister of finance. Mr. Abbott presented a statement as to the properties and claims of the American companies, with a view to arbitration. The government, however, adhering to the principle on which the contract of 1901 was rejected, proposed a settlement by the purchase of all the rights, claims, properties, and interests of the company for a round sum of money, thus disposing at a stroke of all accounts, claims, and differences between the parties, and leaving only the annual or monthly payments and the security therefor, together with the mode of collection, as subjects for discussion. This proposal was accepted by Mr. Abbott, and the sum of \$4,500,000 was agreed upon as the price to be paid by the government and received by the companies for the purposes stated. The aggregate of the claims originally presented by the companies amounted to over \$11,000,000; but, as Mr. Abbott pointed out to the government, some of the claims were partly duplicated, and the £850,000 of bonds were set down at par, while loss of profits on contracts which the government had violated was also included.

The companies expressed to the government their belief that upon a strictly equitable settlement they were entitled to \$6,000,000, but they eventually agreed upon the sum above named, throwing in their bonds at 50 cents on the dollar and compromising or relinquishing other claims. The amount allowed for their bonds (at 50 cents on the dollar) was \$2,076,635; their interests in the railroad were included at \$1,500,000, a sum to which the Dominican Government did not object, and their bank shares and various "accounts, claims, and differences" were embraced for \$923,365. This compromise having been reached, only the question of the annual or monthly payments and the time of the delivery of the railroad remained to be determined. The government eventually insisted upon the delivery of the railroad within a few months after the contract should be signed and before any substantial part of its value had been paid. The companies, on the other hand, insisted that they should be permitted to hold and operate the railroad till it had been paid for, since it would constitute their only tangible security apart from the offer of the government to set aside a portion of the revenues of Puerto Plata for the monthly payments.

On the question of the railway a deadlock ensued, and negotiations were broken off. The companies subsequently offered to deliver the road after five annual payments of principal

and interests had been made; but this proposal was curtly rejected, and all negotiations between the government and the companies ceased. The companies were again obliged to have recourse to the Government of the United States. The Department of State shared the view of the companies, that the demand of the Dominican cabinet for the immediate handing over of the railway was unjust. The American chargé d'affaires to San Domingo was therefore, in the autumn of 1902, instructed to ask for an arbitration by means of a mixed commission of all questions at issue, including the amount to be paid to the American companies, and a form of protocol appropriate to the case was presented to the Dominican Government. The draft protocol contained no suggestion of the amount to be paid to the American companies, but left the whole case to the arbitrators, including price, accounts, and claims.

A long discussion ensued, and in the end the Dominican Government, adhering to its previous position, proposed to liquidate in the protocol itself the accounts, claims, and purchase money for the round sum of \$4,500,000, leaving it to the arbitrators to determine the conditions under which the companies' property should be delivered, the terms and times of payment, including security, and the amount of the monthly installments and the manner of their collection, as well as the rate of interest to be paid on the award. This proposal was accepted, and a protocol in conformity with it was signed at San Domingo City on January 31, 1903. Under this agreement payments at the rate of \$18,750 a month were to be made pending arbitration. The first payment was made in February, 1903, but none subsequently.

The arbitrators met in Washington in December, 1903, their appointment having been delayed by the various revolutions which had taken place in San Domingo during the year, some of which were still in progress when the arbitrators assembled. The arbitrator on the part of the United States was the Hon. John G. Carlisle; on the part of San Domingo Señor don Manuel de J. Galvan; the third arbitrator was Judge George Gray. The Dominican Government was represented before the board by Messrs. Curtis, Mallet-Prevost & Colt; the Government of the United States by the undersigned. Cases, countercases, and arguments were duly submitted, and on July 14, 1904, the arbitrators rendered their award. The award provided that the principal sum, bearing interest at the rate of 4 per cent per annum, shall be paid in monthly installments of \$37,500 during the first two years, and \$41,666.66 thereafter.

Provision is made for the appointment by the United States of a financial agent who is to receive the amount due on the 1st of each month, beginning with September 1, 1904; and the revenues of Puerto Plata, Samana, Sanchez, and Monte Christi, and of any other custom-houses opened within a designated zone are assigned and designated security. In case of failure to receive during any month the sum then due the financial agent of the United States is empowered to enter into possession of the custom-house at Puerto Plata in the first instance and collect the revenues; and in case the sums there collected shall be at any time insufficient for the payment of the amounts due, or in case of any other manifest necessity, or if the Dominican Government shall so request, the financial agent is authorized to exercise at Sanchez, Samana, and Monte Christi any or all of the rights and powers vested in him in respect of the port of Puerto Plata. A copy of the award is hereto annexed.

The agent of the United States laid before the arbitrators all recorded liquidated debts of the Dominican Republic, which, as set forth in the case of the United States, then amounted approximately to \$24,643,387. This sum embraced the bonded debt, but did not include, except to a slight extent, a mass of unliquidated claims which probably may exist and which may be brought forward at greatly exaggerated figures when opportunity is afforded for their adjustment.

It was shown before the arbitrators that the causes of the Dominican Government's financial difficulties were revolutions, inefficient and corrupt administration of the revenues, and wasteful and illegal expenditures, including those for the payment of "revolutionary" claims and "asignaciones." The first duty of a new president is conceived to be the payment of the expenses incurred by him and his leading supporters in securing the presidential office. These are commonly called "revolutionary" claims, and for their payment all moneys in sight are considered to be available. By "asignaciones" is meant unauthorized and unlawful gratuities paid by the existing government to its actual or potential enemies in order to induce them to refrain from raising revolutions.

It is upon such things that the public revenues, so far as they are actually collected by the government and not by its enemies, are dissipated, while ordinary expenses are paid by emergency loans or left unpaid, and the public creditor receives nothing. If the arbitrators had accepted this condition of things as normal and permanent their proceedings would necessarily have been a farce, and they could have rendered no award; but they deemed themselves precluded from acting on such a theory. Acting on the only principle on which they could discharge their functions, they entered fully into the consideration of the Dominican resources and revenues. They examined the country's debts and the rights of the various creditors, as shown in public laws and contracts, and they framed their award

upon the assumption that the revenues were properly to be devoted to the payment of legitimate expenses of government and the satisfaction of creditors instead of being worse than thrown away in harmful and illegal ways.

If the award, as the tribunal evidently desired and intended, should by reason of the mode of collection which it establishes enable the American creditors to obtain, even in revolutionary times, something in discharge of what is due them, this result would be equally advantageous to them and to San Domingo; for except by such a mode of collection no creditor could obtain anything, while the revenues would be dissipated by the chiefs of contending factions in the prosecution of their destructive and ruinous contests.

In reality the provisions of the award, while they are admirably adjusted to the fundamental equities of the case, disclose an evident wish on the part of the arbitrators to be liberal toward the Dominican Republic.

The mode of collection established for certain ports was obviously a substitute for the right which the San Domingo Improvement Company possessed under Dominican laws that have never been repealed, though their execution has been violently prevented, to collect the revenues at all the ports of the Republic. In taking from the company this larger right the tribunal merely endeavored to give the lesser and substituted right in such form as to be as far as possible self-executing and effective. Moreover, the evidence before the tribunal demonstrated the expansion of which the revenues are capable under a proper mode of collection. Under the administration of the San Domingo Improvement Company they amounted in 1894 to \$1,228,113.68; in 1895 to \$1,364,238.16; in 1896 to \$1,473,310.42; in 1897 to \$1,600,294.39; in 1898 to \$1,633,557.61; in 1899 (a year of revolution) to \$1,458,173.44, and in 1900, the last year in which the improvement company collected them, to \$2,424,684.05.

In fixing the amount of the annual payment at \$450,000 for the first two years, instead of \$500,000, as decreed for subsequent years, the tribunal considered in a liberal spirit the demands of other creditors, although the Dominican Republic was, at the time of the award, in arrears in its stipulated payments to the United States under the protocol of January 31, 1903, to the amount of \$337,500.

Again, the protocol provided that interest should begin to run from the date of the award, but it also stipulated that the award should be rendered within a year from the signature of the protocol. It was therefore submitted to the tribunal that interest should begin to run, especially as the principal amount of the debt was fixed in the protocol, from the expiration of a year after the date of the signature of that instrument. The tribunal, however, gave the Dominican Government the benefit of the doubt and allowed interest only from the actual date of the award.

Finally, interest at the rate of 6 per cent was claimed on behalf of the United States, that being the legal rate in San Domingo, while the actual rate on loans lately made by that government is far higher. The claim as to interest was supported by precedents, but the tribunal, evidently desirous of acting toward the Dominican Government in a spirit of the utmost consideration, allowed only 4 per cent. The result is that the Dominican Republic is required to pay less than the legal, to say nothing of the actual, rate of interest in that country, and the proportion of the annual payments devoted to the discharge of the principal of the debt is correspondingly increased.

Respectfully submitted.

JOHN B. MOORE

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[Inclosure 2.]

Inclosure 2 being award of the commission of arbitration under the provisions of the protocol of January 31, 1903, between the United States of America and the Dominican Republic, for the settlement of the claims of the San Domingo Improvement Company of New York, and its allied companies, printed Foreign Relations, 1904, p. 274.

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[Inclosure 3.]

Inclosure 3 being protocol of an agreement between the United States of America and the Dominican Republic for the submission to arbitration of certain questions as to the payment of the sum hereinafter agreed to be paid by the Dominican Government to the Government of the United States on account of the claims of the San Domingo Improvement Company, of New York, a corporation under the laws of the State of New Jersey and a citizen of the United States, and its allied companies, printed in Foreign Relations, 1904, p. 270.

*Minister Dawson to the Secretary of State.*

No. 112.]

AMERICAN LEGATION,  
*Santo Domingo, February 17, 1905.*

SIR: I have the honor to confirm the Department's telegram, as follows:

WASHINGTON, February 6, 1905.

DAWSON, *Minister, Santo Domingo:*

Please advise the Department how much of the whole debt of the Dominican Republic is in the hands of European creditors.

LOOMIS.

and my reply thereto.

SANTO DOMINGO, February 7, 1905.

SECRETARY OF STATE, *Washington:*

I estimate debt owed to Europeans at twenty-two millions, not including English-owned bonds included in Improvement Company settlement.

DAWSON.

In explanation, I have to say that the above can only be considered an approximate estimate, although it is based upon the completest information so far obtainable from this government and the representatives of all creditors. The Belgian and French bonds are included at their face value, although the government has the option of paying them in cash at 50 per cent.

Many foreign claims are unliquidated, and my estimate of their amount may be largely reduced by the findings of a commission. Another element of uncertainty arises from the fact that it is impossible to trace the owners of negotiable shares in liquidated claims, and still another in the fact that the nationality of various large creditors is not clear. For example, a domiciled Italian left heirs who were born in this Republic, but nevertheless claim to be Italian citizens, and these heirs have organized a corporation in New Jersey, U. S. A., and transferred to it certain of their claims.

On the other hand, I believe my estimate will be found to be not far wrong after the tangle is straightened out, because I have made myself personally familiar with almost every claim which is made against the government. My investigations and computations lead me to believe that just about two-thirds of the total debt is held by Europeans.

I have, etc.,

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 118.]

AMERICAN LEGATION,  
*Santo Domingo, March 7, 1905.*

SIR: Continuing the subject of my No. 110, of February 13, the negotiations for an arrangement in regard to the Dominican debt and custom-houses, I have the honor to confirm your telegram, as follows:

WASHINGTON, February 13, 1905.

DAWSON, *Minister, Santo Domingo:*

Personal. Was Macoris custom-house taken over by you or your agent February 1st.

LOOMIS.

and my reply:

SANTO DOMINGO, *February 13, 1905.*

LOOMIS, *State Department, Washington:*

Most certainly not. Dominican authorities still in charge of all custom-houses, except Puerto Plata and Monte Christi. I have no agent. Dominican Government itself is pledging custom receipts Macoris and other ports to American citizen who advances funds under a private contract with it.

DAWSON.

I have the further honor to report that on February 16 President Morales sent for me and said that the reports then current of his having been opposed to submitting the protocol to the Dominican Congress were creating a sentiment of dissatisfaction in the minds of the deputies, which he feared might have a deleterious effect on an unprejudiced consideration of the merits and advantages of the protocol when it came to be discussed in Congress. The members were jealous of their prerogatives and were inclined to resent what they might be led to believe had been an attempt on his part to ignore and override their constitutional functions. He asked me if I would not write him a communication on the subject, which he could make public. Accordingly, I prepared and sent him a letter in the Spanish language, copy of which, with English translation, is inclosed.

The fact is that in the early stages of the preliminary personal negotiations between the President and myself he did speak several times of the constitutional provision requiring treaties to be submitted to Congress, but he delayed saying definitely and finally that he proposed to risk a submission until he could be sure that Congress would ratify and that no revolution would break out while the arrangement should be pending before that body. He also understood that the proposed protocol would have to be submitted to the American Senate, but since one ratification implied the other he wanted to delay negotiations as to the manner and date of such submission until we had agreed upon the substance of the arrangement in a form that would be satisfactory to the Horacista leaders. The matter was therefore left open for subsequent definite arrangement.

When Commander Dillingham subsequently arrived, it became known at once that he came as special commissioner, and therefore the public immediately became aware that the government had finally determined to make a financial arrangement with the United States—a fact the knowledge of which had theretofore been confined to a few members of the administration. The popular excitement, the false reports and alarming plots which followed forced the President's hand. To avoid a revolution he was obliged to give his people immediate and detailed knowledge of the scope of the proposed arrangement and to let the malcontents understand that they must either accept it without substantial change or start a revolution, in which they would have against them the moral influence of the United States and the other creditor powers.

So the Dominican commissioners who were appointed on account of Commander Dillingham's arrival avoided referring to the subject of ratification or our powers, and the President only spoke of it once, and that casually. Our discussions were confined to the substance of the proposed arrangement.

President Morales's astute policy, aided by the financial assistance furnished by Mr. Michelena, succeeded, just as he hoped, and a few



days after February 1st he became confident that he could safely announce what had been his intention all along, viz, that the protocol would be submitted for ratification in accordance with constitutional forms.

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I have the further honor to confirm my telegram in regard to the plot to assassinate the President, as follows:

SANTO DOMINGO, *February 24, 1905.*

SECRETARY OF STATE, *Washington:*

Conspiracy to assassinate Dominican President. Five arrested and some escaped. The situation becoming more strained on account of delay and uncertainty ratification protocol now before the Senate.

DAWSON.

The five individuals arrested are of the lower classes and known Jimenista sympathizers. The investigation has been conducted very secretly, and so far no charges of complicity have been made against any persons of prominence.

The whole country has continued quiet and obedient to authority, with the exception of an insignificant band under the command of Perico la Sala.

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Admiral Sigsbee informs me that Lieutenant-Commander Leiper had received no instructions from Washington as to his powers in naming and paying the custom-house employees, nor in regard to the payment to Arias directly or through the Dominican Government of the amount necessary for his police and administrative expenses. Before Lieutenant-Commander Leiper took possession Governor Arias received the custom-house receipts of Monte Christi for the latter purpose. When this government made its arrangement with Mr. Michelena the latter was expected to get the receipts from Monte Christi, and to pay a weekly amount to Governor Arias out of the \$75,000 a month he agreed to advance. This was, of course, on condition that Arias should permit the Monte Christi receipts to be turned over to him. But to do it is now out of Arias's power, and the minister of finance and Michelena will probably not be willing to pay the Monte Christi budget. I respectfully suggest that I be instructed as to what is the wish of the Department on this point. To me it seems as if our action ought to be taken in view of the amount of the receipts of the ports, whose receipts go to Michelena—that is, all of them except Puerto Plata and Monte Christi. If these receipts are over \$75,000 a month, plus salaries of custom-house employees, there would seem to be no injustice in our asking the minister of finance and Mr. Michelena to provide for the Monte Christi budget, since they have admitted that the whole administration of the country, including Puerto Plata and Monte Christi, can be conducted for that sum.

I have the further honor to confirm my telegram, as follows:

SANTO DOMINGO, *March 5, 1905.*

SECRETARY OF STATE, *Washington:*

It is very important that I should be enabled to inform the Dominican President as to the status of the protocol in the Senate, and whether extra session has been called.

DAWSON.

and your reply thereto, as follows:

WASHINGTON, *March 6, 1905.*

DAWSON, *Minister, Santo Domingo:*

Senate has convened in extra session and is considering protocol to-day. Unable say how long discussion will continue.

HAY.

and to say that the opponents of the protocol and of the Morales government have been becoming more encouraged and active every day that has passed since the submission of the protocol to the Senate without news of ratification. The impression has been gaining ground that the Senate will refuse to ratify, and even that a revolution against Morales could count on a considerable moral support in the United States. On several occasions I have assured President Morales that it was our custom to call an extra session of the Senate immediately after the inauguration of our President, and that the protocol would almost certainly be considered by it; but he naturally wanted definite and official information. If some time is to pass before a vote on ratification can be reached, President Morales feels that he must redouble his precautions against an outbreak here, and it is very important that he be informed before his opponents are.

The contract of the Dominican Government with Mr. Michelena of January 27 has been agreed to be abrogated. I exercised none of the personal powers conferred upon me by it. A substituted contract has been drawn up, which is retroactive in effect, and applies to the whole period since February 1. Since the Dominican Government has meantime proved its ability and willingness to secure Mr. Michelena his money I declined to be concerned in the substituted contract further than to assure Mr. Michelena that, being an American citizen, he would receive the prompt diplomatic assistance of this legation in case its terms are violated.

I have, etc.,

T. C. DAWSON.

[Inclosure.—Translation.]

*Minister Dawson to President Morales.*

Personal.]

AMERICAN LEGATION,  
*Santo Domingo, February 17, 1905.*

MY DEAR SIR: In view of the contradictory reports as to your attitude in reference to the ratification of the Dominican-American convention by the Congress of the Republic, I agree with you in saying that in fact ever since the beginning of these negotiations you have expressed yourself as in favor of such ratification.

On various occasions you did so to me, and also to Commander Dillingham in a personal conversation which took place on January 16.

No conclusion was reached before signing the preliminary convention because Commander Dillingham and myself had not yet received instructions on this point, but the matter was deferred for subsequent determination without prejudice to the rights of both parties.

After the convention was signed, on January 20, you brought up the matter again, and when I received instructions from Washington indicating amendments and authorizing me to sign a formal convention and to agree that the convention be ratified by the American Senate you promptly declared that this was satisfactory to you and insisted on the convention being also submitted to the Dominican Congress.

Your final efforts to obtain a clause providing for ratification by this Congress coincided with the receipt of my instructions from Washington.

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 119.]

AMERICAN LEGATION,  
*Santo Domingo, March 7, 1905.*

SIR: Referring to your No. 46, of February 6,<sup>a</sup> transmitting my full powers for the negotiations and signature of the protocol of February 7, I have the honor to report that I exhibited them to the Dominican commissioners, who transmitted them to the President of this Republic. They were found in good form and subsequently returned to me and will be kept in the files of the legation.

At the same time the Dominican commissioners exhibited to me their full powers. A faithful copy and translation thereof are herewith inclosed and the original will be transmitted if desired by the Department. The minister of foreign affairs informs me that he would prefer to have the original full powers returned to him, to be kept in his department's files, unless you desire otherwise.

I also inclose a copy of my note to the minister confirming the production and exchange of our respective powers.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.—Translation.]

Carlos F. Morales L., constitutional President of the Dominican Republic.

*To all to whom these presents shall come, greeting:*

Having full confidence in the prudence and ability of the citizens Juan Francisco Sanchez, minister of foreign affairs, and Federico Velasquez H., minister of treasury and commerce, I have invested them with full powers and sufficient authority, so that in the name of and in representing the Dominican Republic they may arrange and conclude with the representative of the United States of America, Mr. Thomas C. Dawson, minister resident and consul-general of that Republic, who has been invested with like powers, a protocol for the collection of the receipts of our custom-houses and the payment of all the debts of the Dominican Republic by the Government of the United States of America.

The protocol that is to be signed will be subject for its validity to the approbation of the National Congress.

Given and signed, sealed with the great seal of the nation, in the city of Santo Domingo, the 6th day of the month of February of 1905, sixty-first year of independence, and forty-second of the restoration.

MORALES L.

[Inclosure 2.]

*Minister Dawson to General Sanchez.*AMERICAN LEGATION,  
*Santo Domingo, March 4, 1905.*

MR. MINISTER: I have the honor hereby formally to confirm the production and exchange of the full powers of your excellency and His Excellency Federico Velasquez H., minister of finance, and of myself as plenipotentiaries accredited by the chiefs of our respective governments for the negotiation and conclusion of the protocol signed February 7, 1905. They were found in good and due form.

I improve, etc..

T. C. DAWSON.

<sup>a</sup>Not printed.

*The Acting Secretary of State to Minister Dawson.*

No. 49.]

DEPARTMENT OF STATE,  
Washington, March 25, 1905.

SIR: I have to-day issued a letter introducing Mr. Jacob H. Hollander, who has been selected by the President as his confidential agent to visit the Dominican Republic for the purpose of examining into and reporting on the present condition of affairs therein, especially with reference to fiscal matters.

It is the President's wish that you give to Mr. Hollander such cooperation as he may require of you in the execution of his charge.

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to Minister Dawson.*

No. 50.]

DEPARTMENT OF STATE,  
Washington, March 27, 1905.

SIR: I have to acknowledge the receipt of your No. 119, of the 7th instant, in regard to the full powers exhibited for the negotiation of the protocol of February 7, 1905, between the United States and the Dominican Republic.

In reply, I have to say that mutual exhibition of full powers is the usual and sufficient course.

I am, etc.,

ALVEY A. ADEE.

*Minister Dawson to the Secretary of State.*

No. 122.]

AMERICAN LEGATION,  
Santo Domingo, March 27, 1905.

SIR: Continuing the subject of my No. 118, of March 7, the negotiations for an arrangement in regard to the Dominican debt and custom-houses, I have the honor to report that no event of importance happened until the arrival of the Italian cruiser *Calabria* at this port on the 14th. It was immediately reported that her visit was for the purpose of urging the collection of the Italian claims. Alarm spread among the friends of the Morales government and the Dominican-American convention, while the enemies of the administration rejoiced.

The captain of the *Calabria*, Count Moriundo; accompanied by the Italian chargé d'affaires, called on me almost immediately and said that he had been instructed by his government to make a stop at Santo Domingo and ascertain what the prospects were for the prompt payment of the installments due to Italians under the various protocols negotiated in their behalf; that he especially wished to know what position these installments would take under the convention negotiated on February 7. I asked him whether his government approved the making of the convention, and he answered that it naturally did, since the manifest purpose was to secure the application of a part of the Dominican revenue to the payment of debts, which up to the present had been neglected; that he only wanted to be advised as to the manner in which the United States would probably proceed in determining the amounts of the various claims and apportioning the total available sum among them after the convention goes into effect.

I answered that my government had not yet determined on the exact mode of procedure which would be adopted, and that I could not, of course, tell him how much would be paid annually on any particular claim until the total debt and total revenue available should be ascertained. I added that my government undoubtedly desired to adopt a procedure satisfactory to his, and that I would be glad to transmit any practical suggestions he might be authorized to make on the subject.

He answered that what I said was entirely satisfactory, that he had no suggestions to make, and that he hoped for the sake of Italian creditors that the convention would be speedily put into effect.

I invited Captain Moriundo and his officers, including Ferdinand of Savoy, Prince of Udine, to a luncheon at the legation. When this courtesy was reciprocated by him, I found that he had invited to meet me a Mr. Bancalari, a merchant, who is the principal Italian creditor. In introducing him Captain Moriundo said that he hoped Mr. Bancalari would keep in touch with me.

Speaking of his itinerary Captain Moriundo said that he expected to go to Habana and thence to Venezuelan ports, but that he would be obliged to wait here until he got definite orders from Rome. On the morning of the 20th he left, and in the course of the day I learned that he had received orders changing his itinerary and had gone to Kingston, Jamaica, instead of Habana.

On the same day a news telegram was published in the papers here announcing that the Senate had adjourned its extra session on the 18th. This immediately caused apprehension on the part of the government and a condition of public excitement, which was increased the next day by the publication of a telegram from Mr. W. L. Bass, at New York, asserting that the convention had been rejected. That evening, the 21st, there was a meeting of the principal Jimenistas now in this city and messages were sent to Monte Christi urging Arias and Rodriguez to declare a revolt and expel Lieutenant-Commander Leiper from the custom-house. Jimenista sympathizers openly boasted that they had supplies of money, arms, and ammunition, not only at Monte Christi, but also at Santiago, La Vega, Samana, Seybo, Azua, and even in the neighborhood of this city, and that the moment the American war ships left these waters they would overthrow Morales without serious difficulty.

The government quietly took every reasonable precaution, doubling the police guard and watching various suspected places and persons, but did not force the issue by ordering any important arrests.

The President telephoned me hourly to know if I had any telegram from the Department, and I could only assure him that the news of rejection could not be true, because otherwise I would have been informed.

Mr. Peltz, a special correspondent of the New York Herald, telegraphed an inquiry to his paper and, on receiving a reply that the Senate had adjourned but that the convention had not been rejected, communicated the fact to the President, who procured its immediate publication.

On the 23d I telegraphed you as follows:

SANTO DOMINGO, *March 23, 1905.*

SECRETARY OF STATE, *Washington;*

Adjournment without ratification has been made public. Revolutionists are encouraged. Conspiracies and preparations rumored. Tension is great. Quiet still prevails. Dominican President firm.

DAWSON.

I confirm your reply, as follows:

WASHINGTON, *March 25, 1905.*

DAWSON, *Minister, Santo Domingo:*

Your telegram 23d. Treaty is still before the Senate upon favorable committee report. Adjournment does not prejudice its status. We are confident that with fuller knowledge of facts it will be consummated at the next session.

ADEE.

which I showed to the President and minister of foreign affairs. They were greatly relieved and begged me to allow them to publish it. Though I felt obliged to refuse this, I prepared and sent a note (copy inclosed) which I told them they might make any use of they saw fit. A Spanish translation of it will be published to-day, and President Morales believes it will have a material effect in correcting the popular misapprehension and in convincing the revolutionists that the occasion is not yet ripe for them to begin operations.

But apprehensive as the government is of internal disturbance, it is even more anxious lest the adjournment of the ratification of the convention bring on the intervention of the European powers. The seizure of a single port or even the sending of an ultimatum, backed by a show of force, would be taken throughout the country as a proof that Morales can no longer count on the forbearance and moral support of foreign powers.

On the 23d the Belgian chargé d'affaires made a formal demand for an immediate resumption of payments under the contract of 1901. \* \* \* More important was the attitude of Mr. Bancalari, the principal Italian creditor. I have already referred to the alarm caused by the *Calabria's* visit, an alarm which was hardly quieted by her withdrawal to Kingston, whence, it is believed by this government, she may be recalled on short notice. Mr. Bancalari had been vigorously pressing this government to permit him to collect certain revenues which were specially assigned to him as security some months ago, and when the news of the Senate's adjournment came he further urged the necessity of at once making some substantial provision against the dissipation of all the revenues during the coming months. I was kept informed of his operations by mutual acquaintances, but carefully avoided speaking with him or the government on the subject, believing that creditors and government would soon reach a point where they would be obliged to come to me with a proposition for a *modus vivendi*.

The difficulties of the government were further increased by the dissatisfaction of Mr. Michelena, the American banker, who is advancing weekly the sums necessary for administrative purposes. Most of the merchants now importing goods have contracts and government duebills which they insist shall be received for duties instead of the usual promissory notes. Even before the news of the Senate's adjournment came the minister of finance had neither the moral nor actual force required to repudiate these contracts, and now his posi-

tion is much weaker. Michelena has thus far managed to get into his hands enough promissory notes to secure his advances, but is apprehensive of the future and threatens to withdraw unless the preferential contracts are all repudiated and all importers compelled to pay.

Accordingly, on the morning of the 24th the minister of finance asked me to come to his office, and said that he could stand the strain no longer and that he contemplated resigning. I told him truthfully that his resignation would only plunge his country deeper into difficulties; that the experience acquired by him in the last year was too valuable to be thrown away, and that his proven honesty and patriotism carried weight with foreign creditors and the Dominican people. He then asked me to indicate some practical *modus vivendi* pending ratification. This I declined to do, well knowing that he had some plan of his own. He then said that he would be disposed to make an arrangement by which the government would content itself with 45 per cent of the total customs revenues and deposit the remaining 55 per cent in my hands, to be held in trust until the ratification or definite rejection of the convention. I told him my government would probably not permit me to act in such a capacity, but that it would not be difficult to choose a suitable depository. He then offered to name a joint commission, of which I should be a member. I told him that this would also be objectionable, and that I could not hold out to him hopes that any representative of the United States would be permitted to appear in the position of taking charge of Dominican revenues until the convention should have been ratified. I further said that I could not agree to anything which would affect the rights acquired under the Improvement Company award, which seemed to me to be likely to be an obstacle to such an arrangement as he suggested, since the other foreign creditors might not be willing to let the money intended for their partial payment be in deposit while the Improvement Company was receiving its full installments in cash.

Nevertheless, I undertook to ascertain the views of the representatives of the different creditor powers, and, after a conference with President Morales and Minister Sanchez, in which they formally made the same proposition as Minister Velasquez, I interviewed either directly or intermediately the Italian, Belgian, French, and Spanish representatives and the American claimants here.

I found that the Italian representative was expecting my visit. He urged me to consent to act as trustee, and offered to give a pledge that the Italian creditors would take no measures to enforce their claims as long as the proposed arrangement should continue. To the Belgian *chargé d'affaires* the proposition was a surprise, but after a long conference with the Italian he gave his adherence to the idea of a moratorium conditional on the consent of his bondholders. He insisted, however, that the Improvement Company be also required to consent to have its payments suspended until ratification. I declined to give any encouragement that this would be consented to by the Improvement Company, and called his attention to the value of the award in preventing revolutions.

The French *chargé d'affaires* took much the same position, while the Spaniard said he was prepared to sign a definite agreement at once covering the Viñamata-Hutlinger protocol. Mr. Michelena, Mr.

Puente, and indirectly Mr. Ariza, who are the principal American creditors outside of the Improvement and Mrs. Sala, are willing to accept.

I gave no assurances whatever, except that I would submit the proposition of the government and the views of the foreign creditors to the State Department.

It is evident, therefore, that all the creditors except the Improvement Company will agree not to press their claims for the present, on condition that 55 per cent of the revenues of all the ports be deposited in New York and held as a trust fund until the convention is ratified or rejected. They prefer that a single American act as receiver for the ports not now being administered under the award. The Dominican Government will appoint anyone we may designate for the southern ports, and will request us to take Samana and Sanchez under the award if an amicable arrangement can be reached with the Improvement by which the financial agent would hold in his hands, pending ratification of the convention, the proportions which go to the apartados, Improvement Company, and internal debt, plus the excess up to 55 per cent of the receipts of the four ports. Such an additional arrangement would not affect the status of the award nor the substantive rights acquired thereunder; it would only postpone the latter. Neither would the Belgians and the French, by consenting to the naming of an American receiver for the southern ports, give up their right to receive \$25,000 a month out of the proceeds. They would only agree not to enforce that right pending ratification.

\* \* \* \* \*

I telegraphed you on the 25th as follows:

SANTO DOMINGO, *March 25, 1905.*

SECRETARY OF STATE, *Washington:*

Under pressure foreign creditors and domestic peril, Dominican Government offers nominate a citizen of the United States receiver southern ports pending ratification protocol. Four northern ports to be administered under the award. Forty-five per cent total to go to Dominican Government, fifty-five to be deposited New York for distribution after ratification. Creditors to agree to take no further steps in the meantime, and receiver to have full authority to suspend importers' preferential contracts. Italian, Spanish, German, and American creditors, except the Improvement, accept unconditionally. Belgian and French representatives will recommend acceptance. Some modus vivendi absolutely necessary. I am ready, if desired, start Washington, D. C., 28th to explain details and modifications to plan obtainable. Whole matter can be held open during my absence.

DAWSON.

I am assured that the local representatives of the foreign creditors will not ask their governments to take any aggressive steps during my absence, and I can induce Michelena to continue his advances to the government, which, with the presence of our ships, will minimize the danger of an internal outbreak.

As to the delicate question of whether we would give moral support to an American receiver for the southern ports I have, of course, not committed myself at all. As to this matter I would desire the definite instructions of the Department.

I have, etc.,

T. C. DAWSON.



[Inclosure.]

*Minister Dawson to General Sanchez.*AMERICAN LEGATION,  
*Santo Domingo, March 27, 1905.*

MR. MINISTER: I have the honor to inform you that I have received a telegraphic communication from the government at Washington, by which it appears that the status of the Dominican-American convention of February 27 is satisfactory to its friends.

This communication states that after the submission of the convention to the Senate by the President on February 15 it was committed to the Committee on Foreign Affairs and was in the hands of that committee during the regular session which ended March 4.

Owing, however, to the press of legislative business incident to the closing days of that session no action could be taken until the beginning of the special session, which was called by President Roosevelt for March 6. It was then taken up and, after the full and careful consideration demanded by the transcendental importance of the matter, the committee made a favorable report. Upon this report the convention is now before the Senate.

An adjournment was taken on March 18 and before the Senate had been able to reach a vote, but this adjournment in no way prejudices the status of the convention nor affects the probability of its ratification.

It is probable that the Senate will meet again in October and immediately take up and act upon the report of the committee as unfinished business.

I desire further to felicitate the government of which your excellency is a distinguished member upon the statesmanlike foresight and upon the spirit of honor and justice toward foreign creditors demonstrated by the terms of the *modus vivendi* suggested by you. To me such an arrangement appears to furnish the creditors the best guaranties which at present are possible, while at the same time it secures for the government revenues sufficient for successful and good administration during the period which will elapse until the American Senate can meet and ratify the convention.

The situation demands temporary sacrifices on the part of creditors and of this government, and as a sincere friend of the Dominican Republic, its autonomy, and continued peace, I am gratified to see that both sides are disposed to make them.

It is with pleasure, etc.,

T. C. DAWSON.

*The President to the Acting Secretary of State.*THE WHITE HOUSE,  
*Washington, March 28, 1905.*

To the ACTING SECRETARY OF STATE:

I have carefully considered the following cablegram from Minister Dawson:

SECRETARY OF STATE, *Washington:*

Under pressure foreign creditors and domestic peril, Dominican Government offers nominate a citizen of the United States receiver southern ports pending ratification protocol. Four northern ports to be administered under the award. Forty-five per cent total shall go Dominican Government, fifty-five to be deposited New York for distribution after ratification. Creditors to agree to take no further steps in the meantime, and receiver to have full authority to suspend importers' preferential contracts. Italian, Spanish, German, and American creditors, except the Improvement, accept unconditionally. Belgian and French representatives will recommend acceptance. Some *modus vivendi* absolutely necessary. I am ready, if desired, start Washington, D. C., 28th to explain details and modifications to plan obtainable. Whole matter can be held open during my absence.

DAWSON.

I direct that the minister express acquiescence in the proposal of the Government of Santo Domingo for the collection and conservation of its revenues, pending the action of the United States Senate upon the treaty, to the end that in the meantime no change shall take place in the situation which would render useless its consummation or bring complications into its enforcement. The Secretary of War of the

United States will present for nomination by the President of the Dominican Republic men to act in the positions referred to in both the northern and southern ports. The utmost care will of course be taken to choose men of capacity and absolute integrity, who, if possible, shall have some knowledge of Spanish. All the moneys collected from both the northern and southern ports not turned over to the Dominican Government will be deposited in some New York bank to be designated by the Secretary of War and will there be kept till the Senate has acted. If the action is adverse, the money will then be turned over to the Dominican Government. If it is favorable, it will be distributed among the creditors in proportion to their just claims under the treaty. Meanwhile, Mr. Hollander will thoroughly investigate these claims, including the claim of the American Improvement Company, and will report in detail all the information he is able to gather as to the amount actually received by Santo Domingo, the amount of indebtedness nominally incurred, the circumstances so far as they are known under which the various debts were incurred, and so forth.

This action is rendered necessary by the peculiar circumstances of the case. The treaty now before the Senate was concluded with Santo Domingo's earnest request repeatedly pressed upon us and was submitted to the Senate because in my judgment it was our duty to our less fortunate neighbor to respond to her call for aid, inasmuch as we were the only power who could give this aid, and inasmuch as her need for it was very great. The treaty is now before the Senate and has been favorably reported by the Committee on Foreign Relations. It is pending, and final action will undoubtedly be taken when Congress convenes next fall. Meanwhile, Santo Domingo has requested that the action above outlined be taken—that is, she desires in this way to maintain the status quo, so that if the treaty is ratified it can be executed.

With this purpose in view I direct that the proposed arrangement be approved. It will terminate as soon as the Senate has acted one way or the other.

THEODORE ROOSEVELT.

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*The Acting Secretary of State to Minister Dawson.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 29, 1905.

Answering your telegram of the 25th, the President is favorable to the modus which the Dominican Republic proposes to adopt for the purpose of keeping the pending treaty alive until the Senate shall have acted upon it and in order to permit of its full execution should it be ratified, while at the same time not prejudicing any rights should the treaty eventually fail. You are instructed that the Government of the United States will acquiesce in the Dominican proposal. The Secretary of War of the United States will present for nomination by the President of the Dominican Republic men to act in the positions referred to in both the northern and the southern ports, using utmost care to select men of capacity and absolute integrity, with some knowledge of Spanish. All moneys collected from both northern and

southern ports not turned over to the Dominican Government in the prescribed proportion in your cablegram will be deposited in some New York bank, to be designated by the Secretary of War [later amended to "the President of the United States,"] there to be kept until the Senate has acted. If the action is adverse, the money will then be turned over to the Dominican Government; if it is favorable, the money will be distributed among the creditors in proportion to their just claims under the treaty.

You will make it clear that having negotiated the pending treaty at the earnest request of the Dominican Republic we acquiesce in the Republic adopting the proposed plan, in order that pending the final disposition of the treaty no change shall take place in the situation which would render useless the consummation of the treaty or bring complications into its enforcement.

This arrangement is not to take the form of a protocol stipulating engagements on behalf of the United States. The President's desire and purpose to help the Dominican Republic to carry out its own plan in the way above described will be sufficiently established if this present telegram be accepted categorically by the President of the Dominican Republic.

ADEE.

*Minister Dawson to the Secretary of State.*

No. 123.]

AMERICAN LEGATION,  
*Santo Domingo, April 1, 1905.*

SIR: Referring to the subject of my No. 122, of March 27, a *modus vivendi* in regard to the Dominican debt and custom-houses, I have the honor to confirm your telegram of March 29, as follows: [Printed ante.]

I immediately communicated the contents thereof to the minister of foreign affairs, to the President, and to the minister of finance and commerce. That the United States was willing to acquiesce in the *modus vivendi* proposed by them gave them great satisfaction. The minister of finance undertook to draw up an Executive resolution embodying the original proposition of this government with the modifications necessary to make it meet your suggestions.

He made no objection to the elimination of the provision as to the United States taking possession of the four northern ports under the award of July 14, 1904, but on three other points he requested me to communicate further with you. First, he wanted a joint international commission of receivers, on the ground that this would tend to insure the adhesion of the European creditors. I told him that these creditors would, I knew, be better pleased with a single receiver indicated by the American Government, and that I did not feel justified in telegraphing his suggestion to the Department.

Second, he wanted to substitute the words "President of the United States" for "Secretary of War," insisting that the explicit mention of the latter official would give rise to popular misapprehension and press criticism. I agreed to submit this suggestion to you, and accordingly telegraphed as follows:

SANTO DOMINGO, *March 30, 1905.*

SECRETARY OF STATE, *Washington.*

Dominican Government prefers to say "the President of the United States" instead of "Secretary of War;" otherwise will accept your telegram of 29th categorically.

DAWSON.

The third point involved considerable discussion. He insisted that the terms of your telegram were too vague in regard to the functions of the proposed receivers, and also suggested that they ought only to collect the percentage to be deposited for the creditors. He said, and correctly, that the Executive could not by a mere resolution repeal the laws and constitutional provisions in regard to the administration of the custom-houses and the appointment of employees. He therefore wanted to have appointed a single American in each port to verify the acts of the Dominican officials as well as to receive the money. I answered that it seemed to me impracticable to frame, at the present time, a clause exactly defining the limitations of the functions of the officials which were to be named by his government on presentation by the President of the United States; that a receiver in chief, with power to take all the revenue and distribute it, who should nominate as many deputies and assistants as he might find advisable and who would be backed by the Dominican Government in taking such measures as might be found necessary to carry out the latter's pledge that all legal revenues should be turned over, disregarding all existing special contracts and exemptions, would probably successfully carry out the purpose of the *modus vivendi*, but the matter must be left open for changes and amendments until after the arrival of Doctor Hollander.

With the Italian war ship in port and the existence of sporadic disorders in the interior, President Morales was extremely anxious that the proposed resolution should be published at once, and on my reiterating to him, to Minister Sanchez, and Minister Velasquez that my government had only authorized me to acquiesce in case this government should accept categorically the telegram of the 29th, the minister of finance ceased discussing the details.

In the meantime I had received your telegram, as follows:

WASHINGTON, *March 31, 1905.*

AMERICAN LEGATION, *Santo Domingo:*

'The President of the United States' substituted for "Secretary of War" in my telegram of 29th.

ADEE, *Acting.*

Accordingly, I addressed a note to the minister of foreign affairs asking for a categorical acceptance of your telegram of the 29th, as modified by your telegram of the 31st, having been verbally assured that the answer would be in the affirmative. I inclose a copy of said note and a copy and translation of Minister Sanchez's reply thereto.

I also confirm my telegram to you, as follows:

SANTO DOMINGO, *April 1, 1905.*

SECRETARY OF STATE, *Washington:*

Dominican Government accepts your telegram of the 29th. Has issued a decree establishing *modus vivendi*. It takes effect April 1.

DAWSON.

This afternoon there was published and officially proclaimed the Executive resolution or decree in question. Copy and translation inclosed. It seems to me to cover the ground so far as is practicable before the coming of Doctor Hollander and the beginning of the actual work of reorganization. I believe he can obtain additions thereto which may be found necessary.

I have the further honor to confirm the following telegrams in regard to the Italian war vessel *Calabria*, which has been here for the

purpose of obtaining a prompt settlement of the Italian claims. See my No. 122, of March 27, for a report of her first visit.

SANTO DOMINGO, *March 11, 1905.*

SECRETARY OF STATE, *Washington:*  
Italian war vessel *Calabria* is expected to arrive here 14th.

DAWSON.

SANTO DOMINGO, *March 14, 1905.*

SECRETARY OF STATE, *Washington:*  
*Calabria* just arrived. Please inform the Navy Department.

DAWSON.

The latter clause was inserted at the request of Commander E. J. Dorn, the senior naval officer at this port, in order to avoid the necessity of his going to the unnecessary expense of telegraphing to the Secretary of the Navy the *Calabria's* arrival.

SANTO DOMINGO, *March 20, 1905.*

SECRETARY OF STATE, *Washington:*  
*Calabria* gone Habana.

DAWSON.

But it appears that the Italian Government deemed it best to have the *Calabria* at a port whence she could be more conveniently recalled here than from Habana, and after her departure I learned from an unofficial but certain source that she had in fact gone to Kingston, Jamaica, on orders received at the last moment. Accordingly, I telegraphed you as follows:

SANTO DOMINGO, *March 21, 1905.*

SECRETARY OF STATE, *Washington:*  
Unofficially we learn that *Calabria* at the last moment was ordered Kingston.

DAWSON.

On the afternoon of the 28th of March the *Calabria* again appeared in this port, where she still remains. I telegraphed you as follows:

SANTO DOMINGO, *March 28, 1905.*

SECRETARY OF STATE, *Washington:*  
*Calabria* returned. Expects remain here until relieved by *Dogali* from Trinidad.

DAWSON.

Commander Dorn kindly took prompt measures to ascertain the probable purpose of her return and the probable length of her stay. It appeared that Captain Moriundo had received orders at Jamaica to return to Santo Domingo and await the arrival of the *Dogali*, which was then at Trinidad. Afterwards he expected to continue his original itinerary to the ports of Venezuela, Brazil, Argentina, etc. At Jamaica he had heard that the Dominican-American convention had failed to receive the approval of the Senate, and he knew nothing of any negotiations for a *modus vivendi*.

Next day he called on the minister of foreign affairs to say that he was instructed to emphasize the demand of the resident Italian chargé d'affaires for an immediate resumption of payments according to the terms of the Italian protocols. The minister told him that his government was unable to comply, but that a *modus vivendi* which would satisfactorily guarantee all the creditors was now under consideration and would shortly be put into force. Captain Moriundo courteously

replied that in that case he did not expect that his visit would be a long one. The Italian chargé d'affaires accordingly made a formal written demand for resumption and the minister of foreign affairs answered, repeating in writing what he said about the modus vivendi. This correspondence has been referred to the Italian Government, and Captain Moriundo and the local Italian creditors do not doubt but that the modus vivendi will be officially accepted.

From expressions used by Captain Moriundo in conversation with me, I infer that he now does not expect the *Dogali*, but I have no definite assurance to this effect.

On my communicating Doctor Hollander's expected arrival to the President and Minister Sanchez, they expressed a lively satisfaction that the State Department had chosen such a distinguished and experienced man to take up the financial matters of the Republic. They regard—as do I—his coming at this time as peculiarly opportune, and they hope that he will come empowered to act as receiver in chief at once.

The internal situation of the country, while critical and uncertain, is quiet, except in a few localities, and it is not probable that any serious outbreak will be caused by the publication of the modus vivendi. Rather does the assurance that the Morales government will not be hampered by aggressive acts on the part of creditors, foreign and domestic, discourage the malcontents. The modus vivendi makes it impossible for them to borrow money from speculative or discontented merchants, and they hesitate to engage in a conflict with a government which has had, since the 1st of February, and will continue to have, a regular and secure income applicable to putting down any insurrection which may burst out.

\* \* \* \* \*

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Minister Dawson to General Sanchez.*

MARCH 31, 1905.

MR. MINISTER: I have the honor to inform your excellency that I am in receipt of the following telegram from the Secretary of State:

“WASHINGTON, March 29, 1905.

“Answering your telegram of the 25th, the President is favorable to the modus which the Dominican Republic proposes to adopt for the purpose of keeping the pending treaty alive until the Senate shall have acted upon it and in order to permit of its full execution should it be ratified, while at the same time not prejudicing any rights should the treaty eventually fail. You are instructed that the Government of the United States will acquiesce in the Dominican proposal. The President of the United States will present for nomination by the President of the Dominican Republic men to act in the positions referred to in both the northern and the southern ports, using utmost care to select men of capacity and absolute integrity, with some knowledge of Spanish. All moneys collected from both northern and southern ports not turned over to the Dominican Government in the proportion prescribed in your telegram will be deposited in some New York bank, to be designated by the President of the United States, there to be kept until the Senate has acted; if the action is adverse, the money will be turned over to the Dominican Government; if it is favorable, the money will be distributed among the creditors in proportion to their just claims under the treaty.”

Will you do me the honor of indicating your acceptance or rejection thereof so that I may transmit your answer to my government?

I should also be grateful if you would transmit to me a copy of the action of the Dominican Executive by which it is proposed to put the modus vivendi into operation.

I improve, etc.,

T. C. DAWSON.

[Inclosure 2.—Translation.]

*General Sanchez to Minister Dawson.*

DOMINICAN REPUBLIC,  
MINISTRY OF FOREIGN RELATIONS,  
*Santo Domingo, April 1, 1905.*

MR. MINISTER: I have the honor to advise your excellency of the receipt of your note dated yesterday, announcing to me that the Government of the United States of America is disposed to accept the modus vivendi that the Dominican Government proposes to adopt for the administration of the custom-house revenues of the Republic until the American Senate shall approve or reject the Dominican-American convention signed on the 7th of February last between both governments.

Our respective governments being in accord as to the basis on which said modus vivendi should rest, according as appears from the telegram received by your excellency and which you have just communicated to me and from the official document published in the Gazette of this date, I take pleasure in notifying your excellency of said accord, inclosing you a copy of the Gazette, in which is inserted the resolution of my government about the matter.

I salute, etc.,

JUAN FCO. SANCHEZ.

[Inclosure 3.—Translation.]

Carlos F. Morales L., constitutional President of the Republic:

For the purpose of protecting all the creditors of the Republic until the Dominican Congress and the Senate of the United States shall act upon the convention signed on the 7th of February of the current year by the representatives of the governments of the Dominican Republic and of the United States of maintaining alive meanwhile the said convention, and of facilitating its full execution if it should be ratified or not prejudicing any right should it be rejected;

The opinion of the council of secretaries of state having been heard,

*Resolves:* 1. To name a person to receive the revenues of all the custom-houses of the Republic, and, for the better guaranteeing of the latter's creditors, to leave to the President of the United States the designation of the person who will receive said revenues, the Dominican Executive conferring upon him the office, providing always that the designation shall be satisfactory to it.

2. The sums collected shall be distributed in the following manner:

(a) Forty-five per cent to be used in administrative expenses;

(b) The necessary expenses of collection, including the salaries of all employees of the custom-houses.

3. The remainder, as a sum destined to the payment of debts, shall be immediately deposited in a bank in New York which shall be designated by the President of the United States, remaining on deposit for the benefit of all the creditors of the Republic, Dominican as well as foreign, and shall not be withdrawn before the Dominican Congress and the Senate of the United States shall have acted upon the pending convention.

4. If the final action of the Congress of the Dominican Republic and of the Senate of the United States should be favorable to the pending convention, the sums so deposited shall be distributed among the creditors in proportion to their just claims in accordance with said convention. If the action of the said Congress and Senate should be adverse, the said sums shall be at the disposition of the Dominican Government for equitable distribution among the creditors, according to the arrangement that it shall make with them.

5. In order to do effectively what is above provided for, the Executive suspends all payments upon the debts of the Republic of whatever nature during the time that this modus vivendi continues in operation.

§ No document shall be received in payment of customs or port duties, and the total amount of all revenues payable through the custom-houses shall be delivered to the receiver of whom this resolution makes mention.

6. This modus vivendi is not intended to interfere with or change the substantive rights of the creditors, nor to repudiate or modify any of the agreements heretofore made by the government, except in so far as the immediate enforcement of such rights and agreements may be suspended by the general moratorium herein declared.

7. This modus vivendi will take effect from the 1st of April of the current year.

Given in the national palace of Santo Domingo, capital of the Republic, on the 31st day of March, 1905, sixty-second year of independence and forty-second of the restoration.

MORALES L.

Countersigned:

FEDERICO VELASQUEZ H.,  
*The Minister of Finance and Commerce.*

*Minister Dawson to the Secretary of State.*

No. 125.]

AMERICAN LEGATION,  
*Santo Domingo, April 6, 1905.*

SIR: Continuing the subject of my No. 123, of the 1st instant, the modus vivendi for the Dominican debt and custom-houses, I have the honor to confirm your telegram, as follows:

DAWSON, *Minister, Santo Domingo:*

The President has selected for principal collector at the port of Santo Domingo Col. George R. Colton, who has had seven years successful service as customs collector at Manila and Iloilo, Philippine Islands. He thinks it would be wise to place the other four collectors—one at Samana, one at Sanchez, one at Macoris, and one at Azua—under Colton as principal collector, and the two collectors now collecting at Monte Christi and Puerto Plata also to be subordinate to Colton. In order that the system should be complete, there should also be to assist Colton and staff one statistician, one accountant, and one stenographer. The question of salary is an important one. Suggest that the principal collector receive a salary of \$500 a month and that the salaries of the others be fixed by agreement between the President and principal collector on his arrival after consideration of the receipts at each port. Assume that traveling expenses from the United States to and from Santo Domingo will, of course, be met by Government of Santo Domingo.

Answer promptly whether these suggestions meet with the approval of the President.

The President designates the City National Bank of New York as the depository.

LOOMIS, *Acting.*

The next morning (the 5th) I had a long conference with President Morales and the minister of finance. They made no serious objection to the salary proposed for Colonel Colton, although the minister of finance doubtless feels that it is unjust that he himself should receive less than half the amount agreed upon for the American receiver. Neither did I have any difficulty in securing an agreement that traveling expenses should be met.

The Department's suggestion that all the ports should be under the supreme direction of a single chief collector, with an office in this city, had already been covered by the form in which the Executive resolution (inclosure 3 with No. 123) was drawn. The advisability of such centralization of accounts and organization is obvious and indisputable.

But we got upon delicate ground when we began discussing the probable functions and authority of the deputy which they admitted it would be necessary for Colonel Colton to have at each port. The President seemed at first to think that these deputies should be appointed by him after consultation with Colonel Colton, but I gave him clearly to understand that while we were not disposed to stick on a mere question of the form of the appointment, Colonel Colton must have a real liberty to select his subordinates. The minister of finance then called my attention to the fact that since the modus vivendi existed by virtue of a mere exchange of notes and an Executive resolution, and not by virtue of any treaty, law, or constitutional provision, the Dominican Executive could not legally name the deputies as custom-house interventores—the title of the regular Dominican collectors—and displace the persons now holding those positions. What was true of the interventores was also true of the minor employees. Knowing how vitally important this question of patronage is to the Morales Government, and that a sudden discharge of the present custom-house employees would probably give rise to serious



embarrassments and even grave disorders, I answered that my government would not be found to be disposed to disturb the existing functionaries except in so far as it might prove in practice necessary for the purpose of securing a collection of the full legal duties, so that the creditors would receive the full proportion which had been pledged and promised to them by the *modus vivendi*; that only a practical expert after studying for himself the actual conditions could tell just what action must be taken to achieve this result; but that it was clear to me, and I believed ought to be equally clear to them, that deputies responsible directly to Colonel Colton should be stationed at all the ports and that such officials should have the power to inspect and regulate everything that goes on in the custom-houses. I added that the exercise of such power by Colonel Colton and his deputies would be as beneficial to the interests of the Dominican Government as to those of the creditors, because the American officials would be in a position to do what no Dominican Government had ever done or could perhaps ever do—that is, put a stop to preferential contracts in favor of large and powerful importers, and prevent competition among the different custom-houses for imports by varying constructions of the tariff laws.

The minister of finance then said that he would welcome the assistance of the American officials in these vital matters, especially now that he knew they would be honorable people who would come here without other interests or purpose than to represent the President of the United States in his effort to relieve the Dominican Government and its creditors from their intolerable situation. His chief purpose was fundamentally the same as Colonel Colton's would necessarily be, and he pledged his hearty cooperation. Colonel Colton could freely form his own organization and would be given every facility for the effective performance of his functions. When Colonel Colton should arrive—which he hoped would be immediately—they would come at once to a preliminary agreement as to salaries and as to the practical relations which the American deputies shall bear to the Dominican custom-house employees.

He also referred to the difficulties in the way of making a smooth transition from the Michelena contract, under which the government is receiving a fixed sum of \$75,000 a month and which is yet largely unliquidated, to the *modus vivendi*, under which the government will get 45 per cent of a revenue whose exact amount is uncertain. To this I answered that these difficulties were merely ones of detail, and that since Mr. Michelena was so well disposed toward the government and the *modus vivendi*, he would surely cooperate with Colonel Colton and with the Dominican Government and in the meantime would supply the ready money necessary for daily expenses.

The President asked me for an assurance that my government understood that the expenses for salaries, etc., were to be paid out of the 55 per cent which the Dominican Government sets aside for its creditors. I answered that in my telegraphic dispatch submitting the proposition for the *modus vivendi* I had inadvertently omitted to make mention of expenses, but that I had since sent my government a copy of the Executive resolution of April 1, which is clear on the point; that it was unlikely that any misapprehension could exist, since in both the treaty and in the Michelena contract it had been provided that expenses of collection should be met out of the 55 per cent and the Dominican Government receive 45 net.

This closed the interview, and I immediately sent you the following telegram:

SANTO DOMINGO, *April 5, 1905.*

SECRETARY OF STATE, *Washington:*

Dominican President appoints Colton general receiver all customs revenues, with power to select necessary deputies and assistants after consultation with minister of finance. Your suggestions as to salary and expenses accepted, payable out of 55 per cent. No objection to one deputy for each port and assistants as suggested. They request Colton to come immediately and study the situation before deciding details. Economy and caution are very important.

DAWSON.

I also made the indication of Colonel Colton for the position of general receiver and the designation of the City National Bank of New York as depository matters of record by sending to the minister of foreign affairs the notes of which I inclose copies, to which I received favorable replies. Copies and translation inclosed.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Minister Dawson to General Sanchez.*

AMERICAN LEGATION,  
*Santo Domingo, April 5, 1905.*

MR. MINISTER: I have the honor to inform your excellency that the President of the United States recommends to the favorable consideration of the Dominican Government Col. George R. Colton for appointment as receiver of revenues under the provisions of the recent financial *modus vivendi*. At a subsequent time, and after consultation with your excellency's government, Colonel Colton will select and present for favorable consideration such deputies and assistants as may be found necessary and arrange the details as to the performance of his and their functions.

I improve, etc.,

T. C. DAWSON.

[Inclosure 2.—Translation.]

*General Sanchez to Minister Dawson.*

DOMINICAN REPUBLIC,  
MINISTRY OF FOREIGN RELATIONS,  
*Santo Domingo, April 6, 1905.*

MR. MINISTER: I have the honor of communicating to your excellency that the Dominican Government has accepted with real satisfaction the designation made by His Excellency the President of the United States in favor of Col. George R. Colton to receive the customs revenues of the Republic in conformity with the first article of the resolution adopted on the 31st of March.

By this notification I answer your excellency's note of the 5th instant.

I improve, etc.,

JUAN FCO. SANCHEZ.

[Inclosure 3.]

*Minister Dawson to General Sanchez.*

AMERICAN LEGATION,  
*Santo Domingo, April 5, 1905.*

MR. MINISTER: I have the honor to inform your excellency that the President of the United States has designated the City National Bank of New York as the depository for that proportion of the Dominican revenues which are to be devoted to the payment of the creditors of the Dominican Government under the provisions of the recent financial *modus vivendi*.

I improve, etc.,

T. C. DAWSON.

[Inclosure 4.—Translation.]

*General Sanchez to Minister Dawson.*

DOMINICAN REPUBLIC,  
 MINISTRY OF FOREIGN RELATIONS,  
 Santo Domingo, April 6, 1905.

MR. MINISTER: I have the honor to advise your excellency that I have received your kind note of the date of 5th of this month announcing that His Excellency the President of the United States of America had designated the City National Bank of New York as depository of the portion of the Dominican revenues which are to be destined to the payment of our creditors.

I have given the information to my government and I am gratified to announce its complete acceptance.

I salute, etc.,

JUAN FCO. SANCHEZ.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO, April 26, 1905.

SECRETARY OF STATE, *Washington:*

Colton arrived. Presented. Conference with Dominican authorities was satisfactory.

DAWSON.

*Minister Dawson to the Secretary of State.*

No. 132.]

AMERICAN LEGATION,  
 Santo Domingo, April 27, 1905.

SIR: Referring to the subject of the installing in his functions of Col. George R. Colton, general receiver and collector under the modus vivendi of April 1, I have the honor to report that President Morales returned to this capital on the 25th and I arranged for Colonel Colton's immediate presentation to him. The same day Colonel Colton was also presented to the minister of finance and at once entered on a discussion of the practical measures to be taken in assuming his duties.

On several occasions Colonel Colton consulted me and requested me to accompany him in his interviews with the President and minister, and I gave him all the assistance and information in my power.

I am gratified to be able to report that Colonel Colton quickly came to an exact and satisfactory understanding with the Dominican authorities, although numerous difficult questions, as to which there was room for disagreements, came up.

Yesterday afternoon the matter was finished and the President and minister gave their categorical approval to a written memorandum whose terms have been communicated by Colonel Colton to the Secretary of War in Washington. The arrangement as agreed upon seems to me to be well calculated to secure not only the efficient collection of all the customs revenues, but also the prevention of political embarrassments to this government both now and when the convention comes up for ratification, which embarrassments might have arisen from popular misunderstanding and the discontent of members of the government if Colonel Colton had insisted upon other terms.

I have, etc.,

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 140.]

AMERICAN LEGATION,  
*Santo Domingo, May 9, 1905.*

SIR: I have the honor to report that on May 2 the minister of finance verbally notified the agents of the Belgian and French bondholders that he proposed to suppress, from and after April 1, the payment of the monthly installments of \$833.33 provided by the Dominican budget law for the support of the Belgian and French agencies here, in Antwerp, and at Paris.

Such action would, of course, amount to an arbitrary suppression of the agencies and might produce serious alarm and suspicion among the bondholders, and even affect their willingness to accept the *modus vivendi*.

The Belgian and French agents determined not to telegraph Antwerp and Paris committees until after consulting me. They did so yesterday. I asked them if the communication from the minister of finance had been official. They answered that no formal note confirming his verbal statement had reached them. I thereupon suggested that it would be premature and useless to telegraph their principals until such a communication is in fact received.

The minister of finance is absent, but the President and minister of foreign affairs tell me that the matter has not been brought up in the cabinet. Minister Sanchez believes that such action would be unwise and likely to endanger the international status of the *modus vivendi*. It is my intention to suggest unofficially that it would be well to defer action until the Department can advise me of its opinion as to the likelihood of serious complaint on the part of the Belgian and French Governments.

The minister of finance's motive is simply the desire of economizing. I do not think he has considered the matter in its broader aspect.

I shall be grateful for the prompt instructions of the Department.

I have, etc.,

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 142.]

AMERICAN LEGATION,  
*Santo Domingo, May 15, 1905.*

SIR: Continuing the subject of my No. 140, of the 9th instant, in regard to the proposed suppression by the Dominican Government of the agency of the French and Belgian bondholders, I have the honor to report that on the return of the minister of finance from Azua on the 11th instant the matter at once assumed an acute phase.

He took the first opportunity of repeating to the agents his firm determination not to pay any installments on the expenses of representation as long as the *modus vivendi* continues in force, and told the same thing to his colleagues in the cabinet. Meanwhile, definite instructions had come to the agents from the Antwerp and Paris committees to insist upon the immediate payment of all the arrears already accumulated. I inclose herewith a copy and translation of a personal note to me from one of the local agents referring to the latter fact.

The only concession which the agents had been able to obtain from the minister was an agreement to consult me before taking final action.

As the Department already knows (see articles 4 and 11 of the Belgian contract of June 3, 1901, pp. 37 and 40 of Exhibit J, in the matter of the Santo Domingo Improvement Company arbitration), this government obligated itself to pay \$10,000 annually in monthly installments toward the expenses of the representation of the bondholders. This is in addition to the \$300,000 annually to be applied to the service of the debt. The latter payments have long since been stopped, but the Dominican Government has paid—although always some months in arrears—the \$833.33 per month. It is now in arrears for a few months prior to April 1.

As indicated in my No. 140, Minister Velasquez now gives the agents clearly to understand that he is of the opinion that the *modus vivendi* suspends the operation of the contract of 1901 in all its parts, including that referring to the payment of the expenses of the committees; that he has no other authorization to pay the monthly installments, and that he regards the agency as useless, since the general receiver appointed under the *modus vivendi* protects the interests of all the creditors, including the Belgian and French bondholders.

During the negotiations preliminary to the *modus vivendi* the Belgian agents tried to bring the subject of the continuation of these monthly installments into the discussion, but it seemed best to ignore their efforts, especially since the minister of finance himself had spoken to me of this expense as one he would likely have to provide for, although I can not recollect that he explicitly compromised himself, and at that time it seemed urgently advisable to pass over all questions which might interfere with a prompt acceptance of the main proposition by all parties.

The agents have again told me that they have so far refrained from telegraphing to their principals until they can ascertain through me if the decision of the minister of finance is final and will surely be put into official form. However, they feel that they must not wait long before informing their principals, and they assure me that they anticipate the arousing of suspicion and alarm among the bondholders on receipt of a telegram announcing the suppression of the agency by the Dominican Government, and even that the Antwerp and Paris committees would formally protest against their respective governments accepting the *modus vivendi*.

I told them I knew my government would regret seeing any disagreement arise between the committees and the Dominican Government, and that my own good offices would be cheerfully granted toward preventing a misunderstanding.

Accordingly, I again saw the President, the minister of foreign affairs, and then brought up the matter with the minister of finance. I ascertained that no definite resolution had been reached and that the matter had not even been formally considered in the cabinet meeting, although it had been under informal discussion. The President and the minister of foreign affairs continued fully alive to the inadvisability of arousing the serious dissatisfaction of the largest creditors, although they also disliked to come to an issue with the minister of finance. As I expected, the latter laid special emphasis on the necessity he is under to exercise the most rigid economy, now that only 45 per cent of the revenues pass through his hands for governmental expenses. He sug-

gested no solution of the difficulty, except that Colonel Colton should sequester the amount of the installments in question from the 55 per cent, charging it against the proportion to which the French and Belgian bondholders may ultimately be found entitled.

I told him that this in my judgment could not be done; that Colonel Colton's power to dispose of the funds coming into his hands, being derived from the *modus vivendi*, was strictly limited by the terms of that document, and that he could do nothing with the 55 per cent, or any part thereof, except deposit it in the City National Bank of New York. On consulting later with Colonel Colton himself I found that this is also his opinion. I further said to the minister that I did not think either his government or my own desired to reopen the *modus vivendi* to modification or even discussion. To this he heartily assented.

The minister then told me that he considered his own powers to be likewise limited by the *modus vivendi* and also by the appropriation laws; that the former suspended the operation of the 1901 contract and that the latter did not provide for the payment of the committees' expenses out of the regular administrative budget. The Belgian-French agents contest this latter point, insisting that the appropriation laws have always provided for these monthly installments and that they have been uniformly treated as an administrative expenditure. On the other hand, the minister insisted that to pay the installments would be an implicit recognition of the right of the French and Belgians to demand the fulfillment of all the terms of their contract, even after the ratification of the February 7 convention, as well as the present payment of the \$25,000 a month assigned by said contract to the service of their debt. If one part of the contract was recognized as privileged, logically the rest must be, and if the Belgian-French contract was so recognized, the Italians and others would demand equal treatment, and there would be an end of the *modus vivendi*.

I answered that I did not desire to enter upon any discussion of the force and effect of the Dominican laws governing his functions, and certainly did not think that it would be wise for him to expressly recognize the present enforcibility of the Belgian-French contract. It was for him and his colleagues to decide what their duties are under existing Dominican laws. The only considerations which I felt at liberty to offer concerned the advisability of seeking some practical method of avoiding a disagreeable clash which might endanger an arrangement vitally important to the security of his government. I declined to express any opinion as to the justice of his construction of the contract and the laws, but urged him to have his views presented to the French and Belgian Governments in a form calculated to secure a calm and impartial consideration by them, the parties adversely affected. It seemed unlikely that those governments would insist on imposing such an expenditure if he could satisfy them that the agencies are unnecessary and that the substantial interests of the bondholders would not be seriously jeopardized by their *ad interim* suppression.

I promised him that if his government desired to send instructions to Mr. Joubert in Washington to present the Dominican view of the matter to the French and Belgian Governments through M. Jusserand and Baron Moncheur, I would inform the State Department by the same mail of the position and desires of the Dominican Government. Possibly an occasion might arise for using good offices in the course of the

representations which the Dominican may make to the French and Belgian representatives.

This dispatch is written in fulfillment of that promise.

I have, etc.,

T. C. DAWSON.

*The Acting Secretary of State to General Sanchez.*

DEPARTMENT OF STATE,  
Washington, May 23, 1905.

EXCELLENCY: I have the honor to inform your excellency that Mr. Thomas C. Dawson, the minister of the United States accredited to your excellency's government, has, on account of illness, been granted a leave of absence to return to this country.

As there is no secretary of legation at Santo Domingo City to whom the mission may be intrusted as chargé d'affaires ad interim, the legation has, by the President's direction, been confided to the care of Mr. M. Marshall Langhorne, who has been appointed deputy consul-general of the United States at Santo Domingo City. Any communication which this government may have to make to that of the Dominican Republic during Mr. Dawson's absence will be communicated through Mr. Langhorne. I therefore request your excellency to give full credence to whatever he may convey to you on the part of the United States.

In communicating this information to your excellency, I have the honor to inclose the commission of Mr. Langhorne as deputy consul-general, and to request that you will be pleased to grant to him the formal exequatur of the Government of the Dominican Republic recognizing him in his consular capacity.

I avail, etc.,

FRANCIS B. LOOMIS.

*The British Chargé to Acting Secretary of State Loomis.*

No. 113.]

BRITISH EMBASSY,  
Washington, May 26, 1905.

SIR: I have received the instructions of His Majesty's secretary of state for foreign affairs to call your attention, on behalf of the British subjects interested in the Santo Domingo Improvement Company and the companies allied to it, to the position of these companies as affected by the President's order of March 28, 1905, providing for the collection and disposal of the Santo Domingo revenues.

The British interests involved in the claims of the Improvement Company and its allied companies are, as you are aware, considerable, being estimated at one-third of the whole amount; and at the time when the United States Government was negotiating with the Santo Domingo Government on behalf of the companies, in 1901-2, the British Government, having at first expressed its willingness to take joint action with the United States Government should they desire it, subsequently sent instructions to the British chargé d'affaires at Santo Domingo to support the action of his American colleague. As a result of the indebtedness of the Dominican Republic to the companies was fixed by an agreement between the United States Government and the

Dominican Government, dated January 31, 1903, at \$4,500,000. The terms of payment were referred by this agreement to an international commission of arbitration, and in pursuance of the award rendered by that commission, on July 14, 1904, the revenues of the four Dominican ports of Puerto Plata, Samana, Sanchez, and Monte Christi, and of any other custom-houses that might be opened within a designated zone, were assigned as security for the payment of monthly installments of specified amount upon the debt to the companies; and at the time of the issue of the President's order of March 28, 1905, financial agents appointed by the United States were in possession of the custom-houses of Puerto Plata and Monte Christi and collecting the revenues of these ports on behalf of the companies.

The President's order provides for the collection by United States agents of the revenues of all Dominican ports, including those specially assigned as security for the debt to the companies, and the deposit of the proceeds, after payment of 45 per cent to the Dominican Government, in a New York bank. If the Senate ratifies the protocol of agreement between the United States and the Dominican Republic of February 4, 1905, the sum thus deposited is to be distributed among the creditors of Santo Domingo in proportion, "to their just claims" under that agreement; should the Senate decline to ratify the agreement, it is provided that the money will be returned to the Dominican Government.

Some anxiety has been aroused in the minds of the British shareholders by the fact that while the President's order puts an end for the time being to the payment of the monthly installments which the improvement and allied companies have been receiving, it does not contain any explicit recognition of the special rights which the companies possess over a certain part of the revenues which under the present arrangement are being lodged in a New York bank. An assurance from the United States Government to the effect that it had no intention of disregarding these special rights, based upon the agreement between the United States and Santo Domingo of January 31, 1903, and the arbitration award of July 14, 1904, would go far to allay the shareholders' apprehensions, and I am instructed by Lord Lansdowne to state that His Majesty's Government would be glad to receive such an assurance.

I have, etc.,

HUGH O'BEIRNE.

*The Dominican Chargé to the Department of State.*

MEMORANDUM IN THE MATTER OF THE CLAIMS OF THE AGENTS OF THE FOREIGN BOND-HOLDERS OF SANTO DOMINGO FOR PAYMENT OF \$10,000 ANNUALLY FOR SERVICES.

DOMINICAN LEGATION,  
New York, June 1, 1905.

Claim is made by the agents of foreign bondholders to be paid by the Government of the Dominican Republic the sum of \$10,000 per annum for services in representing their principals in Santo Domingo.

Under an agreement entitled "Belgian Contract, 1901," made by Dr. Henriquez y Carvajal, June 3, 1901, on behalf of Santo Domingo with foreign bondholders, it was provided that a certain amount should be paid annually by the government toward the outstanding bonded indebtedness, held mainly in Belgium and France, the amount



to be not less than \$300,000 in gold annually, in equal monthly installments of \$25,000 each. In the fourth article of the agreement it was further provided that these bondholders should be represented by a general agent, and in the eleventh article it was further provided that "the expenses of the representation of the bondholders provided for in article 4 shall not exceed \$20,000 in gold per year; \$10,000 shall be paid by the government in twelve monthly installments, and in accordance with the rules already provided in article 3. The balance shall be taken from sums which are applicable to the service of the debt."

By recent resolution of the Dominican Government of March 31, 1905, with the consent of the United States of America, control of the finances has been placed temporarily in the hands of an agent appointed by the United States with the sanction of the Dominican Government, 55 per cent of the customs revenues passing to such agent and 45 per cent only being reserved for the conduct of the affairs of the government. This 55 per cent has been set aside as a fund out of which, after ratification of the treaty now pending before the Senate of the United States and the Congress of Santo Domingo, all creditors shall be paid in the manner to be provided.

Since March 31, 1905, no moneys have been paid by the Dominican Government to the representatives of the foreign bondholders, and as a matter of fact no moneys are available for that purpose. The contract of June, 1901, is therefore for the present "suspended," with the possibility of never coming into effect again. The bondholders, as well as the agents, undoubtedly are aware of all that has been arranged between the Government of the United States of America and the Dominican Republic. There is no fund out of which to pay \$25,000 each month, and in fact it was the purpose of the contracting parties that those payments should cease. There being no moneys to collect and transmit, it would seem to follow as a natural consequence that there were no services for the agents of the foreign bondholders to perform.

The claim of the agents to be paid at the rate of \$10,000 a year is both unreasonable and unjust, and should not even be granted to the extent of having that payment allowed out of the 55 per cent of the revenues to be retained by the aforesaid agent appointed by the United States. It is clearly a secondary claim, based and dependent for its force upon the claim of the creditors represented. When payment of the claims of the main creditors is suspended, it does not seem unreasonable or improper that the agents' rights to compensation should fall, at least until payments are resumed under the terms of the contract of June, 1901.

The Government of Santo Domingo is very anxious to avoid any friction with the foreign bondholders or their respective governments, and would, if the Government of the United States finds it convenient, concede the payment of the \$10,000 out of the 55 per cent of the revenues now controlled by its agent; but the Dominican Government can not agree to the payment of this \$10,000 out of its 45 per cent of the revenues, as this amount at present is insufficient to meet the needs and expenditures of the Government.

EMILIO C. JOUBERT.

*The Department of State to the Dominican Legation.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, June 13, 1905.*

The Department of State has received the memorandum of the Dominican legation, dated June 1, 1905, in regard to the claim of the agents of the foreign bondholders of the Dominican Republic for the payment of the sum of \$10,000 annually for their services.

As respects this claim, it seems to the President, first, that, pending the time when there is no service being rendered in the matter of collections by the agents of the foreign bondholders, it is properly open to question whether the \$10,000 is payable at all. The question is not raised by the governments themselves, but by the agents of the private corporations who, under a previous arrangement, were to make certain collections.

On the 1st day of April last the so-called *modus vivendi* between the United States and the Republic of Santo Domingo went into force. Its terms are found in the telegram of the President of the United States to Minister Dawson, and the acceptance thereof, with certain additions, by President Morales, of Santo Domingo, subsequently acquiesced in by the President of the United States. This *modus vivendi* has been in operation and officers have been acting under it now for more than two months, with the knowledge of all the foreign governments, and no objection whatever has been raised to its being carried out. It is to be assumed, therefore, that any previous contract whose terms were in conflict with this was, by either tacit or express agreement, suspended in operation, and the *modus vivendi* took the place, temporarily or permanently, as the case may be, of the suspended agreement. Under the *modus vivendi* 55 per cent of the revenues were to be collected and deposited in the City National Bank of New York, less the cost of collection; the fund to await the action of the Senate of the United States in the confirmation of the pending treaty, and then to be distributed as either the treaty or, if the treaty was not confirmed, as equity may require. If any equitable claim or lien arises by reason of the previous arrangement for the payment of \$10,000 a year to agents of foreign bondholders for their services of agency, representation, and collection, the adjustment of such claims must necessarily await the disposition of the fund in the New York bank, and can not be taken out of the 45 per cent needed by the Government of President Morales and expressly awarded to that government for its running expenses under the *modus vivendi*.

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*The Acting Secretary of State to the British Ambassador.*

No. 270.]

DEPARTMENT OF STATE,  
*Washington, June 27, 1905.*

EXCELLENCY: I have the honor to acknowledge the receipt of Mr. O'Beirne's note No. 113, of May 26 last, in which he calls the Department's attention, on behalf of British subjects interested in the Santo Domingo Improvement Company and the companies allied to it, to the position of those companies as effected by the President's order of

March 28, 1905, providing for the collection and disposal of the Santo Domingo revenues.

In regard to the interests involved in the claims of the Improvement Company and its allied companies, as affected by the President's order above referred to, I have the honor to state that the President is unable at present to recognize any special rights and privileges of the said companies over any other creditors, American or foreign, of Santo Domingo. If such rights and privileges should be eventually accorded it could not be until after the Senate has taken final action on the convention now before it between the United States and Santo Domingo.

I have, etc.,

HERBERT H. D. PEIRCE.

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*Minister Dawson to the President.*

MEMORANDUM ON THE DOMINICAN MODUS VIVENDI, ITS EFFECTS UP TO THE PRESENT TIME, AND THE REASONS THAT LEAD TO ITS ADOPTION.

WASHINGTON, July 1, 1905.

The financial modus vivendi put into effect April 1 by a decree of the Dominican Government was the natural outcome of the situation—the logical development from what had gone before—the surest method of tiding over the interval until the ratification of the pending treaty—the only means apparent by which the Dominican Government could get money enough to exist and to maintain order and at the same time all the creditors receive a reasonably satisfactory guaranty.

Its provisions are simply that impartial and competent Americans shall collect all the customs duties, paying 45 per cent to the Dominican Government and depositing the remainder as a trust fund, which will later be distributed among the creditors in proportion to their just claims. In the meantime all creditors are temporarily to relinquish any special rights they possess and are not to be permitted to insist on immediate payment.

Santo Domingo's history proves conclusively that no government there can, no matter how well intentioned, either enforce the regular remittance of the total customs revenues to the national treasury or apply to the payment of its debts such revenues as may in fact come into its hands.

Further, the desire to get possession of custom-houses is the principal motive for and incentive to revolutions. Foreign collection and receivership were, therefore, necessary if the creditors were ever to be paid and civil war to cease.

The modus vivendi has now been in force three months, and up to the present time has been gratifyingly successful. It has given the Dominican Republic all and more than the benefits which President Morales and his advisors hoped for when they framed and adopted it and obtained its acceptance by the United States and the European creditor nations.

## EFFECTS OF THE MODUS VIVENDI.

1. Since it was put into effect no revolution or serious disorders have occurred, and for the first time since 1899 there has been a cessation of active plotting against the established government.

2. The country feels a reasonable assurance that peace will continue, and all branches of productive industry have felt a strong impulse. The tobacco growers of the northern valleys, who had almost abandoned that crop during the revolutionary years, have again begun planting on a large scale. This year's tobacco crop will be more than double that of last year. For the first time in years the sugar industry is on the increase, and most of the plantations are planting extensive new fields. In spite of low prices the cacao industry is prosperous, and the stocks of cattle are again being replenished.

3. Although 55 per cent of all custom receipts are being remitted to New York, the Central Dominican Government has more cash available for its expenses than at any time in the last five years. This apparent paradox is explained by the fact that for the first time in the country's history control of receipts by central authority is real and not merely nominal. Formerly the local military and fiscal authorities disposed of the receipts of the different ports at their pleasure.

4. The Dominican Government has been relieved of the necessity of making short-time loans at ruinous interest and bonuses, and of conceding to importers enormous reductions from the legal tariff rates. For the first time the central government knows exactly how much money it is sure of receiving, and is in a position to keep its expenditures within its real income. A small cash surplus has been accumulated; the government pays its employees regularly, and obtains the advantage of purchasing its supplies for cash.

5. The introduction of honest and sensible business methods in the custom-houses has largely increased the cash revenue. Mr. Colton has been collecting at the rate of \$2,500,000 a year. In preceding years the paper revenues did not exceed \$1,800,000, and since 1901 not half of this amount ever really came under the control of any central government.

6. For the moment, at least, the country has been freed from the menace of a forcible seizure by foreign powers of those ports whose proceeds have been mortgaged.

7. The outstanding unliquidated claims against the Dominican Government amount to several millions of dollars, and if it had not been for the adoption of the modus vivendi the Dominican Government would have found itself forced to acknowledge itself indebted for exorbitant and unjust amounts. The existing arrangement, however, prevents any present efforts to secure the liquidation of these claims and gives the assurance that when they are liquidated it will be on terms fair, just, and favorable to Santo Domingo. This is a great advantage, because former Dominican Governments have never been in a position to demand or obtain equal or just treatment when claims were pressed by foreign creditors. The frequent violent changes of the administration, the corrupt arrangements often entered into between those temporarily in power and foreign financiers or local merchants, and the country's bad reputation for performing its financial agreements deprived its representatives of all moral force. Physical force they had none. As a rule the original transactions upon

which the claims were based were private and verbal, and after a revolution no documents would remain in the hands of the new Dominican officials to enable them to contest the statements of the claimants. The successive Dominican Governments have therefore been practically at the mercy of their creditors in the determination of the amounts of unliquidated debts. When, as was usually the case, a foreign claim was backed by the vigorous representations of a diplomatic representative, who naturally took his countryman's word and whose representations and demands were necessarily given prompt attention on account of the presence of a war vessel, it is clear that a Dominican Government could do nothing but accept the amount and terms insisted upon by the foreign creditor. Further, being notoriously poor pay, Santo Domingo could expect no discounts and the face of the claim was often systematically swelled as a sort of insurance against the undeniable risk that nothing would in fact ever be collected, no matter how much was agreed upon.

8. Being temporarily relieved of the menace of internal revolution and foreign intervention, the present Dominican Government is earnestly and successfully devoting itself to the organization of its civil, municipal, and judicial administration. The military chieftains, whose principal qualifications for local government were their courage and resolution in putting down revolt, are being replaced by officials with more knowledge of and respect for law and personal liberty. The municipalities are improving their streets, and their revenues are no longer liable to confiscation by military chieftains. The city of Santo Domingo, which was almost ruined by three protracted sieges, is being improved. A few necessary public edifices are already under construction or repair, and the next step contemplated by President Morales's administration is the making of the roads through the interior practicable for wagons. At present there is not a wagon road 10 miles long in the whole Republic. Many schools have been reopened and the civil and criminal courts are resuming their normal functions.

9. Mr. Colton is depositing in a New York bank \$100,000 a month. These sums are entirely out of the control of any Dominican Government, constitutional or revolutionary, and all creditors feel assured that these substantial amounts are being placed beyond the reach of confiscation and will be devoted as promptly as possible to the proportional payment of all just claims. For the past five years no Dominican Government has made any attempt to pay any substantial amount on any of its debts. Now, for the first time, the creditors have an assurance that they will really get something. Therefore they are all, with hardly an exception, much pleased with the *modus vivendi* and will take no action tending to disturb it.

10. Lastly, the *modus vivendi*, for the present at least, absolutely eliminates Santo Domingo as a potentially disturbing international factor. Her governments have signed one protocol after another with the creditor nations, solemnly agreeing to pay annual sums fixed therein. Not one of these treaties has been observed, and the yearly amount which by their terms Santo Domingo has obligated itself to pay is now greater than the yearly revenues which any Dominican Government has been able to collect by its own officials and machinery. In the past few years forcible foreign intervention for the enforcement of debts has repeatedly been imminent and could not have been long deferred had not the *modus vivendi* been proposed and accepted.

Further, certain of these treaties pledge the revenues of specific custom-houses to the payment of specific annual amounts. The foreign creditors not so secured can confidently be expected to obtain, through diplomatic pressure by their respective governments, similar hypothecations of the ports not already pledged. If one of these mortgages is foreclosed, the rest will surely follow suit. It can not be expected that each nation will voluntarily consent to take from the receipts of the custom-house thus in its hands less than the full amount agreed upon in its respective treaty. The Dominican Government has no appreciable revenues outside of those collected through the custom-houses, and would therefore remain without any funds whatever to meet its administrative expenses and to maintain order. This would mean anarchy, and to prevent it the nations involved would be forced to make some agreement among themselves by which a living revenue would be assigned to Santo Domingo. To such an agreement the United States would necessarily be a party and be obliged to assume at least its proportional responsibility thereunder. But the negotiation of such an agreement would be extremely complicated and difficult, while under the *modus vivendi* the creditor nations are relieved of the trouble of taking possession each of a different custom-house and of establishing a series of separate and possibly discordant customs administrations; also, the creditors themselves are disposed to accept a distribution of the total net income realized under the *modus vivendi*, providing it be made under the impartial auspices of the United States Government. Another consideration which is of the first importance is the fact that a separate seizure of the custom-houses by the different creditor nations would result in practically permanent possession. For example, 55 per cent of the receipts of Santo Domingo and Macoris would not give an amount large enough to pay more than 2 per cent per annum upon the French and Belgian bonds. Therefore, no sinking fund could be provided. The Italian claims amount to about \$2,500,000, and the receipts of Samana and Sanchez could not be expected to furnish more than \$150,000 a year to be applied to their payment. But if all the custom-houses are placed under a single management, Dominican statesmen and financiers, having an object lesson in sound finance before their eyes, would soon become competent to work the machinery themselves; creditors would acquire confidence as their dividends came in with regularity; foreign collectors could gradually be replaced by Dominicans; the debts could be converted on favorable terms, and, finally, the necessity for foreign financial control would disappear of itself.

#### INSTABILITY OF THE PRESENT SITUATION.

Advantageous as the *modus vivendi* has proved to the Dominican people, the Dominican Government, to the creditors and the foreign powers having relations with and interests in Santo Domingo, it is only a makeshift and rests upon very insecure foundations. \* \* \* As a matter of fact, the two things which have given strength to and secured a general acceptance of the *modus vivendi* are: First, the prestige of its prompt and unanimous acceptance by all the creditor nations. The most thoughtless Dominican realizes that its faithful observance is the last chance for a rehabilitation of Santo Domingo in the eyes of the civilized world. Second, the *modus vivendi* is con-

sidered in Santo Domingo as a necessary preparation for and preliminary to the ratification and entering into effect of the treaty of February 7. Its repudiation would, therefore, be regarded by Dominicans as a virtual notification to the United States that the treaty would not be ratified by the Dominican Congress. Such radical action all parties shrink from.

Nevertheless, the condition under the *modus vivendi* is one of unstable equilibrium, and the people of Santo Domingo, her rulers, and especially her commercial and industrial classes, wait anxiously the ratification of the treaty.

#### EXPLANATORY SKETCH OF RECENT DOMINICAN HISTORY AND CONDITIONS.

I have endeavored above to incorporate enough details to make clear what the *modus vivendi* really is, what conditions it was framed to meet, and why it has proved so well suited to the requirements of the situation. It was not a plan conceived *de novo* by the President of Santo Domingo or his advisers, but the natural and almost inevitable sequence of the previous history of that unhappy country. A brief sketch of that history will therefore be likely to throw further light on the present situation and may tend to convince those not familiar with the subject of the truth of the foregoing statements.

From the foundation of the Republic in 1844 until 1886 one revolution rapidly succeeded to another; no President ever finished out his term, and hardly a year passed without a civil war. In 1861 Santana, then President, convinced that no independent government was workable in Santo Domingo, negotiated a treaty of annexation with Spain. But three years later his opponents revolted against Spain's misrule and her officials were expelled. In 1873 the country had again reached such a pass that Baez, the then President, negotiated a treaty of annexation with the United States, but the project fell through on account of the refusal of the United States Senate to ratify. On its failure Baez was driven from power, after another bloody civil war. But his successful opponents were unable to establish a stable government, and disorder was almost continuous until about the year 1886, when Ulises Heureaux succeeded in fighting his exhausted opponents to a standstill and in gaining recognition of his supremacy from all the local chieftains.

Heureaux was a man of invincible personal courage, an indefatigable worker, a shrewd judge of human motives—ruthless, relentless, and cold-blooded. He took the country as he found it, concerned himself little with civil or administrative reforms, and confined his efforts to repressing revolts and endeavoring to enrich himself. The method he adopted to insure peace and his own supremacy was to secure a following in every part of the country by employing a large number of officials and by paying pensions to all whose courage or influence made it worth his while to placate. I have seen his secret budget for the province of Samana, and it shows that at least 10 per cent of all able-bodied men were on his pay-roll, and most of these without pretense of rendering any service to the state except that of being ready to support Heureaux in case of revolt. If this bribery did not succeed in holding an individual quiet, Heureaux resorted to threats, banishments, secret assassination, and, if all these failed, to a

military execution. During thirteen years he succeeded in preventing any serious revolts against his rule, and if his financial abilities had been equal to his political abilities he doubtless would have continued undisputed ruler of Santo Domingo to the present day. But he would trust nobody, persisted in trying to run the finances without responsible and competent assistance, did not understand the necessity for bookkeeping, was foolishly lavish in his gifts to friends, spent large sums on his personal vices, and worst of all, confidently measured his own financial shrewdness against the trained wits of professional money lenders. The result was that he was overwhelmed by the demands made upon him by the Dominicans he was subsidizing, borrowed money from abroad on disadvantageous terms, when interest fell made new emissions of bonds, went into partnership with concessionaries and merchants, and sunk deeper and deeper into the financial mire, until by 1898 the nominal debt exceeded twenty millions of dollars, and he did not know where to turn for a dollar of ready money.

But the harm had gone deeper than the mere accumulation of this debt, disproportionate as it was to the population and wealth of the country. Thousands of the more educated, talented, courageous, and energetic citizens of the country had been demoralized by the pension system. They had been educated into the idea that the government owed them a living, and had largely lost capacity and desire to engage in business. On the other hand, the thirteen years of peace and relentless enforcement of the criminal laws had greatly improved the condition of the agricultural and commercial classes. The sugar, cacao, tobacco, and cattle industries had become prosperous, and population and wealth had increased. But the educated and military classes always bitterly resented Heureaux's tyranny, and finally in 1898 an unsuccessful and ruinous emission of paper money lost him the confidence and support of the ignorant but industrious peasants. Symptoms of revolt appeared simultaneously in many parts of the Republic, and when on July 26, 1899, he was shot by a popular Dominican whom he was about to have arrested the country awoke as if from a nightmare. Horacio Vasquez, the head of a widely spread and wealthy family in the provinces of Moca and Santiago, and Juan Jimenes, a wealthy merchant at Monte Christi, were the two most popular and prominent men in the Republic and as such indicated as the heads of the revolution which at once broke out. The party which Heureaux had so painstakingly built up by his subsidies fell to pieces with hardly a semblance of resistance. The Vice-President gave up without a struggle when Vasquez appeared at the gates of the capital; the latter was declared Provisional President, and when Jimenes arrived a few weeks later it was agreed that the latter should be President and the former Vice-President. Jimenes started in to make a clean sweep. Heureaux's employees and ministers were replaced by young men who, though intelligent, patriotic, and enthusiastic, had had no experience in governmental matters. The country was prosperous, exports and imports large, the new government cut off the pension list, repudiated Heureaux's obligations toward foreign creditors, and expelled the foreign fiscal agents whom Heureaux had been obliged to accept in order to secure loans abroad. The new government therefore found itself in the free possession of a large revenue. But instead of scrupulously setting aside an amount sufficient to meet the interest on the



foreign debt, it squandered its revenues in a hundred ways. Soon a new pension list was organized to satisfy the clamors of Jimenes's friends, and shortly thereafter disagreements arose between his supporters and the Horacistas, as those who followed Vasquez were called.

The Horacistas revolted, and in 1902 succeeded in overthrowing Jimenes. The government installed by them tried to suppress the fiscal abuses which had grown up at the various ports, and appreciated the necessity of making some provision for its international obligations; but it was too weak to do the former and too poor to do the latter. It was obliged to live from hand to mouth by short-time usurious loans, and made contracts with importing merchants allowing them to bring in goods at less than legal duties. The local authorities did about as they pleased, and while the central government was in the main conducted honestly and unselfishly, it could not control its subordinates nor dispose of the nominal revenue of the country. Within a few months the Jimenistas arose again in Monte Christi and other provinces, and the Vasquez Government drained its resources in fruitless attempts to put down the rebellion. In March, 1903, while the President was absent on a campaign, a number of persons confined in the castle at Santo Domingo corrupted their jailers, were joined by the garrison, and took possession of the capital. General Wos y Gil, who had been President many years before, was induced to accept the Presidency. Vasquez promptly returned with a considerable force and laid siege to the city, but the annihilation of an attacking column under General Cordero completely demoralized him, and he fled to Cuba. Wos y Gil easily obtained from the exhausted country a nominal recognition of his supremacy, but was unable to acquire a real control of the revenues, and charges of corruption were made against his ministers. In September, 1903, the country was again ripe for revolt. A truce was patched up against the common foe between the Jimenistas and Horacistas. Carlos Morales, one of the youngest but ablest of the Jimenista chiefs, conducted a triumphant expedition from Monte Christi; while Ramon Caceres, the most popular Horacista, cooperated with him from the north. The governors who were partisans of Wos y Gil were successively expelled from all parts of the island except Santo Domingo, and that city was soon besieged by the joint forces. After a desperate resistance Wos y Gil was compelled to surrender. But the union had been merely temporary, and it was found impossible to reconcile the jealousies of the two successful parties. An agreement had been made by which the question of the Presidency was to be decided by an election, but since elections in Santo Domingo always go the way the officials in possession wish, it was impossible to agree upon who should be Provisional President. The Horacista party had no candidate competent or desirous for the position and decided that they preferred Morales to Jimenes. An alliance was accordingly made between Morales and the Horacistas, and the former declared Provisional President in December, 1903.

Meanwhile Jimenista governors had succeeded in installing themselves in most of the northern and western provinces, and Morales was immediately attacked by their forces at the capital. He retaliated by sending troops by sea to the northern ports, and soon succeeded in getting possession of all of them except Monte Christi; while Caceres and Guayabin recaptured the large interior cities of

Santiago, Moca, and La Vega. These successes were followed by a recognition of the Morales Government by the foreign powers.

Foreign war ships hurried to the scene of the fighting at Santo Domingo City. Among them was the U. S. S. *Yankee*. On February 1 one of her steam launches was fired upon by the revolutionists on the left bank of the river and Machinist Johnson killed. A few days later the American mail steamer *New York* was fired on by the same revolutionists. It being clear that the Dominican Government was unable to prevent such outrages, Captain Wainwright, of the *Newark*, compelled, but without bloodshed, the revolutionists to retire from the position whence they threatened the free communication of the port. President Morales, having returned from his successful expedition to the north, next vigorously attacked the besiegers and defeated them. Part retired east to Macoris, which town was not reduced until March, while the remainder dispersed or fled to Monte Christi and Azua Provinces. There they maintained themselves, in spite of all the efforts of Morales and his generals, through April and May.

EVENTS IMMEDIATELY PRECEDING THE NEGOTIATION OF THE TREATY  
AND THE PROMULGATION OF THE MODUS VIVENDI.

At the end of May, 1904, after nine months of civil war, during which every city and town in the country had been taken and retaken and every province made the scene of bloodshed, burning, and rapine, the opponents of the Morales government had been compelled by sheer exhaustion to cease aggressive operations. The whole country was thoroughly sick of fighting and anarchy. Even the professional revolutionists and politicians, who at most constitute 5 per cent of the population, with a few exceptions desired a respite, and the agricultural and commercial classes were clamoring for peace. The small farmers had been compelled to flee from their homes to escape conscription; cattle, horses, and mules, and even pigs and poultry had been swept away by the small armed bands under independent chiefs which traversed the island in every direction. But what most rendered the prospects of the revolutionary party so hopeless was the fact that five of the eight custom-houses were securely in the hands of Morales and his Horacista allies, and could not be recovered by the Jimenistas as long as the President controlled the two gunboats, which enabled him to transport troops for the prompt reinforcement of threatened points.

But hopeless as was the situation of the revolutionary party, that of the government was little better. The revolutionists still held Monte Christi, Azua, and Barahona Provinces, and although Morales had concentrated all his resources in an invasion of the former the bloody fighting there during April and May had brought no decisive result. Demetrio and Arias seemed as impregnable established in Monte Christi as Morales at the capital and Macoris, Caceres at Mosa and Santiago, Guayabin at La Vega and Sanchez, and Cespedes at Puerto Plata. In spite of its military successes the Morales Government was in the gravest financial difficulties. In the five years of almost continual civil war that had raged since the death of President Heureaux the central government had lost all habit of effective control over subordinate officials, fiscal as well as military and civil.

That small proportion of the nominal revenues which was really at its disposition had been mortgaged and remortgaged to local money lenders for advances made and at incredibly usurious rates under pressure of the necessities of the war. Practically the only method by which either Morales or the provincial governors, who were cooperating with him, could get hold of any ready money was by turning over to some merchant the right to collect the revenues at a given port or by giving some importer a heavy discount from the lawful duties.

This being the situation of the opposing parties, it was not strange that both decided that it was wiser to compromise. Commander Dillingham, of the U. S. S. *Detroit*, was then in Dominican waters for the purpose of protecting American lives and property, and enjoyed the confidence of both sides. It was in a conference on board his ship that a peace arrangement was agreed upon and signed. By its terms the Jimenista chiefs then in power at Monte Christi and Azua were recognized by Morales as the legal authorities of those provinces, and in return they recognized him as President. This arrangement went into effect in June and within a short time restored peace to the distracted country. The independent bands of marauders soon disintegrated; many of the more persistent revolutionaries who had failed to get positions and salaries under the new arrangement went into exile, and the bulk of the troops on both sides gladly left the irksome service into which they had been impressed against their will. The laborers of the large plantations returned from their hiding places and the small farmers took up again the simple agriculture which on that fertile island so readily furnishes the few necessities which the average Dominican requires. But it soon became evident that the arrangement afforded no assurance of a permanent maintenance of peace. The exiled Jimenistas and their friends were determined to renew the conflict just as soon as they should be able to gather new resources or disagreements should arise among their successful opponents. In fact, the arrangement left Monte Christi Province virtually independent. Morales was afraid that Governor Arias would allow the exiles to come to Monte Christi, and that that port and the revenues of its custom-house would be used as a base for a new rebellion. On the other hand, Arias feared that Morales was only waiting for a favorable chance to dispossess him. A still graver but less probable danger threatened the Morales Government in the intrigues that were constantly going on within the Horacista party looking to expelling him and putting a simon-pure Horacista in his place.

Back of both these anxieties was the question of the foreign debt and the attitude in regard thereto which would be taken by the French, Belgian, German, Spanish, Italian, and American Governments. The contract of 1901 with the French and Belgian bondholders, although liberal to the Dominican Government, had not been carried out by it. Jimenes, Vasquez, Wos y Gil, and Morales had successively failed to make the payments provided for therein. It gave those creditors a specific mortgage on the revenues of the ports of Santo Domingo and Macoris, and the Morales Government was in daily dread and expectation that a demand would be made for the possession of those custom-houses. This would have been ruinous, as the resources of these very ports were the only ones upon which

the central government could rely for the payment of its expenses, the revenues of all the other ports being absorbed by their own localities. Therefore in a sense the Morales administration existed only by the forbearance of the French and Belgian Governments. In July, 1903, the German, Spanish, and Italian Governments had required the Wos y Gil Government to sign protocols agreeing to pay specific monthly sums. In May, 1904, the Italian Government had declared that the time had come when it must insist upon a definite settlement, and a new set of protocols were signed hypothecating 10 per cent of the total revenues of all the ports and creating a specific lien on the port of Samana. In July, 1904, came the decision of the arbitrators appointed to determine how the \$4,500,000 which the Vasquez Government had agreed was due the Santo Domingo Improvement Company should be paid. Their award required monthly payments of over \$40,000, and in default thereof directed that the custom-house at Puerto Plata should be turned over to an American representative, besides giving a specific but subsidiary lien similarly enforceable upon the ports of Monte Christi, Sanchez, and Samana. In September the Morales Government was unable to pay the installment, and accordingly on October 17, 1904, was obliged to deliver up possession of the custom-house at Puerto Plata.

From the receipts of Puerto Plata had been paid the administrative expenses not only of that town but of the important interior provinces of Santiago and Moca, and these expenses were thus suddenly thrown upon the already overburdened receipts of the southern ports. The government begged the Santo Domingo Improvement Company for a respite, which was granted for two weeks, during which the government made desperate efforts to get enough revenue to meet the northern budgets from the ports that still remained in its hands. The French and Belgian representatives protested vigorously against the diversion of the receipts of Santo Domingo and Macoris, on which they had a first claim, claiming that the net effect of the Improvement Company award was to deprive them of any reasonable hope of realizing on their security. Meanwhile, the revenues from Santo Domingo, Macoris, and Sanchez, the principal ports remaining in the government's hands, were falling off, because the Monte Christi authorities permitted importations through that port at less than the legal tariff rates.

The Santo Domingo Improvement Company offered to guarantee that the government should receive \$30,000 monthly out of the receipts of all the northern ports, provided the government would turn them over to it. In his desperate strait President Morales was inclined to accept, thinking that he might obtain a similar guaranty from representatives of the other foreign creditors in regard to the southern ports, thus securing him a small but certain revenue. After careful consideration, however, the offer was rejected because of the deep distrust of the Santo Domingo Improvement Company felt by most Dominicans, which feeling had been aggravated by the refusal of the Improvement Company to make any further concessions in October. For awhile the policy of inaction prevailed, and Morales's financial advisers seemed inclined to await results, thinking that nothing worse could happen to them. But reflection and discussion convinced them that the situation was not hopeless if the United States could be induced to lend its friendly help. The crisis came in December with

certain information that the Monte Christi authorities could not be induced to cease acting for their own benefit, and, with the expiration of the time limited by the Italian protocols and the last promise given the French and Belgian bondholders for the beginning of monthly payments. The latter had in June consented to wait until November, but no longer.

Just after the beginning of the year President Morales asked the American minister if the United States would be willing to act as receiver, taking charge of the collection of the revenues and of the determination of the amounts of the debts. The State Department indicated its willingness to discuss the matter, and negotiations were begun which culminated in the treaty of February 7, 1905. When the fact that some sort of negotiations were taking place became known to the Dominican public the enemies of the government industriously circulated the report that annexation was contemplated. A storm of protest arose and revolution was on the point of breaking out at the capital itself. To quiet the public misapprehension President Morales thought himself obliged to publish the preliminary draft of what was really in contemplation. Public indignation at once subsided, and while the proposed treaty was warmly discussed all talk of revolution died down.

But though one peril thus disappeared, another arose immediately. Since by the terms of the treaty the Dominican Government gave up all control of its revenues, it was no longer in a position to secure advances by hypothecating them in advance. Customs revenues in Santo Domingo are not collected in cash, but in promissory notes running as long as sixty days. All of these which were currently falling due had already been hypothecated. The money lenders would make no advances on the ones given for arriving cargoes because it was expected momentarily that the right to collect these would pass to the representative of the United States on the ratification of the treaty. This difficulty at first seemed insoluble, but it was happily solved by the action of a Porto Rican merchant doing business in Santo Domingo who made a contract by which he agreed to advance \$75,000 a month for administrative necessities on the security of the delivery to him of the promissory notes received at all the ports except the two in possession of the Santo Domingo Improvement Company. He was justly confident that in the event of ratification he would be allowed to reimburse himself for his advances.

This arrangement afforded the further advantage of centralizing and facilitating collections. Mr. Michelena refused to accept from merchants old obligations of the government in payment of those promissory notes, and during February and March succeeded in collecting a much larger net sum per month than the government officials themselves had ever been able to get. Indeed, the collections amounted to considerably more than the advances, and this surplus was retained, with the consent of the Dominican Government, in Mr. Michelena's hands as a fund with which to meet administrative expenses during the interval between the expected ratification of the convention and the time when the promissory notes given subsequent thereto should begin to fall due.

About March 10 an Italian war vessel arrived in Santo Domingo, whose captain had orders to take such measures as he saw fit to secure observance of the Dominico-Italian protocol; but on his learning that

the Dominican Government was really in earnest in its efforts to pay its debts and would ratify the convention, he expressed himself as satisfied that Italian rights would be protected, and departed for Jamaica. On March 19 a telegram was received in Santo Domingo announcing that the United States Senate had rejected the treaty. Meetings of opponents of the government were immediately held and messages sent to revolutionists in all parts of the Republic. It seemed certain that a formidable revolution would break out at once. The next day, however, came the correct news that the Senate had simply adjourned and that the treaty was still pending before it for ratification. The excitement died down, but anxiety was renewed by the return of the Italian war vessel. Without hesitation or delay the government announced to the creditors that it would do anything in its power which they might suggest, and that it was willing to devote 55 per cent of its revenues to their payment. It immediately became evident that the creditors would be satisfied with such an amount, and that they even would be willing to wait an indefinite time for actual payment, providing they could be assured that the revenues would be honestly collected and the creditors' proportion placed in secure hands. Accordingly, the Dominican Government submitted to the American minister a draft of a proposed *modus vivendi*, which after some modifications was submitted to the President of the United States and by him accepted. An examination of its provisions will, I think, show that it was a natural and inevitable outgrowth of the Michelena contract, and that it is another step on the stairway leading from the hopeless financial confusion of past years to the order, security, economy, and prosperity reasonably to be expected from the treaty now pending.

Respectfully submitted.

THOMAS C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 181.]

AMERICAN LEGATION,  
*Santo Domingo, November 3, 1905.*

SIR: I have the honor to report that on the morning of the 23d of October President Morales verbally told me he had just received word that Mr. Morris, an American in the employ of Colonel Colton, general receiver of the Dominican customs service under the *modus vivendi*, had been ambushed and seriously wounded at a remote point of the interior near the Haitian frontier. We at once sent for Mr. Colton, and the President said that every possible measure would be taken for the rescue of Mr. Morris from his difficult position and for the capture and punishment of the criminals. The report of the affair gave no details, and while we felt sure that it had no immediate political significance it appeared that disorders might spread when the Dominican troops should reach the scene with orders to hunt down the assassins.

I thereupon requested the senior naval officer at this station to send for me the following cipher telegram to Admiral Bradford:

SANTO DOMINGO, *October 24, 1905.*

BRADFORD, *Olympia, Monte Christi.*

The official of the American customs authorities Morris wounded and one native soldier killed near Neyba October 21. Detachment about fifty men was sent from Santo Domingo city October 23. There is no significance politically, but trouble might grow. A vessel may be needed at Azua later.

DAWSON.

To this Admiral Bradford replied as follows:

MONTE CHRISTI, *October 26, 1905.*

"SCORPION" (for Dawson):

I understand you will advise me if there is any necessity for ships at Azua. All busy, but will send one from north coast if there is any necessity.

BRADFORD.

I immediately answered as follows:

SANTO DOMINGO, *October 26, 1905.*

BRADFORD, *Olympia, Monte Christi:*

Neyba news reassuring. No immediate need of ship.

DAWSON.

I also confirm my telegram to you as follows:

SANTO DOMINGO, *October 24, 1905.*

SECRETARY OF STATE, *Washington:*

American Customs Official Morris wounded and Dominican customs guard killed by smugglers 21st near Neyba. Fifty soldiers sent from here 23d to pursue murderers. Has no significance politically, but smugglers' friends numerous. There may be resistance. War vessel should be in readiness to go to Barahona. Have informed Admiral.

DAWSON.

and your reply thereto:

WASHINGTON, *October 25, 1905.*

DAWSON, *American Legation, Santo Domingo:*

The following letter has been sent to the Secretary of the Navy:

"This Department has just received the following dispatch from the American minister to Santo Domingo [quoting yours of the 24th]. In describing Mr. Morris as an American customs official Mr. Dawson of course means that Morris is an American who is an official in the Dominican customs service. The whole system of revenue collection in Santo Domingo at the present time exists under Dominican authority solely and the officers engaged in administering it are executing the laws of the Dominican Republic under the authority of the Dominican Government, and are in no sense American officers or acting under American authority. It seems important to see that this distinction is understood by all officials and representatives of our government.

"Presence of an American war vessel Barahona would therefore be only for the purpose of protecting lives and property of American citizens in case disorder is found to exist or is imminent to such degree that they are not being or can not be properly protected by the Dominican authorities."

If ship needed at Barahona, I think it is desirable that the Dominican Government request its presence in order to protect American citizens. Reply.

ROOT.

and my further telegram, as follows:

SANTO DOMINGO, *October 26, 1905.*

SECRETARY OF STATE, *Washington:*

Telegram received. Distinction clearly understood. Latest news from Neyba reassuring. People showing no sympathy with assassins. There is no necessity for Dominican Government at the present moment to request presence of American ship Barahona. Morris without good medical attendance. Dominican vessel carries *Scorpion's* surgeon Barahona to-day.

DAWSON.

The fact that Mr. Morris is a Dominican and not an American official was well understood by President Morales and myself, but when the first meager reports came in it seemed to both of us advisable to inform Admiral Bradford and the State Department, so that the Navy would be prepared to promptly aid the Dominican Government in case the latter should find itself compelled to request its assistance in the protection of him as an American citizen. Having been informed on the 25th by Colonel Colton that he desired to send at once a trusted subordinate, accompanied by the *Scorpion's* surgeon, the President at once placed the Dominican gunboat at his disposal for that purpose.

After considerable difficulty and delay Colonel Colton's representatives reached the place where Mr. Morris was lying and conveyed him to this city. His wounds are severe, but he will survive. The Dominican authorities intrusted with the identification and capture of the criminals have, so far as yet reported, met with no success. It is regarded as of great importance to the future success of the customs service that the criminals be determinedly followed up.

The latest reports make it to me seem possible, though not likely, that some resistance may be encountered among the ignorant and semicriminal classes in the wilderness along the Haitian frontier.

I have, etc.,

T. C. DAWSON.

[NOTE.—Subsequent correspondence will be printed in Foreign Relations 1906.]

### ENFORCEMENT OF THE SUGAR-PRODUCTION TAX.

*Minister Dawson to the Secretary of State.*

No. 117.]

AMERICAN LEGATION,  
*Santo Domingo, March 3, 1905.*

SIR: Referring to the subject of my No. 101, of January 3 [not printed], the enforcement of the sugar-production tax, I have the honor to report that, on January 17, at Macoris, Dominican authorities, acting under instructions from the department of finance, seized 400 bags of sugar belonging to the Porvenir sugar estate for the purpose of selling it and applying the proceeds on the amount of sugar-production tax alleged to be due from said estate. I inclose herewith a copy of a letter from the manager of the estate, reciting the facts, and the telegraphic correspondence between him and myself.

Immediately on the receipt of the first telegram I had gone to the minister of foreign affairs and then to the minister of finance, respectively, representing the inadvisability of such action. The latter was at first inclined to stand to what he had done, but on my earnestly calling his attention to the inconvenience, at that critical juncture of the negotiations for a general financial arrangement, of involving his government and our legation in a serious difference, and to the fact that I was daily expecting definite instructions from my government, he finally promised to issue orders to suspend the legal process. However, he delayed two days in carrying out his promise and I was compelled to bring further pressure to bear on him through the President and minister of foreign affairs.

Mr. Farrand did not write me when the sugar was finally released, but I think it was done on January 22.

President Morales and General Sanchez have spoken to me repeatedly during the last six weeks, urging me to tell them what decision my government had arrived at as to the validity of the contract and the right of the Dominican Government to enforce the law of last April. They represent to me that they have held the matter open for months to allow my government to investigate the contract; that the presumption ought to be in favor of the validity of the law, contract or no contract; and that the delay occurring as it does in the producing and shipping months, the sugar producers will get all their sugar safely out



of the country and the tax will be impossible of collection if the State Department should finally conclude not to intervene.

To this I answer that the contract must be regarded as *prima facie* valid and the Department given time to consider the arguments pro and con, which did not reach Washington before the middle of January. I can not tell how long such arguments and my frankly expressed personal desire will continue to prevail, and I should be glad to receive the instructions of the Department at the earliest date possible. The sugar-shipping season is drawing to a close, and I do not believe this government will let the last shiploads of the different estates be exported without seizure, unless in the meantime I am instructed to say definitely that my government believes the contract is valid and will make a claim if it is violated.

As a matter of fact I am surprised that my good offices have continued to be successful since February 7, when the protocol was signed, because this government believes it would get for its own use all the sugar tax it can collect or which will become due up to the moment the protocol goes into effect. The total sum for the season will probably reach \$125,000, and it practically will be very difficult to secure the application of any part of it which goes into Dominican hands to the benefit of existing foreign creditors. Even if the contract should be held by the State Department to be valid, this government might well believe that it runs no risk in violating it, since the injured sugar planters would strictly have nothing more than a claim, which under the protocol the United States would have to provide for out of the 55 per cent of the customs collected after the protocol goes into effect.

I am, however, of the opinion that it would become my duty, if forcible collection is attempted and the Department sustains the contract, to demand the immediate release of the sugar which may have been seized, and also the repayment of the specific sums of money which may have been paid, and this on the theory that the damages would be *ipso facto* liquidated at once and that the claimants would have a specific lien on the fund wrongfully taken from them. Since it is unlikely that any of the sugar planters would voluntarily pay, my action practically would be directed to securing the release of sugar which will be seized.

Another difficult question will probably arise if the contract is held to be invalid and the tax therefore collectible. When the convention goes into effect, the Dominican Government will very likely insist that this sugar-production tax is not a custom-house receipt and that its proceeds should not be included in the revenues which are to be divided between the creditors and the government. I will combat this position, should it be taken, unless the Department instructs otherwise. However, the question is not likely to become of practical importance, since all the sugar crop of this year will probably have been shipped before the convention is ratified, and by next year this government will, if it carries out its expressed intention, have abolished the export taxes and this "production" tax, which is in effect nothing more than an export duty.

I have, etc.,

T. C. DAWSON.

[Inclosure.]

*Mr. Farrand to Minister Dawson.*

THE PORVENIR SUGAR COMPANY,  
*San Pedro de Macoris, January 20, 1905.*

DEAR SIR: On the 14th instant the administrador de hacienda of this town called on me and presented me a bill for 10 cents per 100 pounds of sugar for 8,000 bags that this company had shipped, which I refused to pay on the ground that this matter was being investigated by our government and the Dominican authorities. On the 17th instant my man in charge of the storehouse notified me that the authorities had embargoed 400 bags of our sugars, and asked me if he should deliver it.

I gave him instructions not to deliver. On the 18th instant, at 7 o'clock a. m., my man in charge of the storehouse called me by telephone and advised me that the 'comisario de policia,' with police and mule carts, were at the storehouse and asked him to deliver 400 bags, which he refused to do. The authorities then took the sugar from the storehouse and carted it to the town of Macoris. I therefore telegraphed you as follows:

"AMERICAN MINISTER, *Santo Domingo*:

"Authorities have embargoed and taken from our storehouse 400 bags sugar. Please advise.

"FARRAND."

To which I received your reply:

"PORVENIR SUGAR COMPANY, *San Pedro de Macoris*:

"Was seizure for purpose of collecting tax? Answer. Minister finance promised me yesterday to suspend collection.

"DAWSON."

I replied:

"AMERICAN MINISTER, *Santo Domingo*:

"Seizure was made to collect production tax.

"PORVENIR SUGAR COMPANY."

To-day (January 20) I received from you the following:

"PORVENIR SUGAR COMPANY, *San Pedro de Macoris*:

"Report if sugar released.

"DAWSON."

To which I replied:

"AMERICAN MINISTER, *Santo Domingo*:

"Sugar not yet released.

"PORVENIR SUGAR COMPANY."

My agents, Messrs. Yhssen, Schumacher & Co., have sent twice to-day—once this morning and again at 3 o'clock this afternoon—to the administrador de hacienda, requesting the delivery of said sugars, and at both times received the reply that he had no orders to deliver the same.

My owners have cabled me for particulars, and you would oblige me if you would kindly advise me in the morning what steps will be taken in this matter, so that I can cable them.

Thanking you, etc.,

F. FARRAND,  
*Manager of the Porvenir Sugar Company.*

*The Acting Secretary of State to Minister Dawson.*

No. 48.]

DEPARTMENT OF STATE,  
*Washington, March 23, 1905.*

SIR: I have to acknowledge the receipt of your telegram of the 16th instant, reading as follows:

Minister of finance will not further delay beginning suit to collect sugar tax. Telegraph instructions.

In reply I have to say that negotiations have been had between the Dominican Government and that of the United States with a view of reaching a satisfactory solution of all questions affecting claims of American citizens arising in Santo Domingo. The result of those negotiations has been submitted to and is now pending before the United States Senate. While the Senate has this matter under advisement the Department can take no action. This will be deferred until a final determination has been reached as to the course to be pursued by the government.

I am, etc.,

ALVEY A. ADEE.

*Minister Dawson to the Secretary of State.*

No. 130.]

AMERICAN LEGATION,  
*Santo Domingo, April 26, 1905.*

SIR: Referring to your No. 48, of March 23, 1905, in regard to claim based upon an expected violation of a contract exempting sugar producers from taxes, I have the honor to report that your instructions will be followed, and I will cease to use my good offices with the Dominican Government to prevent the collection of the sugar tax, which good offices were effectively offered pursuant to Department's telegram of December 14, 1904.

I have, etc.,

T. C. DAWSON.

#### CELEBRATION OF DOMINICAN INDEPENDENCE DAY.

*Minister Dawson to the Secretary of State.*

No. 120.]

AMERICAN LEGATION,  
*Santo Domingo, March 7, 1905.*

SIR: I have the honor to report that on February 22 the U. S. S. *Tacoma* and *Castine*, then lying off this city, dressed ship and fired the national salute in honor of the day. The Dominican Government had been notified that this would be done, and the flagship *Presidente* also fired a salute of twenty-one guns, hoisting the American flag.

Desiring to reciprocate this courtesy, and believing that in the present critical condition of the relations between the United States and the Republic a good effect would be produced by a public demonstration of our friendly feeling on the occasion of the anniversary of the Dominican national independence—February 27—I solicited the cooperation of Rear-Admiral Sigsbee, commanding the Caribbean Squadron in these waters, by the following telegram:

SANTO DOMINGO, *February 23, 1905.*

SIGSBEE, *Newark, Guantanamo:*

Special celebration here anniversary independence 27th. Your presence would be much appreciated by President and produce happy effect.

DAWSON.

To which he replied:

PLAYA DEL ESTE, *February 24, 1905.*

DAWSON, *American minister, Santo Domingo:*

*Newark will arrive Santo Domingo City 26th.*

SIGSBEE.

Accordingly, on the morning of the 26th, the Admiral arrived with his flagship, finding here the *Castine* and *Stewart*. He kindly assured me of his willingness to take part in all the functions and rejoicings, and I furnished him with the requisite information to enable him to do so.

At 3 o'clock that afternoon he came ashore, accompanied by the commanders of his ships, by the fleet staff, his personal staff, and numerous other officers, and went to the Government Palace, where we joined the President, the Cabinet, a commission of Congress, and various other dignitaries, and with them proceeded to the newly repaired House of Congress to assist at its formal dedication.

Thence we all went to the Cathedral, where it is the custom each year to place votive crowns upon the tombs of the three fathers of Dominican independence—Duarte, Sanchez, and Mella. After the Dominican authorities had deposited their offerings, Admiral Sigsbee and I placed a crown on the tomb of Gen. Francisco del Rosario Sanchez, who was the military head of the revolt against the Haitians in 1844. It seems particularly appropriate for us to select him, because the present minister of foreign affairs, who has shown himself to be so steadfast a friend of American ideas during the last year, is his son. Minister Sanchez was personally deeply affected, and among all classes of Dominicans our act was considered a most striking assurance that their independence would be respected.

I inclose a copy and translation of the account of the ceremonies of February 26, published in the Official Gazette. [Not printed.]

On the morning of the 27th Admiral Sigsbee had his three ships dressed with flags and national salutes fired simultaneously with the salutes of the Dominican forts and ships.

At 8 o'clock in the morning Admiral Sigsbee came ashore, accompanied by the same officers as before, all in full dress uniform, and assisted at the opening of the regular session of Congress and the reading by the President in person of his message. A copy and translation of the latter is inclosed, and to it I invite the careful attention of the Department. Instead of the usual comfortable generalities President Morales frankly exposes the real situation of the Republic and points out specific reforms.

The Dominican authorities, the diplomatic corps, and the American naval officers then went to the cathedral, where we assisted at the *Te Deum*, afterwards returning to the palace for the reception to the diplomatic corps. I inclose herewith copies and translations of the President's toast and the reply of the dean. [Not printed.]

In the evening the admiral and officers attended the formal ball, and left behind them, I believe, a conviction in the minds of all those present that Americans respect, and will continue to respect, Dominicans as individuals and as a nation. The fleet band also came ashore and played during the evening in the plaza, alternating with the Dominican band.

I highly appreciate the assistance Admiral Sigsbee gave to this legation, not only in securing by firm and adroit diplomacy a peaceful acceptance of the award by Monte Christi, but also in consolidating by this visit to the capital an already favorable impression as to the American character and aims.

I have, etc.,

T. C. DAWSON.

MESSAGE OF PRESIDENT MORALES L., TO THE DOMINICAN  
CONGRESS.

*Minister Dawson to the Secretary of State.*

No. 120.]

AMERICAN LEGATION,  
*Santo Domingo, March 7, 1905.*

SIR:

\* \* \* \* \*

A copy and translation of the message of the President is inclosed, and to it I invite the careful attention of the Department. Instead of the usual comfortable generalities President Morales frankly exposes the real situation of the Republic and points out specific reforms.

\* \* \* \* \*

I have, etc.,

T. C. DAWSON.

[Inclosure.—Translation.]

[Message which Carlos F. Morales L., constitutional President of the Republic, addressed to the National Congress February 27, 1905.]

FOREIGN RELATIONS.

It has been an arduous labor—that of the Dominican foreign office—in what refers to the solution of the many problems which have completely absorbed the attention of this Department. It can be said that it has been a continual struggle, undertaken with the patriotic purpose of freeing the Republic from grave international complications by defending energetically, though discreetly, its interests and endeavoring to maintain relations of the closest cordiality with all foreign nations.

The arbitral award in the case of the Dominican Republic with the Improvement Company and its associates required our government to make well-founded protests before the Washington foreign office. The government over which I preside thought that the arbiters had not kept within the bounds of the document giving them authority, and since their capacity was fundamentally derived from the document, when the power conferred was exceeded, the decision fell into one of those exceptional cases which, in matters of arbitration are provided for by international law. It took effective measures in regard to this, and while its negotiations for this purpose were proceeding the convention of January 20 last was concluded, which was amplified by the additional act of the 7th of the current month. This convention and the said additional act are the immediate consequence, on one side, of the administrative errors committed by former administrations, and of the urgent necessity of attending to the peremptory complaints made by foreign creditors.

The moment has come to declare solemnly to you, honorable representatives of the people, and in this august place before the face of the country, that I am and will be under all circumstances the most jealous guardian of the national independence, and that there can be nothing which will make me vacillate in the least when the question is one of the territorial integrity or the political autonomy of the Republic.

The convention is a work of necessity and the method of coming to an agreement which will put it within the power of the country to resolve the problem of its debt.

In submitting it to your high approbation I am confident that your patriotism, going to the bottom of the mountain of events which have brought the Republic to its present pass, will take its inspiration in the reality of our surrounding circumstances.

Only that patriotism is fecund which shows itself in deeds of practical usefulness, and not that which, under pretense of flattering the populace, precipitates the Republic into grave and unavoidable conflicts. Civic virtue does not consist in provoking events, but in rectifying the past by force of virtue, of moderation, and of persistent dedication toward making our nationality inviolable by the prestige of its credit and by the development of its civilization and culture.

I repeat it to you, citizen deputies, in this grave and solemn hour of the Republic, I will be at my post maintaining unblemished the national honor.

The Republic of the United States of America and that of Cuba have raised their respective representatives, the former to the rank of minister resident and the latter to *chargé d'affaires*, and this shows their desire of drawing closer each day the existing bands of mutual cordiality between us and them.

It is an earnest ambition of the Executive to open to our educated young men the diplomatic and consular careers, in order that the country by means of a worthy representation abroad may consolidate the relations that bind us to friendly nations, and, thanks to the expansion of ideas, make our nationality really known in all the organs of its internal life.

Desirous as it is of always preserving the closest harmony between the secular power and the Holy See, the government has received with profound pleasure the selection of Monseigneur Nouel, a man full of learning and virtues, as coadjutor of the most worthy archbishop of Santo Domingo, the learned prelate Monseigneur de Morino, who has known how to maintain with the splendor of the faith the venerable religious belief of the Dominican people.

**QUESTIONS BETWEEN THE DOMINICAN AND HAITIAN GOVERNMENTS CONCERNING RIGHT OF SYRIANS CLAIMING DOMINICAN CITIZENSHIP TO DO BUSINESS IN HAITI.**

*Minister Dawson to the Secretary of State.*

No. 133.]

AMERICAN LEGATION,  
*Santo Domingo, April 27, 1905.*

SIR: I have the honor to confirm your telegram of April 16, as follows:

WASHINGTON, *April 16, 1905.*

DAWSON, *Minister, Santo Domingo:*

Our minister to Haiti cables that unless Haitian Government gives those Syrians who have claimed to be Dominican citizens permission to do business the Dominican minister asserts that he will close his legation, and all Haitians will be expelled from Dominican Republic. Has Dominican minister such instructions? There should be no complications between the two island Republics.

LOOMIS.

and to say that I immediately called upon the minister of foreign affairs, and found that he was at that moment in conference with Mr. Borno, the Haitian minister. He gave me a private interview at once, and promised me that he would do everything possible to avoid a rupture, explaining the real situation, which, it appeared from his statement, was not yet acute and hardly likely to become so. All that the Dominican Government desired was not to be publicly humiliated by being subjected to treatment different from that accorded stronger powers. He said that he had just been discussing with Mr. Borno the effect on the status of Syrians naturalized as Dominicans of the treaty of friendship, commerce, and navigation negotiated between the two Republics many years ago. There was some question as to whether it was still in vigor, but he assured me that his discussion with Mr. Borno would be conducted amicably and would be confined to the legal features of the matter.

Accordingly I telegraphed you as follows:

SANTO DOMINGO, *April 17, 1905.*

SECRETARY OF STATE, *Washington:*

No such instructions have been sent Dominican minister to Port au Prince. Haitian minister to Santo Domingo now in consultation with Dominican Government, who asks for the same treatment for Dominican Syrians as that accorded other Syrians who are foreign citizens. Dominican Government anxious to avoid a rupture.

DAWSON.

For several days I narrowly watched for further developments, but none appeared. Subsequently I learned that the nephew of the Dominican minister to Haiti had been sent to Port au Prince bearing detailed instructions for his uncle.

I have, etc.,

T. C. DAWSON.

**PROHIBITION AGAINST THE EXPORTATION OF ARMS AND  
AMMUNITION TO SANTO DOMINGO.**

*Minister Dawson to the Secretary of State.*

No. 177.]

AMERICAN LEGATION,  
*Santo Domingo, October 19, 1905.*

SIR: Referring to the subject of my Nos. 167 and 170, of September 26 and October 9 [not printed] respectively, the prevention by our naval authorities of the introduction of arms and ammunition into this Republic, I have the honor to inclose herewith a copy of a letter sent by me to Admiral Bradford, informing him of the requests of the Dominican Government that the articles already seized be intrusted to it, and of some of the terms of the Dominican laws and regulations affected. This letter contains various details not given in my said No. 167, and which you may find interesting.

I have also the honor to confirm your telegram, as follows:

WASHINGTON, *October 13, 1905.*

DAWSON, *American Minister, Santo Domingo:*

There is now some difficulty in lawfully preventing the exportation of arms and ammunition to Santo Domingo, which would be obviated by a proclamation by the President prohibiting such exportation under a resolution of Congress approved April 22, 1898. All such exportation would then become unlawful unless especially authorized by this government. We could give such authority in any cases desired by the Dominican Government. Ascertain whether it would be agreeable to that government to have the President issue such a proclamation.

Root.

Immediately on receiving it I called upon the minister of foreign affairs, who referred the matter to President Morales. They appreciated the value of the proposed proclamation by President Roosevelt, and were desirous that it be put into force as soon as possible, only asking for definite assurances that in case their government wishes to import, or permit the importation of, arms and ammunition from the United States in especial cases our government would honor its request to that effect. Your telegram authorized me to give such assurances, and I gave them verbally, promising to confirm them in writing. On this feature there only remains to be determined the most convenient form in which the Dominican Government shall make its requests for the issuance by our government of the special permits. I shall be glad to have the instructions of the Department on this point, for I know that this government will appreciate the indication of a channel which will insure the prompt and unembarrassed shipment of arms intended for its own use.

I confirm my reply to your telegram, as follows:

SANTO DOMINGO, *October 14, 1905.*

SECRETARY OF STATE, *Washington:*

Such a proclamation would be agreeable to the Dominican Government.

DAWSON.

The same afternoon I sent a formal note to the minister of foreign affairs, to which he replied, saying that the issuance of such a proclamation would be agreeable to his government and expressing its gratitude at this new evidence of the American Government's wish to aid in the maintenance of peace in this Republic. A copy of my note and a copy and translation of his reply are herewith inclosed.

I also confirm your telegram, as follows:

WASHINGTON, *October 17, 1905.*

AMERICAN LEGATION, *Santo Domingo:*

President, on 14th instant, issued following proclamation:

"Whereas by a joint resolution, approved April 22, 1898, entitled 'joint resolution to prohibit the export of coal or other material used in war from any seaport of the United States, the President 'is authorized in his discretion, and with such limitation and exceptions as shall seem to him expedient, to prohibit the export of coal or other material used in war from any seaport of the United States until otherwise ordered by the President or by Congress.'

"Now, therefore, I, Theodore Roosevelt, President of the United States of America, for good and sufficient reasons unto me appearing, and by virtue of the authority conferred upon me by the said joint resolution, do hereby declare and proclaim that the export of arms, ammunition, and munitions of war of every kind, from any port in the United States or in Porto Rico to any port in the Dominican Republic, is prohibited, without limitation or exception, from and after the date of this my proclamation until otherwise ordered by the President or by Congress.

"And I do hereby enjoin all good citizens of the United States and of Porto Rico and all persons residing or being within the territory or jurisdiction thereof to be governed accordingly."

Inform Dominican Government any exception desired by that government will be made by special order.

Roos.

I thereupon sent a copy of said proclamation to the minister of foreign affairs and informed him that my government stood ready to make by special order any exception desired by his government. A copy of my note is herewith inclosed.

Not only will the issuance of the proclamation by President Roosevelt assist in lawfully preventing the exportation of arms and ammunition from the United States and Porto Rico into Santo Domingo, but it will greatly simplify the procedure of our officials on this island. Two matters mentioned in my No. 167 may possibly give rise to further correspondence—first, the disposition to be made of the articles already seized, and, second, the question whether our naval officers in making searches shall respect Dominican sanitary laws and regulations. The first matter is now pending on the request of the Dominican Government for the delivery to it of the articles seized from the *Cherokee* and *Seminole*; the second offers more difficulty.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Minister Dawson to Admiral Bradford.*

OCTOBER 12, 1905.

SIR: I inclose herewith for your information an official request by the Dominican Government that the percussion caps seized from the *Seminole* at Monte Christi on or about September 20 by a ship under your orders be delivered to it here at Santo Domingo City. To this I have so far returned no written answer and will await your advices or those of our government before doing so. I have, however, verbally said to the minister of foreign affairs that these percussion caps would probably not be delivered by you until you had received certain instructions you are now waiting for from the Navy Department.

I have also to inform you that shortly after my arrival on September 10 Mr. George R. Colton, general receiver of customs under the *modus vivendi*, was asked by the Dominican Government to procure from you the delivery to it here at Santo Domingo City of the cartridges seized by the U. S. S. *Yankee* from the *Cherokee* on September 5, as appears by the following correspondence:

"MONTE CHRISTI, *September 13, 1905.*

"COLTON, *Santo Domingo:*

"*Yankee* holding cartridges Arias. I have not received instructions.

"PHILLIPS."



"SANTO DOMINGO, September 13, 1905.

"PHILLIPS, *Monte Christi*:

"Receive; hold pending advice. Advise number, kind, circumstances.

"COLTON."

"SANTO DOMINGO, September 13, 1905.

"HONORABLE FEDERICO VELASQUEZ,

"*Minister of Finance and Commerce, City.*

"SIR: I have the honor to inform you that it has come to the attention of this office, through unofficial sources, that the U. S. S. *Yankee* seized from on board the American steamer *Cherokee*, while in the vicinity of Monte Christi, one case of ammunition; that said case was manifested to a local firm in Monte Christi, but that said ammunition was being imported under a permit issued to Governor Arias authorizing him to import 1,500 revolver cartridges. It is said that the case contained other ammunition than that described in the permit. I am now in receipt of the following telegram from the United States naval officer in charge of customs at Monte Christi, to wit: '*Yankee* holding cartridges Arias. I have not received instructions.' Information is therefore respectfully requested as to whether or not a permit was issued to Governor Arias authorizing him to import ammunition, and, if so, how much and what kind? If a permit was issued, a copy thereof is also respectfully requested.

"Very respectfully, your obedient servant,

"GEO. R. COLTON,

"*Controller and General Receiver.*"

"SANTO DOMINGO, September 14, 1905.

"MR. GEO. R. COLTON, *General Receiver, City.*

"SIR: I am in receipt of your letter dated the 13th instant, referring to cartridges imported at Monte Christi by Governor Arias. I beg to reply that said governor was allowed by the government to import 1,500 cartridges for rifles, and a superior quantity having been imported without permission the said cartridges should be sent to this city, according to order issued by the government. From here the quantity authorized by the government will be sent to said governor.

"I salute you attentively,

"FEDERICO VELASQUEZ,

"*Minister of Finance and Commerce.*"

Accordingly, Mr. Colton requested for the Dominican Government the delivery of the cartridges here, and said request was refused by the commanding officer of the *Yankee*, as appears by the following correspondence:

"SANTO DOMINGO, September 14, 1905.

"PHILLIPS, *Monte Christi*:

"Send Arias's cartridges here.

"COLTON."

"MONTE CHRISTI, September 16, 1905.

"COLTON, *Santo Domingo*:

"*Yankee* refuses deliver without order Navy admiral.

"PHILLIPS."

Prior to this the President, the minister of foreign affairs, the minister of finance, and the general receiver had verbally informed me of the general terms of the Dominican laws and regulations in regard to the importation of arms and ammunition and to the boarding of ships entering at Dominican ports of entry.

Under Dominican practice there are two classes of arms and ammunition—that suitable for warlike purposes, such as rifles and revolvers and rifle and revolver cartridges; and, second, that intended for sporting use, such as shotguns, shotgun cartridges, percussion caps, and sporting powder. To obtain permission to import the first class, application must be made by a governor or military commander to the minister of war, and, if approved, then the minister of foreign affairs authorizes the consul at the shipping port to issue a permit. For sporting munitions the procedure is the same except that an application may be made by a merchant, and it must be directed to the minister of interior.

The *Cherokee* seizure was of ammunition belonging to the first class; the *Seminole* the seizure of the second.

President Morales expressed his unqualified approval of the *Cherokee* seizure, on the ground that the shipment did not correspond with the permit either in quantity or consignee. He also agreed that no further permits to import the first class of munitions should be issued except for shipment directly to the central government at this city.

Subsequently, the minister of foreign affairs called my attention to the distinction between the two classes of munitions, and said he thought the second class, or sporting material, should be allowed to come into any port, proper permit having been obtained. I told him that this might give rise to confusion, hamper the efficiency of your operations, and leave the door open for evasions. He replied that his government desired above everything else that the United States naval authorities be not obstructed in their efforts to prevent the introduction of warlike material, but that he felt sure that the searching officers could easily distinguish between the dangerous and innocuous kinds of ammunition. I told him that this was a matter about which your opinion would be of vital importance, and expressed the hope that it be not decided until I had had an opportunity for a full conference with you. After such a conference I could perhaps indicate to him exactly the extent to which the present regulations should be modified to avoid interfering with the efficiency of your operations.

You will observe from the contents of his note hereinbefore inclosed that this government does not seem disposed to insist upon this point, and probably will, if you deem it necessary, refuse hereafter to issue permits for the importation of any kind of arms and ammunition except to this port.

The minister of finance was at first inclined to resent the *Yankee's* refusal to intrust to his government the cartridges already seized, and anticipated that they would have difficulty with the merchants to whom permits had already been issued for the importation of sporting material. The President, however, did not appear to share his feeling, and saw the inadvisability of risking a good understanding with you over a matter of such trifling importance. He said that he felt sure that the Washington Government would order the delivery as requested, or make some other satisfactory disposition of the articles seized.

There was more difficulty with the question as to the time of boarding ships in ports of entry. Dominican laws and regulations, like those of most civilized countries, forbid anyone to go on board an entering ship until the port authorities have visited her. The Dominican President, ministers, and the general receiver regard it as of vital importance at the present juncture that searches be made of suspected vessels at points upon the coast other than entry ports. Not only are such searches politic, but they do not involve any breach of Dominican port and sanitary regulations. The President and his advisers are, however, of the impression that when a ship anchors within the jurisdictional waters of a port of entry with the evident intention to regularly enter, the United States naval officers should, as far as possible, respect Dominican port regulations, and should act in conjunction and harmony with the customs authorities who are appointed by and responsible to the general receiver under the *modus vivendi* and who therefore could not fairly be presumed to be in alliance with intending revolutionists. Further, the port commanders, whose duty it is to board incoming steamers at the various ports, are all, with the exception of the one at Monte Christi, appointed by the central government, and, so far as the government is advised, are faithful to it.

In a word, this government not unnaturally dreaded the odium of seeming to have requested the employment of force and the breach of its own regulations in cases where the ordinary procedure would suffice to prevent illegal importations. At the same time the President and his advisers, including Mr. Colton, were anxious not to offend you and were unwilling to run the risk of interfering with the efficiency of your operations by formulating any definite requests which might be premature and which really could only be made intelligently after learning from you the exact circumstances. I therefore took no action at that time.

When the *Seminole* arrived here on the 23d of September, Arias's indignation at not having yet received his cartridges, seized two weeks before, had seriously hampered Mr. Worley's efforts to organize, in accord with Arias, a frontier guard to prevent smuggling by the land route from Haiti. This I regarded as of the gravest importance, because upon the successful and prompt organization of this guard depends not only a 10 per cent increase of the revenues collected under the *modus vivendi*, but also the assurance that there will be no revolutionary outbreak on the part of Governor Arias for the next few months.

I therefore immediately telegraphed you as follows:

"SANTO DOMINGO, *September 23, 1905.*

"BRADFORD, *Olympia, Sanchez:*

"Request personal consultation earliest opportunity. Can you come here?

"DAWSON."

I confirm your reply, as follows:

"SANCHEZ, *September 23, 1905.*

"DAWSON, *Santo Domingo:*

"Regret can not come to Santo Domingo at present.

"BRADFORD."

Having no information as to how long you intended remaining at Sanchez, and there being no means of transportation at my disposal, I was unable to go to you. Accordingly, the best I could do was to telegraph, although I realized that it was impossible to say within the limits of a telegram all that should be said.

I confirm my telegram to you, as follows:

“SANTO DOMINGO, September 25, 1905.

“BRADFORD, Sanchez:

“Government would appreciate delivery box cartridges Phillips for shipment here. President approves seizure, but holding box hampers Colton's plans. Government and Colton would prefer searches in jurisdictional port waters simultaneously with boarding by port officials and not before, unless in judgment of commanding officer emergency exists. Think advisable not break Dominican regulations: probably can be modified where you think necessary. Impossible to telegraph details related important matters.

“DAWSON.”

and your reply:

“SANCHEZ, September 26, 1905.

“NEWPORT (for Dawson), Santo Domingo:

“In reply to your dispatch, cartridges per *Cherokee* held for order from Washington, D. C. Must board incoming vessels first to carry out instructions most effectively, as foreign port officials frequently smuggle arms and ammunition.

“BRADFORD.”

I am now anxiously awaiting advices from Washington or you in regard to the delivery of Arias's cartridges. There is still a chance that we can get him in line again on the frontier-guard matter if the Dominican Government can give him his 1,500 cartridges, but in the meantime smuggling is going on and news may come at any moment that he has at last broken the slender thread that binds him to this government, or has retaliated in some disagreeable way against the ships under your command. Any revolution he might undertake would probably be easily crushed, but President Morales justly thinks that even a small and unsuccessful rebellion would seriously embarrass him in procuring a ratification of the pending convention. I also am earnestly desirous of preventing any outbreak at the present juncture, and I believe that this is also the wish of the State Department and President Roosevelt.

Yours, respectfully,

T. C. DAWSON.

[Inclosure 2.]

*Minister Dawson to General Sanchez.*

AMERICAN LEGATION,  
Santo Domingo, October 14, 1905.

MR. MINISTER: Referring to the subject of our conversation of this morning, I have the honor to inform your excellency that if it is agreeable to this government the President of the United States will, under a Congressional resolution approved June 22, 1898, issue a proclamation prohibiting the exportation of arms and ammunition from the United States to this Republic.

All such exportation would therefore become unlawful unless specially authorized by the American Government, and my government would of course promptly give such authority in any cases desired by the Dominican Government.

I improve, etc.,

T. C. DAWSON.

[Inclosure 3.—Translation.]

*General Sanchez to Minister Dawson.*

DOMINICAN REPUBLIC, MINISTRY OF FOREIGN RELATIONS,  
Santo Domingo, October 16, 1905.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note dated the 14th instant, whose contents are entirely in accord with our conversation of the same day, and which had as its object the arrangement that the President of the United States should make, in accordance with the authorization given him by Congress, April 22, 1898, for general cases, a proclamation prohibiting the exportation of arms and munitions from the ports of the Union to those of the Dominican Republic, unless the Government of Santo Domingo shall duly manifest its desire that permission shall be granted.

On this account I have the honor to express to your excellency the gratitude of my government toward that of the United States for this new manifestation of its intention to contribute to the peace of the Republic and to the stability of the present government.

I improve, etc.,

JUAN F. SANCHEZ.

[Inclosure 4.]

*Minister Dawson to General Sanchez.*

OCTOBER 18, 1905.

MR. MINISTER: I have the honor to inform your excellency that, after having learned through the ministry of which your excellency is the head that such action would be agreeable to this government, the President of the United States issued on the 14th instant the following proclamation, a copy of which has just been telegraphed to me by my government:

"Whereas by a joint resolution, approved April 22, 1898, entitled 'Joint resolution to prohibit the export of coal or other material used in war from any seaport of the United States,' the President 'is authorized, in his discretion, and with such limitations and exceptions as shall seem to him expedient, to prohibit the export of coal or other material used in war from any seaport of the United States until otherwise ordered by the President or by Congress.'

"Now, therefore, I, Theodore Roosevelt, President of the United States of America, for good and sufficient reasons unto me appearing, and by virtue of the authority conferred upon me by the said joint resolution, do hereby declare and proclaim that the export of arms, ammunition, and munitions of war of every kind, from any port in the United States or in Porto Rico to any port in the Dominican Republic is prohibited, without limitation or exception, from and after the date of this my proclamation until otherwise ordered by the President or by Congress.

"I do hereby enjoin all good citizens of the United States and of Porto Rico and all persons residing or being within the territory or jurisdiction thereof to be governed accordingly."

I am also instructed by my government to inform your excellency that it stands ready to make by special order any exception which may hereafter be desired by this government.

I improve, etc.,

T. C. DAWSON.

*The Secretary of State to Minister Dawson.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 4, 1905.

There appears to be conflict of procedure between American naval officers boarding vessels for the purpose of ascertaining whether they are importing arms and ammunition in violation of President's proclamation of October 14 and customs authorities at Monte Cristi, who insist upon their right to board first under regulations. Request decision of question by Dominican Government. If they wish effective prevention of importation arms and ammunition, port regulations should be modified to make boarding and search of American ships by naval officers acting in behalf of Dominican Government unquestionably lawful. If they wish naval officers to desist from such boarding and search, this government will instruct accordingly. Confer with Dominican Government as to moral effect of discontinuing present practice. We have some apprehension that it would encourage would-be revolutionists.

Roos.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO, *November 16, 1905.*

I have received the following note from the Dominican minister for foreign affairs: "Executive power has resolved that the naval officers of the United States may make inspecting visit on board American merchant vessels coming to our ports as soon as anchored and, if necessary, before any other person or authority shall have intervened."

DAWSON.

**REVOLUTIONARY DISTURBANCES IN SANTO DOMINGO.**

*Minister Dawson to the Secretary of State.*

No. 185.]

AMERICAN LEGATION,  
*Santo Domingo, November 18, 1905.*

SIR: Continuing the subject of my No. 182, of November 3,<sup>a</sup> the political conditions in this Republic, I have the honor to report that on the 6th instant the minister of foreign affairs informed me that revolutionary conspiracy had been discovered at Macoris, and that opposition leaders in this city and the neighboring communes of San Carlos, Jaina San Cristobal, Boca Chica, Hato Mayor, and others had been observed to have been for some days in active correspondence. This government feared that a formidable outbreak was imminent in the southern part of the Republic, which probably was being planned in concert with discontented leaders in the north and west.

\* \* \* \* \*

The minister then told me that reenforcements had been sent the governor of Macoris; that expeditions would be promptly sent to the headquarters of the revolutionary bands, and a sharp watch was kept by the police in the cities. He hoped that these vigorous measures would quickly discourage the malcontents and prevent the trouble from spreading. In his judgment there was, however, a possibility that the Macoris custom-house might be rushed if a revolutionary band should succeed in defeating or eluding the government expeditions and on reaching the city find no American war ship in port. If one were there the revolutionists would not dare to attack the custom-house. His government would be grateful if the American Government would send a ship to Macoris, so as to be prepared to protect American citizens in case the Dominican Government should temporarily find itself unable to do so.

Independently of my conversation with Minister Sanchez I had heard from nonofficial sources of the trouble at Macoris and the arrests here, and also of disquieting reports coming from other points. As careful an investigation as it was possible to make in the day following my interview with the minister satisfied me that nothing very grave had happened as yet, but that the news of the discords in the Cabinet and of ex-President Vasquez's opposition to the convention had so

<sup>a</sup> Not printed.

encouraged the Jimenistas that many of their rasher members thought their opportunity to strike had come. On the whole, I deemed the minister's request for a vessel at Macoris justified, in view of the possibility that the situation might suddenly take a bad turn, and I telegraphed you as follows:

SANTO DOMINGO, *November 7, 1905.*

SECRETARY OF STATE, *Washington:*

Revolutionary conspiracy discovered at Macoris. Thirteen arrests there; twelve here; others escaped to the interior. Fifty in arms 15 miles west of Macoris. Dominican Government thinks they may attack Macoris and the movement spread other points. It is reported that conspirators have received funds from New York. \* \* \*. A United States vessel needed Macoris. Jones has informed Admiral.

DAWSON.

I have the honor to confirm your reply as follows:

WASHINGTON, *November 7, 1905.*

DAWSON, *American Legation, Santo Domingo:*

War ship ordered to Macoris. If marines required to restore order, there should be first an express and clear request from the Dominican Government that they be landed for temporary protection of life of American citizens which Dominican Government declares itself for time being unable to protect. Upon such request necessary force will be landed. Naval officers will be instructed to act upon notice from you that such assistance has been requested. An immediate understanding on this subject with the Dominican Government seems important.

Roos.

Upon receiving this telegram I called upon the minister of foreign affairs and told him of its contents. He said that he had always understood that the primary duty of protecting American citizens in the Republic, including those who are employed by his government to collect its custom-house revenues, falls upon the Dominican Government. In view of that duty and of your telegram to me, it remained clearly understood that the American Government would not land armed forces unless the Dominican Government, finding itself unable to protect the lives of American citizens employed in its custom-houses or elsewhere, should request such landing. Up to the present time the Dominican Government had maintained order and its authority in the city of Macoris and its immediate vicinity and at all the other ports of entry, with the exception perhaps of Monte Christi, and he hoped would continue to be able so to do. He had suggested, not the present landing of marines, but only the presence of a ship in the neighborhood so as to be prepared for prompt action in the contingency of a sudden reverse to the government forces.

I thereupon telegraphed you as follows:

SANTO DOMINGO, *November 8, 1905.*

SECRETARY OF STATE, *Washington:*

I have reached perfect understanding with the Dominican Government in accordance with instructions your cipher telegram of this morning. Macoris quiet in the city. No further news from the interior. Mere presence of a United States vessel probably will be sufficient.

DAWSON.

On the 10th the U. S. S. *Denver* reached Macoris, and on the same day the *Olympia*, with Admiral Bradford on board, anchored at this port. Since that time matters have outwardly continued in statu quo in the cities of Macoris and Santo Domingo. Instead of awaiting an attack and allowing the discontented time to gather in the interior in dangerous numbers, the government has sent several expeditions out

after its enemies. One expedition from Macoris encountered an armed band near Hato Mayor. The latter fled and scattered after the exchange of a few shots. A few days later a government expedition from Seybo found another band at El Salto. The telegraphed report of the commandant is very meager, but it is clear he was victorious, and he is confident that he will restore peace in his province within a few days. Expeditions have also been sent from this city to San Cristobal and Boca Chica, but no fighting has been reported. Arrests have also continued to be made.

In La Vega, a few nights ago, there was an exchange of shots in the streets between the supporters of the Horacista governor and some Jimenistas. A well-known guerrilla chief, Nene Cepin, is reported to have been involved and he is now said to be in the woods with some followers.

The *Denver* will return to Macoris on the 20th. Admiral Bradford, with the *Olympia*, will remain here a few days. He is thoroughly informed as to the situation, and tells me he will send a ship to Puerto Plata shortly. Thus, all the ports except Azua and Barahona are guarded. These two ports are quiet and there are no signs of trouble in their neighborhood, so there is no further precaution which the Navy can take.

\* \* \* \* \*

I have, etc., T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 193.]

AMERICAN LEGATION,  
*Santo Domingo, November 25, 1905.*

SIR: Continuing the subject of my No. 185, of the 18th instant, political conditions in this Republic, I am glad to be able to report that the revolutionary movement in Seybo, Macoris, and Santo Domingo provinces, referred to therein, seems by latest information to be in process of complete disintegration and suppression.

About the 14th one of the subordinate revolutionary chiefs in Seybo Province surrendered, with 15 followers, to the rural guard. On the 18th, Berroa, the active head of the whole movement, being then in hiding in the woods back of Hato Mayor, asked the acting American consular agent at Macoris, whom he had reason to believe was personally well disposed, to offer mediation with a view to arranging terms of surrender. The consular agent referred the matter to me, and I immediately brought it to the attention of the minister of foreign affairs, taking care to present it in a way not calculated to give offense. The minister replied by showing me a telegram received within the hour from the governor of Seybo, announcing the capture of Berroa and three of his companions after a resistance in which one of the latter was wounded.

I inclose herewith a copy of the consular agent's letter to me and a copy and translation of Berroa's letter to him.

Through a Dominican friend who was present I learn that the village of Boca Chica did in fact pronounce against the government when Berroa fled from Macoris. But the revolution failing to gain headway elsewhere, the Boca Chica leaders took to the woods as soon as the government landed a small expedition at that port.

The governor of Seybo is receiving much praise for the energy and tact he has displayed, and especially for his having taken vigorous steps, under instructions from President Morales, to punish Gen. Teofilo Estrella, who ordered shot without process of law a certain Timoteo Guzman, suspected by him of complicity with the disturbances. Estrella is in prison charged with murder.

On the whole, I feel justified in reporting that in my opinion the chances of avoiding a civil war seem much better than when I last wrote. Nevertheless, the condition is one of unstable equilibrium and some unforeseeable and unpreventable event may occur to give the lie to my favorable forecast.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Consular Agent Reed to Minister Dawson.*

AMERICAN CONSULAR AGENCY,  
Macoris, November 20, 1905.

SIR: Not aware that I had relieved Mr. Friedheim as acting consular agent at this place on the 17th instant, Mr. Berroa Canelo, insurrectionist, addressed a letter to Mr. Friedheim, under date of the 19th instant, which the latter received yesterday, asking him to exercise his good offices with the Dominican Government with the object of the ultimate surrender of the said Canelo. Mr. Friedheim, of course, turned this letter over to me at once, and I beg to inclose the same to you to take such action as in your good judgment it appears best to do, assuring you only of one thing—that you will gain the gratitude of the whole sugar interests around this place if, through your kind intervention, entire peace is restored in this district, which is of the utmost importance to the planters here to see solidly established during the grinding and manufacturing of the coming sugar crop.

I have, etc.,

E. C. REED.

[Subinclosure.—Translation.]

*Señor Canelo to Mr. Friedheim.*

HEADQUARTERS CAMP, November 19, 1905.

DEAR SIR: Informed by a mutual friend, who is worthy of belief, that you, if I authorize it, would have no objections to ask of the National Government guaranties for myself and my followers with the purpose of reestablishing the national peace in this region, I come by this letter to give you full powers to ask such guaranties in the form that you may judge best, but under the following conditions:

1. Suspension of hostilities from the time you take any action.
2. I will not surrender myself to any authority, but will go in the capacity of a person given asylum from the place where I may be to the American vice-consulate.
3. The government of Macoris shall grant me safe conduct for foreign parts.
4. The other persons who are with me shall present themselves before the governor of Macoris, who shall give them safe conduct—to those who ask it—for other parts of the Republic at the choice of the persons so presenting themselves. Neither those who leave nor those who remain in Macoris shall be interfered with on account of the fact that they have accompanied me in this revolutionary movement.
5. I shall give a letter of identification for use when they present themselves to the persons who are under my orders in other camps, but who are not in the headquarters camp.
6. Neither now nor hereafter may the government molest me in my person or interests on account of this revolution.
7. All political prisoners must be placed immediately at liberty.
8. The arms captured by the revolutionary forces from the government troops shall be given back.

Further, you are authorized to modify or add to these conditions within the limits of what is reasonable and lawful, keeping in mind that the guaranties must be ample and for all.

I thank you in advance, and am your obedient servant,

Q. BERROA CANELO



*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO, *December 3, 1905.*

Vice-President has arrived at call Horacista Cabinet ministers. The public fears rupture between him and the President. At the request of both, I will be present at conference. If the Vice-President and his faction, who control military, should imprison, drive from capital, force resignation \* \* \* of the President, am I authorized to ask admiral to land forces to protect American citizens and preserve order? No constitutional recognized government would exist to ask American assistance as indicated in your telegram of the 8th November.

DAWSON.

*The Secretary of State to Minister Dawson.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, December 4, 1905.*

Strongly advise President to avoid rupture with cabinet. We are not willing to give instructions to admiral based on assumption that Vice-President and cabinet will create situation requiring our intervention for the protection of American citizens.

ROOT.

*The Secretary of State to Minister Dawson.*

[Telegram.]

WASHINGTON, *December 6, 1905.*

Dispatches received here by Navy Department from Bradford and by Joubert from Vasquez represent serious disturbance. The President wishes you to urge amicable settlement of differences in government. There is good reason to expect early action on treaty here. We can not take any part in differences between factions or officers of Dominican Government. No troops are to be landed except when absolutely necessary to protect life and property of American citizens, and if landed they must confine themselves strictly to such protection, which will extend to the peaceable performance of duty by the Americans who are collecting revenue in the custom-houses so long as the Dominican Government desires them to continue that service. If Dominican Government determines to end the *modus vivendi* and the collection of duties by Americans nominated by President of the United States, protection will extend to their safe withdrawal with their property.

Notice of such termination should be given formally. We are about to withdraw several of our ships, which will return to United States with Admiral Bradford.

ROOT.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO, *December 7, 1905.*

Yesterday's disturbances were precipitated by misunderstanding demonstration made by admiral without consultation with me or notice to the Dominican Government. Public excitement quickly subsided when real intention was explained. Dominican minister for foreign affairs has been forced to resign, but the other cabinet ministers have reached agreement with President.

The Dominican Government desires to continue *modus vivendi*. The Vice-President has given written assurance on behalf of Horacista congressional majority that they will ratify convention with one amendment, as follows: After word "Dominicana," second line, seventh article, "previa autorización de su Congreso."

DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO, *December 13, 1905.*

This city continues quiet. Horacistas and President announce complete reconciliation. Full account incident, with correspondence exchanged, will be mailed December 20.

DAWSON.

*Minister Dawson to the Secretary of State.*

No. 198.]

AMERICAN LEGATION,  
*Santo Domingo, December 20, 1905.*

SIR: I have the honor to report that Emiliano Tejera has been named minister of foreign affairs and taken charge of the portfolio. I inclose a copy and translation of his note informing me.

The appointment is an excellent one, in my judgment, and insures the continuance of the good relations which have existed between this legation and the Dominican foreign office. The new minister is the intellectual leader of the Horacista party, is universally respected for his rigid personal and political honesty, and is the strongest conservative force in the Republic. He regrets the necessity for foreign financial intervention, but, having recognized it, is and has been for the last year the most powerful and influential advocate of a ratification of the convention. He is a wealthy man, without personal ambition; he dislikes politics, and accepts the position only because he believes his country and party need his services at this time. He will exercise a wholesome restraining influence on the violently disposed and do much to maintain the accord between Morales and Caceres.

I have, etc.,

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

No. 199.]

AMERICAN LEGATION,  
Santo Domingo, December 20, 1905.

SIR: Continuing the subject of my No. 197, of the 15th instant,<sup>a</sup> political events in this Republic, I have the honor to report that all has been quiet in this capital since that date and no news of trouble in any part of the Republic has reached me.

The only points which give me any uneasiness are Puerto Plata and Monte Christi.

Vice-President Caceres left across country for La Vega, Santiago, and Puerto Plata on the afternoon of the 18th. He goes to the latter place with the intention of securing the adherence of the governor, Fermin Perez, to the arrangement reached between the President and the Horacistas.

I have, etc.,

T. C. DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO [Received December 23, 1905].

The Dominican Government informs me governor of Puerto Plata since this morning barricaded in citadel and arresting Horacistas, causing general alarm. The Dominican Government thereupon named his successor; resistance feared. The Dominican Government intends act with caution and legally.

DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO [Received December 26, 1905].

President left city suddenly and secretly last night. Government force pursuing him. General disturbances likely.

DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO [Received December 26, 1905].

Dominican minister for foreign affairs notifies diplomatic corps that President having clandestinely abandoned capital, leaving government without acting head, Cabinet has called Vice-President to take charge, pending temporary failure of President to exercise his functions. (See article 46, Dominican constitution.) City quiet. Cabinet exercising functions without interruption. President reported at Jaina among revolutionists fighting there. Reported new governor peacefully installed Puerto Plata.

DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO [Received December 27, 1905].

Have received letter of President dated the 24th, saying that he is about to absent himself from capital in order to reestablish legal procedure, and later on will declare another city temporary capital, and will then name a new Cabinet. He is reported to be 15 miles west, fighting troops sent by Cabinet. American citizens interior alarmed, fearing that landing American seamen would be followed by violence to themselves.

DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO [Received December 28, 1905].

Jimenistas advancing from Monte Christi against Santiago. The President still fighting near Jaina; his force small. City quiet, but apprehensive.

DAWSON.

*Minister Dawson to the Secretary of State.*

[Telegram.]

SANTO DOMINGO [Received December 29, 1905].

Gunboat *Independencia* sent by Cabinet to Sanchez with munitions has deserted and gone to Monte Christi. Will probably bring expedition against Macoris or other point. Whereabouts of the President unknown. The Vice-President arrives here to-day. French chargé d'affaires offers, if agreeable to the American Government, to send Martinique for war ship to aid in protecting lives foreigners which might be endangered by landing American seamen.

DAWSON.

*The Secretary of State to Minister Dawson.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, December 29, 1905.

Your cable December 29.

Instructions in my cable of December 6<sup>a</sup> should be followed strictly. In that case there will be no landing of troops under any such circumstances as to justify apprehension of danger to lives of foreigners.

ROOT.

*Señor Tejera to Señor Joubert.*

[Handed to Mr. Root December 30, 1905.]

[Telegram.—Translation.]

SANTO DOMINGO [Received December 29, 1905].

JOUBERT, *Washington*:

Congress will accept treaty amended according to cable to Mr. Root December 7.<sup>a</sup> Executive approves. Caceres arrived to-day.

TEJERA.

**ESTABLISHMENT OF THE AMERICAN GOLD STANDARD AS THE  
MONETARY STANDARD OF THE DOMINICAN REPUBLIC.**

*Minister Dawson to the Secretary of State.*

No. 188.]

AMERICAN LEGATION,  
*Santo Domingo, November 23, 1905.*

SIR: I have the honor to inclose herewith a copy and translation of a law of this government which establishes the American gold standard as the monetary standard of the Dominican Republic. This law really only confirms and gives unquestionable legal sanction to the practice previously existing in all transactions.

It was passed and promulgated during my recent absence on leave and has only just now come to my attention.

I have, etc.,

T. C. DAWSON.

[Inclosure.—Translation.]

The National Congress, in the name of the Republic and by the initiative of the Executive power, the three constitutional readings being had and urgency declared, considering that it is well for the country to fix definitely the value of the national money in order that it may circulate as a fraction of gold money, decrees:

ARTICLE 1. All transactions and payments made in the Republic shall be effected upon the single base of gold money, taking as the universal standard coined American gold.

ART. 2. From and after the publication of the present decree, under the name "peso" shall be understood only the American "dollar."

ART. 3. In order to facilitate small transactions there shall also be in circulation silver coins and, for the very small, nickel and copper coins.

ART. 4. The gold value of the national coin already in circulation is the following:

(a) The coin of silver alloy marked "5 francs," emission of 1891, is worth and shall be worth 40 cents gold, and the fractions of said emission in proportion.

(b) The coin of silver alloy marked "1 peso," emission of 1897, is and shall be worth 20 cents in gold; the fractional coins of the same emission in proportion.

(c) The coin of nickel alloy marked "2.5 cents," of various emissions, is and shall be worth 0.5 cent gold; that marked "1.25 cents" is and shall be worth 0.25 cent gold.

(d) The coin of copper alloy, emission of 1891, marked "ten-hundredths of a franc" is and shall be worth 1 cent gold; that marked "five-hundredths of a franc" is and shall be worth 0.5 cent gold.

ART. 5. The payments to be made in fiscal and municipal offices, or which result from a judicial instrument on account of obligations between private individuals, shall be made in American coined gold, but the person paying has the option of making said payment in the proportion of 70 per cent in American coined gold and 30 per cent in national silver money, or in American coined silver.

§ Among these thirty units of national money there may be admitted five units of national nickel or copper.

§§ The Executive remains authorized to receive in fiscal offices American paper money or silver at the same value and proportion as coined gold, as long as it may judge such action advisable.

ART. 6 In no specie payment for a greater sum than 50 pesos shall the creditor be obliged to receive more than 30 per cent in national or American silver, nor of nickel and copper more than 5 per cent, except in case of a contrary agreement between the parties.

ART. 7. The present decree does not affect at all obligations contracted between private individuals before its promulgation, and repeals all provisions in contradiction with itself.

§ It shall be sent to the Executive for the constitutional purposes.

Done in the Palace of Congress on the 19th day of June, 1905, sixty-second year of Independence and forty-second of the Restoration.

J. E. OTERO NOLASCO,  
*President.*

J. D. ALFONSECA H.,  
A. ACEVEDO,  
*Secretaries.*

Let it be executed, communicated by the proper department, and published in all the territory of the Republic for its fulfillment.

Done in the National Palace of Santo Domingo, capital of the Republic, on the 21st day of the month of June, 1905.

MORALES L.

Countersigned:

FEDERICO VELASQUEZ H.,  
*Minister of Finance and Commerce.*

## ECUADOR.

### RELIGIOUS LIBERTY IN ECUADOR.

*Minister Sampson to the Secretary of State.*

No. 415.]

AMERICAN LEGATION,  
*Quito, May 30, 1905.*

SIR: In answer to your instruction of April 5, 1905,<sup>a</sup> inclosing copy of letter from Rev. John Lee, who wishes to know what progress has been made in favor of religious liberty in Ecuador during the past sixteen months, I inclose a copy of the law passed by the last Congress, to which reference was made in the clipping taken from the Chicago Record-Herald of March 28, 1905. It is clear and explicit, showing the advance made in religious liberty in this country since November, 1903.

I also inclose chapter 3 of the police code relating to the duty of the police with regard to religious services, etc., as published in the year 1904.

I have, etc.,

ARCHIBALD J. SAMPSON.

[Inclosure 1.—Translation.]

#### LAW OF RELIGIONS.

##### SECTION I.—*Concerning religions.*

ARTICLE 1. The state permits the exercise of every religion which is not contrary to its laws nor to morality.

ART. 2. An attack on a religion or the persons of its ministers in the exercise of a worship permitted in the Republic shall be punished conformably to the provisions of the police law.

ART. 3. The ministers of whatever religion shall be established in the country, in order to enter upon the enjoyment of the guaranties which the constitution and the present law authorize, shall be obliged to bring to the knowledge of the executive the regulations which are observed, or to be observed, in their religious practices.

ART. 4. Religious beliefs shall be no obstacle to the exercise of civil and religious duties, but the ministers of a religion or those who partake of an ecclesiastical character, shall not be competent to exercise public charges which proceed directly from popular election.

##### SECTION II.—*Concerning religious communities.*

ART. 5. Conformably with the constitution of the Republic, the immigration of religious communities is prohibited.

ART. 6. The foundation of new religious orders is also prohibited, as well as a continuous novitiate in a cloister of perpetual closure or of a contemplative life.

ART. 7. In no city of the Republic shall there exist more than two monastic institutions of indefinite closure, except in the capital, in which four may subsist.

The executive power, in conjunction with the ecclesiastical authority, shall consider the means of reducing the number of the monastic institutions.

ART. 8. All of the convents and monasteries shall be subject to the examination and supervision of the boards of health and hygiene and of the police authorities, under the terms of the law, on the subject, after the ecclesiastical authority has been previously advised.

<sup>a</sup>Not printed.

ART. 9. Only native Ecuadoreans entitled to the rights of citizenship may exercise ecclesiastical jurisdiction or discharge the duties of archbishop, bishop, apostolic administrators and vicars, capitulary vicars, dignitaries, canons and prebends, as well as the provincials, rectors, priors, guardians, and in general superiors of the religious orders or congregations admitted in Ecuador.

ART. 10. In the communities in which a novitiate is not prohibited ingress in the character of novices shall only be permitted to persons who have attained their majority of eighteen years.

### SECTION III.—*Concerning ecclesiastical property.*

ART. 11. All the property situated in the territory of the nation shall be subject to the contributions and burdens imposed by the laws and shall be protected by the latter.

ART. 12. Only the Congress shall have power to authorize the sequestration or sale of ecclesiastical property, but if a mortgage or other lien, either with or without a consideration, is to be placed upon it, then the executive authority with the consent of the cabinet shall grant the authority.

The Congress, in order to grant such authority, shall require an inventory and appraisal of the thing to be alienated or encumbered, and the sale shall be made by public auction, in conformity with the code of civil procedure.

ART. 13. Rural estates now owned by the ecclesiastical orders and communities shall be rented out at public auction and for a period of time not exceeding 8 years.

ART. 14. In order to rent out real estate it is necessary to make an inventory and appraisal thereof, and the tenant can not enter into possession unless he gives a mortgage bond which shall insure the fulfillment of the contract.

ART. 15. The property mentioned in the preceding article which is not or can not be rented out shall be administered by "procuradores."

These "procuradores" or administrators shall be appointed by the executive on the recommendation of the owner of the property, but if such recommendation is not made, or the person presented is not suitable, the appointment will be made by the executive himself.

The administrators or tenants, as the case may be, shall cover directly the estimate approved by the executive and shall deliver the surplus to the collectors appointed by the latter.

In order to enter on the administration of the property, the administrators shall give bond according to the financial law, and shall draw up an inventory of the property in accordance with the provisions of the code of civil procedure.

ART. 16. When the present law is promulgated, bidders shall be invited for the administration or renting of the ecclesiastical property, through the press, in the province in which the property is situated, and, besides, in the "Official Register."

ART. 17. The inventory and appraisal of the things which are to be administered or rented out shall be presented to the proper treasury board, by the holders of the property, and in default thereof by experts appointed by the treasury board.

ART. 18. The decisions of the treasury board concerning appraisals, bids, acceptance of bonds, and other acts relating to the administration of ecclesiastical property, shall be approved by the executive, without which requisite they shall be of no effect.

ART. 19. The proceeds of the administration or renting of the ecclesiastical property shall be employed each year, firstly, in covering the estimate of expenditures of the respective order or community owning the property, and, secondly, in the maintenance of the Catholic religions and clergy throughout the Republic.

If there should be a deficit in the budget allotted to religion and the clergy, this shall be supplied from fiscal funds and charged to the item of extraordinary expenditures. The surplus in case there is such shall be employed in the work of charity or public works, as designated by the executive in the section of the country where the property is situated.

ART. 20. The estimates referred to in the foregoing article shall be prepared by the respective orders, communities, and cathedral chapters, and submitted to the ministry of worship for its approval and order for payment.

### SECTION IV.—*General provisions.*

ART. 21. The right to impose taxes or incumbrances on persons or things belongs solely to Congress or to the authorities designated by the law.

Consequently the collection of tithes, first fruits, and mortuary or other similar dues is prohibited.

ART. 22. Those who violate the provisions of the foregoing article shall be punished according to the penal and police codes.

ART. 23. Foreigners who continue discharging prelacies or the offices of superiors in religious communities or orders, and foreigners who offer resistance to the execution of the present law, shall be punished in accordance with the law on foreigners of August 25, 1892.



The executive shall grant a discretionary period to the religious communities and orders within which to comply with the provisions of this article.

ART. 24. Alienations of real estate made without the permission of the government, as prescribed in Art. 19 of the concordat, or without the authorization of Congress, according to Art. 16 of the patronato, shall be null and void.

Likewise void shall be incumbrances of all kinds placed on ecclesiastical property in violation of the provisions of par. 3 of art. 16 of the patronato law.

ART. 25. The executive shall provide for the enforcement of the present law, and through the ministry of worship shall inform the next legislature regarding its observance and effects.

ART. 26. The concordat ceases to exist and all laws contrary to the present law are hereby abrogated.

Given in Quito, capital of the Republic, October 12, 1904.

CARLOS FREILE Z.,  
*President of the Senate Chamber.*  
 MODESTO A. PEÑAHERRERA,  
*President of the Chamber of Deputies.*  
 JOSÉ MARIA AYORA,  
*Secretary of the Senate Chamber.*  
 ENRIQUE BUSTAMENTE L.,  
*Secretary of the Chamber of Deputies.*

NATIONAL PALACE, Quito, October 13, 1904.

Let it be executed.

LEONIDAS PLAZA G.,  
 G. S. CORDOVA,  
*Minister of the Interior, Worship, etc.*

[Inclosure 2.—Translation.]

SECTION III (OF THE POLICE CODE).—*Associations.*

ARTICLE 23.

The police shall be obliged to protect every class of civil and religious associations; but they shall prevent and dissolve those whose object is to disturb the public peace or commit an infraction thereof, or if it is presumed that the individuals who compose them will be armed or will cause a conflict.

Likewise the police shall be obliged to see that the exercise of every form of worship and its ceremonies are respected, in conformity with the constitution of the Republic.

ARTICLE 24.

Those who ridicule any religious act or the outward manifestations of any worship shall be punished by a fine of from five to twenty-five sueres.

ARTICLE 25.

They shall be punished by a fine of from ten to one hundred sueres and imprisonment for from three to thirty days—

1. Who in any way assail the ceremonies of a worship which shall not have been prohibited by the regulations of worship.

2. Who interfere with the work of a minister of religion in the exercise of his worship.

3. Who by violence, disorder, or scandal impede or disturb the exercise of a form of worship.

4. The ministers of a worship who, in their temples or religious places, streets, or plazas, shall speak against the constitution or laws of the Republic, or against an established political party, by instigating to rebellion or dissatisfaction with the constituted authorities.

## FRANCE.

### RECOVERY OF THE BODY OF ADMIRAL JOHN PAUL JONES IN PARIS AND ITS REMOVAL TO THE UNITED STATES.

*Message from the President of the United States, recommending an appropriation by Congress to be expended in searching for the remains of Admiral John Paul Jones in Paris, France, and transmitting the report of Ambassador Porter on the subject, and also urging that provision be made for the erection of monuments to the memories of John Paul Jones and John Barry.*

*To the Senate and House of Representatives:*

For a number of years efforts have been made to confirm the historical statement that the remains of Admiral John Paul Jones were interred in a certain piece of ground in the city of Paris then owned by the Government and used at the time as a burial place for foreign Protestants. These efforts have at last resulted in documentary proof that John Paul Jones was buried on July 20, 1792, between 8 and 9 o'clock p. m., in the now abandoned cemetery of St. Louis, in the northeastern section of Paris. About 500 bodies were interred there, and the body of the admiral was probably among the last hundred buried. It was incased in a leaden coffin, calculated to withstand the ravages of time.

The cemetery was about 130 feet long by 120 feet wide. Since its disuse as a burial place the soil has been filled to a level and covered almost completely by buildings, most of them of an inferior class.

The American ambassador in Paris, being satisfied that it is practical to discover and identify the remains of John Paul Jones, has, after prolonged negotiations with the present holders of the property and the tenants thereof, secured from them options in writing which give him the right to dig in all parts of the property during a period of three months for the purpose of making the necessary excavations and searches, upon condition of a stated compensation for the damage and annoyance caused by the work. The actual search is to be conducted by the chief engineer of the municipal department of Paris having charge of subterranean works at a cost which has been carefully estimated. The ambassador gives the entire cost of the work, including the options, compensation, cost of excavating and caring for the remains as not exceeding 180,000 francs, or \$35,000, on the supposition that the body may not be found until the whole area has been searched. If earlier discovered, the expense would be proportionately less.

The great interest which our people feel in the story of Paul Jones's life, the national sense of gratitude for the great service done by him toward the achievement of independence, and the sentiment of mingled distress and regret felt because the body of one of our greatest heroes lies forgotten and unmarked in foreign soil, lead me to approve

the ambassador's suggestion that Congress should take advantage of this unexpected opportunity to do proper honor to the memory of Paul Jones, and appropriate the sum of \$35,000, or so much thereof as may be necessary, for the purposes above described, to be expended under the direction of the Secretary of State.

The report of Ambassador Porter, with the plans and photograph of the property, is annexed hereto.<sup>a</sup>

In addition to the foregoing recommendation, I urge that Congress emphasize the value set by our people upon the achievements of the naval commanders in our war of independence by providing for the erection of appropriate monuments to the memory of two, at least, of those who now lie in undistinguished graves—John Paul Jones and John Barry. These two men hold unique positions in the history of the birth of our Navy. Their services were of the highest moment to the young Republic in the days when it remained to be determined whether or not she should win out in her struggle for independence. It is eminently fitting that these services should now be commemorated in suitable manner.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *February 13, 1905.*

*Ambassador Porter to the Secretary of State.*

[Telegram.]

PARIS (VIA FRENCH),  
*April 14, 1905.*

My six years' search for remains Paul Jones has resulted in success. Having explored the old St. Louis cemetery, where admiral was buried in leaden coffin, and where I had verified the facts that all the dead remained entirely undisturbed, I found only four coffins of lead. The first three bore plates giving names and dates of burial, the fourth was in solidity of construction and workmanship much superior to the others. Like them was similar in shape to mummy coffins, widening from feet to shoulders with small round top to fix head, like all coffins of that period. No plate could be found; one may have been put on outer wooden coffin, few vestiges of which are left. Another corpse had been buried immediately on top. Appearances indicate that in digging that grave wooden coffin had been partly stripped off. Plate may then have been carried away. On opening coffin body fortunately found quite well preserved, coffin having been filled with alcohol, but which had evaporated, and body carefully packed in straw. As I predicted in a former report, coffin contained neither uniform, sword, nor decorations. It was discovered in one of the spots where I expected to find it. I took it to the School of Medicine, where Doctors Capitan and Papillault, the distinguished professors of the School of Anthropology, well known for their large experience in such matters, were charged with removing the body from the coffin and making minute examination for purposes of identification. They were furnished with medallions, portraits, Houdon's two busts, authentic measurements, description of color of hair, and all the mass of infor-

<sup>a</sup> Not printed. Final report printed, p. 420.

mation which had been collected regarding Paul Jones's appearance. The following facts were fully substantiated: Length of body, 5 feet 7 inches, Paul Jones's exact height; head in size and shape identical with head of Paul Jones, hair on head and body dark brown, same as that of Paul Jones, in places slightly gray, indicating person of his age, 45 years; high forehead, hair long, combed back, reaching below his shoulders gathered in a clasp at back of neck, curled in two rolls on temples; face clean shaven, corresponding exactly with descriptions, portraits, and busts of the admiral. Buried in shirt and wrapped in sheet; linen in good condition, bearing a small initial worked with thread, either a "J" or, if read upside down, a "P." Coffin very solid. Body carefully preserved and packed. Limbs wrapped with tin foil, evidently for purpose of sea transportation a long distance, as indicated in an authentic letter of his particular friend and pall bearer, Colonel Blackden, which says: "His body was put into a leaden coffin on the 20th that in case the United States, which he had so essentially served and with so much honor, should claim his remains they might be more easily removed." Autopsy showed distinct proofs of disease of which admiral is known to have died. Identification complete in every particular. Detailed reports of all facts duly certified by participants and witnesses will go by mail. Will have remains put in suitable casket and deposited in receiving vault of American Church 'till decision reached as to most appropriate means of transportation to America.

PORTER.

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*The Acting Secretary of State to General Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 15, 1905.

The Department has great pleasure in sending cordial congratulations upon your success in finding body of Paul Jones.

LOOMIS.

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*The Acting Secretary of State to Ambassador Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 17, 1905.

The government will send a naval squadron to bring back the remains of Jones. Some time in June is suggested as convenient period.

LOOMIS.

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*Ambassador Porter to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
Paris, April 20, 1905.

Thanks for congratulations. Any time month of June would be good season for arrival of fleet. Deposited remains to-day in vault American church incased in original coffin, a leaden casket and oak coffin covered with American flag.

PORTER.

*The Secretary of State to Ambassador Porter.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 20, 1905.

Obtain permission to land military force under arms from Rear-Admiral Sigsbee's squadron as escort for body Paul Jones.

HAY.

*The Acting Secretary of State to General Porter.*

DEPARTMENT OF STATE,  
Washington, June 27, 1905.

SIR: I have to acknowledge the receipt of your communication of the 2d instant,<sup>a</sup> transmitting a memorandum of the exact method pursued in re coffining the body of John Paul Jones for transportation to the United States.

I have caused a copy of your communication to be sent to the Navy Department for the completion of its files in connection with the subject.

As this memorandum completes your most interesting and valuable report, I beg leave to tender the Department's hearty congratulations on the successful termination of your patriotic and zealous efforts which have brought about an occurrence of not only historic but of scientific importance.

I am, etc.,

HERBERT H. D. PEIRCE.

*The Acting Secretary of State to Ambassador McCormick.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 30, 1905.

General Porter has been appointed by the President special ambassador, and from his late position will be considered as the senior of the two special ambassadors to arrange on behalf of the United States for the reception of the body of Paul Jones. In the actual delivery of the body General Porter, as special ambassador, will deliver it to Special Ambassador Loomis. This \* \* \* is designed by this government to recognize General Porter's great services, and at the same time to show the keen interest of the government by having sent over a special ambassador to assist at the function.

PEIRCE.

## THE RECOVERY OF THE BODY OF JOHN PAUL JONES.

By GEN. HORACE PORTER, LL.D.

Upon assuming charge of our embassy in Paris and finding myself among the old landmarks which are still honored there as recalling the many historic incidents in the sojourn of Paul Jones in that brilliant capital, I felt a deep sense of humiliation as an American citizen in

realizing that our first and most fascinating naval hero had been lying for more than a century in an unknown and forgotten grave, and that no serious attempt had ever been made to recover his remains and give them appropriate sepulture in the land upon whose history he had shed so much luster.

Knowing that he had been buried in Paris, I resolved to undertake personally a systematic and exhaustive search for the body.

The investigation began in June, 1899. The first step was to study all the writings obtainable relating to him, including official documents. The certificate of his burial had been registered, but the register had been placed with other archives of the city of Paris in an annex of the Hôtel de Ville, situated on Victoria avenue, and had been destroyed with other important records when the government buildings were burned by the Commune in May, 1871. Fortunately, in 1859, Mr. Charles Read, an archæologist, investigator, and writer of note, had made a transcript of the register in which this certificate was recorded, and I finally succeeded in securing a correct copy. The following is an English translation of this interesting document:

To-day, July 20, 1792, year IV of Liberty, at 8 o'clock in the evening, conformably to the decree of the National Assembly of yesterday, in presence of the delegation of the said Assembly, composed of Messrs. Brun, president of the delegation of the said assembly; Bravet, Cambon, Rouyer, Brival, Deydier; Gay Vernon, Bishop of the Department of Haute-Vienne; Chabot, Episcopal vicar of the department of Loir and Cher; Carlier, Petit, Le Josnes, Robouame; and of a deputation of the consistory of the Protestants of Paris, composed of Messrs. Marron the pastor, Perreaux, Benard, Marquis Mougain, and Empaytaz, anciens, was buried in the cemetery for foreign Protestants, Jean Paul Jones, native of England and citizen of the United States of America, senior naval officer in the service of the said States, aged 45 years, died the 18th of this month at his residence situated at No. 42, Rue de Tournon, from dropsy of the chest, in the faith of the Protestant religion. The said burial was made in our presence by Pierre François Simonneau, commissary of the King for this section and commissary of police for the Ponceau section, in presence of M. Samuel Blackden, colonel of dragoons in the service of the State of North Carolina and a citizen of the United States of America; J. C. Mountflorencia, formerly major in the service of the United States; Marie Jean Baptiste Benoist Beaupoil, formerly a French officer, residing in Paris at No. 7, Passage des Petits Pères; and of Louis Nicolas Villeminot, the officer commanding the detachment of the grandiers of the gendarmerie which escorted the delegation of the assembly; and others who have signed with us.

Brun; Gay Vernon, bishop and deputy; Deydier, deputy from the Department of Ain; Rouyer; François Chabot; Benard; J. C. Mountflorencia; Petit; Cambon fils aîné; Bravé; Beaupoil; P. H. Carlier; Durvesque; Lafontaine; Simonneau; Jacques Briviel; Villeminot; Robouame, deputy; Marron; Perreaux; Mougain; Empaytaz; R. Ghiselin of Maryland; S. Blackden; Griffith of Philadelphia.

Historians had differed as to the date of the death; the above quoted certificate of burial fixes it definitely on July 18, 1792.

The best description of Paul Jones's last moments is given in a letter received a month after the funeral by his eldest sister, Mrs. Jenny Taylor (sometimes spelled in the official documents Jeanne, Janet, and Janette), in Scotland, written by his intimate friend, a witness of his will and a pallbearer at his funeral, Col. Samuel Blackden, a planter from North Carolina, who had served with distinction in the American Revolution, and was in Paris on business at the time of Paul Jones's last illness and death. The following is an extract from his letter.

But for two months past he began to lose his appetite, grew yellow, and showed symptoms of jaundice. For this he took medical treatment and for a short time seemed to grow better. A few days before his death his legs began to swell, which proceeded upward to his body, so that for two days before his decease he could not button his waistcoat and had great difficulty in breathing.

I visited him every day, and, beginning to be apprehensive of his danger, desired him to settle his affairs; but he would not take that view of it, and put off the making of his will

until the afternoon of July 18, when he was prevailed upon to send for a notary and made his will. M. Beaupoil and myself witnessed it and left him sitting in a chair in his parlor. A few minutes after we retired he walked into his chamber and laid himself upon his face on the bedside, with his feet on the floor. The Queen's physician, who was attending him, came soon after, and on entering the apartment found him in that position, and on trying to lift him up, found that he had expired. His disorder had terminated in dropsy of the heart. His body was put into a leaden coffin on the 20th, that, in case the United States, which he had so essentially served, and with so much honor, should claim his remains they might be more easily removed.

M. Beaupoil, whom he mentioned, was a major in the French army and an aid-de-camp to Lafayette, with whom he had served in the American Revolution.

I had been misled for some time by having been furnished with an alleged copy of the certificate of burial published in the "Bulletin of the Society of the History of Protestantism," in which there had been omitted after the word "anciens," doubtless through an error of the copyist, the following all-important phrase, "was buried in the cemetery for foreign Protestants." Besides this, eight words of minor significance had been omitted. The fact that the French construction was defective without some additional words led to another search, and in the Bibliothèque Nationale was at last found a magazine called the "Correspondance Littéraire," containing an article by Charles Read, giving the correct copy of the certificate of burial, which he had made from the register referred to and of which the above is a translation. The article expressed the conviction of Mr. Read that the cemetery for foreign Protestants was the long-since abandoned and almost forgotten cemetery of Saint Louis, situated upon a street formerly called "L'Hôpital Saint Louis," at present Grange-aux-Belles.

As some writers had expressed, however vaguely, different opinions, I instituted a long and exhaustive search to verify the grounds upon which Mr. Read had based his belief.

Public records were found showing that in 1720 the government, at the instigation of Holland, had set aside a lot for the burial of foreign Protestants near the Porte Saint Martin, called the "Saint Martin Cemetery," but which was closed in 1762. The Saint Louis Cemetery for foreign Protestants was opened about that time and officially closed in January, 1793, six months after Paul Jones's decease, although some interments were made thereafter.

The custodian in charge of each of these cemeteries was named "Corroy," and it was ascertained from certain old documents discovered that the position had descended from father to son, which was evidence tending to show that the Saint Louis was the immediate successor of the Porte Saint Martin Cemetery. A copy was afterwards found of a decree regarding the burial of foreign Protestants, issued May 26, 1781, officially confirming this fact, and approved by De Vergennes, minister of foreign affairs under Louis XVI. From this decree have been taken the following extracts:

By an order of council of June 20, 1720, it was decreed that there should be designated a place for the burial of the bodies of foreign Protestants. The ground which was chosen was situated near the Porte Saint Martin. \* \* \*

In the year 1762 the cemetery was transferréd behind the Saint Louis Hospital.

This description clearly designated the Saint Louis Cemetery. To endeavor to obtain some authentic information as to whether there were any other cemeteries for foreign Protestants in existence at the time, and whether any further corroborative evidence could be found

regarding the burial place of the Admiral, an examination requiring several months was made of all the journals and periodicals obtainable of about the date of the funeral, which took place July 20, 1792. Access was had to more than a hundred publications which were found in the possession of libraries, societies, and individuals.

The Monitor, Tome XIII, page 192, published a report of the proceedings of the National Assembly, session of July 19, 1792, the day after Paul Jones's death, which contained the following statement:

A letter was read from Colonel Blackden, a friend of Commodore Paul Jones, which announced that his friend having died in Paris, application was made to M. Simonneau, commissary of the section, to have him buried without charge in accordance with a formality still existing in regard to Protestants. M. Simonneau was indignant and replied that if the expenses were not provided he would pay them himself. [Applause.]

The "formality" mentioned referred to a decree by which M. Simonneau, who was also "commissary of the King," was charged with the burial of all foreign Protestants. The letter of Colonel Blackden was published in the Boston Journal of that year and is as follows:

MR. PRESIDENT: I announce to you that Admiral Paul Jones died last evening in Paris; that the American minister has ordered the person at whose house the Admiral lodged to cause him to be interred in the most private manner, and at the least possible expense!!! This person, on account of the formalities still existing relative to Protestants, found it necessary to apply to a commissary. He has done it, and M. Simonneau, the commissary, expresses his astonishment at the order given by the minister, and says that a man who has rendered such signal services to France and America ought to have a public burial. He adds that if America will not pay the expense he will pay it himself. The friends of the Admiral wait the orders of the assembly respecting the mode of interment.

S. BLACKDEN,

*Late Colonel in the Service of the United States.*

In order to ascertain, if possible, whether M. Simonneau had actually paid the funeral expenses out of his own means, or whether some other provision had been made, I instituted a search in the various departments of the government in the hope of finding some record of the action taken. Fortunately a letter was finally found in the National Archives written by the then minister of justice, M. Déjoly, dated July 22, 1792, two days after the funeral, from which the following is an extract:

TO THE NATIONAL ASSEMBLY: M. Simonneau has furnished the cost of the interment of Admiral Paul Jones, of which the bill amounts to 462 francs. This is an homage which he has rendered to the remains of this celebrated man, and this act of good citizenship is worthy of M. Simonneau, brother of the mayor of Étampes, who died in executing the law.

This brought to light for the first time the mortifying fact that the hero who had once been the idol of the American people had been buried by charity, and that the payment of his funeral expenses was the timely and generous act of a foreign admirer.

I made a search to see whether any needy lineal descendants of M. Pierre François Simonneau, the generous commissary, could be found, with view to paying to them the amount, with interest, expended by their worthy ancestor, as a tardy recognition of his noble act. Six persons of that name were discovered and communicated with, but no proof could be obtained that anyone of them was a descendant.

Our minister to France at that time, Gouverneur Morris, who was on terms of close intimacy with Paul Jones and who superintended the drawing up of the schedule of his property the afternoon before his death, says in a letter dated April 19, 1793, published in his



“Diary and Letters,” Volume II, page 46, and addressed to Robert Morris:

Before I quit Paul Jones I must tell you that some people here who like rare shows wished him to have a pompous funeral, and I was applied to on the subject; but as I had no right to spend money on such follies, either the money of his heirs or that of the United States, I desired that he might be buried in a private and economical manner. I have since had reason to be glad that I did not agree to waste money, of which he had no great abundance and for which his relatives entertained a tender regard.

The impression as to the Admiral's having no great abundance of means proved later to be erroneous. When his effects were sold, stocks converted into cash, and arrears of pay collected, the sum procured amounted to about \$30,000, and much more was realized afterwards, which went to his heirs. And yet there seemed to be no ready money available at his death to provide for his funeral.

After finding the living successor to the notary who made the settlement of the estate and who was in possession of all the original papers in French, I had the detailed account examined, and ascertained that M. Simonneau had not been reimbursed for the money he expended. The inventory found among these papers and made after Paul Jones's death enumerates among the articles left by him 7 uniforms, 12 decorations, and 4 swords. It was natural to suppose that this large number included all such articles as he possessed, and as in those days they were regarded as valuable relics to be bequeathed to heirs, and as it was not customary to clothe the dead but to bury them in winding sheets, it seemed quite probable that no uniform, sword, or decoration would be found in the Admiral's coffin. Buell said of Paul Jones (page 366, Vol. II, first ed.): “He was buried in a shroud, without uniform or trappings of any kind.” In the settlement of the estate all the above-named articles were sold except the sword presented to him by Louis XVI in recognition of his heroic achievement in capturing the *Serapis*. This the Admiral disposed of orally just before his death, bequeathing it to Richard Dale, his first lieutenant when he captured the *Serapis*, saying: “My good old Dick is better entitled to it than anyone else, because he did more than any other to help me win it.”

M. Simonneau, having taken so much interest in Paul Jones and being in sole charge of the burial of foreign Protestants in Paris, would have naturally have interred him in the officially designated and most prominent burial ground devoted to that purpose, if there were more than one in existence. The Saint Louis Cemetery was well known and officially designated, and as no mention could be found of any other in Paris for foreign Protestants at the time, the natural inference was that the burial had taken place there.

M. Hop, ambassador of Holland to France, had succeeded in securing the cemetery granted by decree in 1720, which was opened in 1724 for foreign Protestants, and in that cemetery as well as in its successors all the burials of such persons could be made only upon certificates issued by the Dutch embassy.

With a view to ascertaining some information from that source, a search was made at my request of the records of the Dutch legation in Paris and in the foreign office at The Hague, but it was found that while some useful information was obtained, no copies of such certificates had been preserved.

The person who delivered Paul Jones's funeral oration was M. Paul Henri Marron, who had come from Holland and was pastor of a

Protestant house of worship in Paris called the "Church of Saint Louis." The following is a copy of his rather florid address:

Legislators! Citizens! Soldiers! Friends! Brethren! and Frenchmen! We have just returned to the earth the remains of an illustrious stranger, one of the first champions of American liberty—of that liberty which so gloriously ushered in our own. The Semiramis of the North had drawn him under her standard, but Paul Jones could not long breathe the pestilential air of despotism; he preferred the sweets of a private life in France, now free, to the éclat of titles and of honors which, from an usurped throne, were lavished upon him by Catherine. The fame of the brave outlives him, his portion is immortality. What more flattering homage could we pay to the remains of Paul Jones than to swear on his tomb to live and die free? It is the vow, it is the watchword of every Frenchman—let never tyrants nor their satellites pollute this sacred earth! May the ashes of the great man, too soon lost to humanity, and eager to be free, enjoy here an undisturbed repose! Let his example teach posterity the efforts which noble souls are capable of making when stimulated by hatred of oppression. Friends and brethren, a noble emulation brightens in your looks; your time is precious—the country is in danger! Who among us would not shed the last drop of his blood to save it? Associate yourselves with the glory of Paul Jones, in imitating him in his contempt of danger, in his devotedness to his country, in his noble patriotism, which, after having astonished the present age, will continue to be the imperishable object of the veneration of future generations!

It is not a little singular that, notwithstanding the radical sentiments expressed by this pastor, he was several times arrested by the revolutionists and was once or twice in great peril of his life.

I found the book containing the minutes of the meetings of the consistory of M. Marron's church, but just at the date of Paul Jones's death four pages had been torn out. This was one of the many disappointments encountered during the researches. I then set to work upon the task of trying to trace the lost leaves. The name of a M. Coquerel, a former pastor of the church, was mentioned in a publication as an enthusiastic collector of papers relating to Protestantism in Paris. My search in junk shops and antiquarian stores revealed the fact that M. Coquerel's heirs had sold some old papers which had afterwards been purchased by the Society of the History of Protestantism, and in its library were finally found the four lost pages.

I now ascertained positively that M. Marron buried his parishioners in the Saint Louis Cemetery, and the fact that he had delivered the funeral oration of Paul Jones would be an indication that he had also buried him there.

While all the proofs thus far distinctly designated this cemetery as the Admiral's place of burial, still it was deemed prudent to investigate the source of various rumors to the contrary, however improbable. The elder Dumas in his romance of "The Pioneer" represents Paul Jones as having been buried in Père Lachaise. Notwithstanding the fact that this celebrated cemetery had not been opened till thirteen years after the Admiral was buried, yet to be sure that his body had not been transferred there in later years, a thorough examination was made of the registers in which the records of burials have been carefully kept. The only male persons found upon the registers bearing the family name of Jones were George Jones, but spelled "Joncs" on the gravestone, died in 1820; John Querean Jones, in 1822; James Jones, in 1827; Charles Jones, in 1829; Edouard Thomas Jones, in 1833. It was therefore certain that the Admiral's remains were not in Père Lachaise.

There was another fanciful story that he had been interred in Picpus Cemetery, where Lafayette was buried; but as Paul Jones, as recorded in his certificate of burial, was of the Protestant faith, his

interment in any cemetery of the established church would have been prohibited. Still, a search was made, and it disproved the rumor.

A letter came to me from a person who had lived in Scotland when a child, many years ago, saying Paul Jones had been buried in Kirk-bean churchyard, near Dumfries, Scotland; that his tomb was there with his name inscribed on it, etc. I referred the letter to the rector of the church, the Rev. D. W. MacKenzie, who replied that it was the tomb of Paul Jones's father, saying:

The inscription on it is as follows: "In memory of John Paul, senior, who died at Abigland the 24th of October, 1767, universally esteemed." At the bottom of the tomb appears the inscription: "Erected by John Paul, junior." John Paul, of course, is the original name of John Paul Jones, the Admiral. I take great interest in the history of the Admiral, and local traditions or printed documents suggest nothing at variance with the accepted opinion that he died in Paris and was buried in the Protestant cemetery there.

After further researches in every possible quarter that could furnish information on the subject, the fact was clearly and incontestably established that the Saint Louis Cemetery was the only burial ground in Paris for foreign Protestants at the time of Paul Jones's death; that he was not interred in any other cemetery; and that Charles Read was perfectly correct in his opinion that the Admiral had positively been buried in the cemetery of Saint Louis. It should be remembered also that the act of burial says, "The cemetery for foreign Protestants," language indicating that there was only one in existence devoted to that purpose.

All doubt having been removed as to the place of burial, the next step was to make a personal inspection of the ground beneath which the long-since abandoned cemetery was located, and to endeavor to ascertain its history and its condition at the time of Paul Jones's death.

It is situated in an uninviting section of the northeastern quarter of Paris, at the corner of two streets now known as "Rue Grange-aux-Belles" and "Rue des Écluses Saint Martin," and covered with buildings, principally of an inferior class. The property at the time of the Admiral's burial belonged to the government, and was sold to M. Phalipeaux, a building contractor, in 1796. This quarter of the city was known as "le Combat," and the present station of the underground railroad close to the property is called "Combat." This name was not chosen, however, on account of the burial there of the most combative of men, but history attributes the term to the fact that this section of Paris was long ago the scene of all the fights in which animals figured—bulls, cocks, dogs, asses, etc.

A street which leads directly to the property and ends there is named Vicq d'Azyr, after Marie Antoinette's physician, a friend of Paul Jones, who attended him and who accompanied Gouverneur Morris on his visit to the Admiral's house when he lay on his deathbed the evening of July 18, 1792. When a person's name is given to a street in Paris it is generally in a quarter connected with events in his career. It is possible that the distinguished physician's name was given to the street because of its leading to the place which held the remains of his illustrious friend and patient.

Two old maps of the property were finally discovered, one made by M. Jaillot in 1773, and one by M. Verniquet in 1794, showing that the ground consisted of a courtyard with a frontage of about 130 feet upon Rue des Écluses Saint Martin, with an entrance on that street, and a

depth of about 90 feet along Rue Grange-aux-Belles. There was a garden in the rear with a frontage of 120 feet on Rue Grange-aux-Belles and a depth of 130 feet. The surface of the garden was about 8 feet lower than that of the courtyard, the descent to which was made by a flight of steps. Thirty years later the grade of the street had been changed and the garden had been leveled up even with the courtyard, and the fact seemed to have been lost sight of that there had ever been a cemetery beneath. There were two cross walks dividing the garden into four squares. The whole property was surrounded by a wall between 6 and 9 feet high. There was a house in the courtyard, and a shed, but no buildings in the garden.

By a decree of the government the garden was devoted exclusively to the burial of foreign Protestants. On the 30th of September, 1777, a decree was issued permitting native Protestants to be buried thereafter in the courtyard. This cemetery, as hereinbefore mentioned, was legally closed in January, 1793, but the former custodian, who had become the lessee, and the subsequent owners, who had purchased the property from the government, were allowed to make some burials for eleven years thereafter.

I found in the tenth arrondissement (then the fifth), a copy of a letter written by the mayor, dated May 26, 1804, directing Citizen Richer to inspect the Protestant cemetery. After a long search I discovered in another quarter of the city his report, dated June 8 of that year. It was in much detail and was entirely in accordance with the maps heretofore mentioned in describing the Saint Louis Cemetery. Its accuracy was verified in every particular when this cemetery was afterwards explored.

The next question was whether the dead had ever been removed from this abandoned cemetery, as had been the case in some others. Satisfactory proof was readily obtained that such an act had not taken place before 1803 or after 1830. A search of the registers of the Catacombs, where all the dead that are removed from abandoned cemeteries are deposited, showed no record of any bodies having been received from the Saint Louis Cemetery between the above dates or at any other time, and there could be found no information in any of the public departments showing that any removal had ever been made from that burial ground except of the remains of Lady Alexander Grant, whose body had been exhumed for transportation to England by formal permission of the city authorities, duly recorded May 2, 1803. There was registered at the Catacombs the receipt of leaden coffins from other abandoned cemeteries, and the removal there of a hand-stretcher load of human bones from No. 39 Rue Grange-aux-Belles, and another from No. 4 Rue des Écluses Saint Martin. These lots had once been used as a kind of potter's field. They were near to, but entirely outside of, the Saint Louis Cemetery.

HAVING established the impossibility of the leaden coffin having been removed by legitimate means, the only remaining doubt that could exist was based upon the suggestion that it might have been unearthed by the revolutionary armies to convert it into bullets. This unfounded surmise did not make much of an impression after a study of all the circumstances and talks with the "oldest inhabitants," by whom traditions of a former age are often handed down. The French have a profound respect for the dead and the sacredness of places of burial; the humblest citizen uncovers reverently when a funeral

passes; graves are tenderly cared for and kept decked with flowers, and their desecration is a rare crime.

At the time of the Revolution there were statues and busts of lead in exposed places and extensive lead piping to carry the water from the Seine to Versailles, etc., none of which was disturbed. Moreover, the metal contained in the few leaden coffins to be found at that date in a Paris cemetery would not have repaid the digging, or furnished bullets for a single battalion.

If the Admiral had been buried in a wooden coffin hardly a vestige of it would have been in existence and only the mere skeleton of the body would have been found. Fortunately, however, the authentic letter written to Mrs. Janet Taylor, Paul Jones's eldest sister, by Colonel Blackden, and hereinbefore quoted, contained the following valuable information:

His body was put into a leaden coffin on the 20th, that in case the United States, which he had so essentially served and with so much honor, should claim his remains, they might be more easily removed.

The bill of 462 francs paid by M. Simonneau for the funeral expenses was corroborative of this fact, inasmuch as the cost of an ordinary funeral in those days, as ascertained from the records, was 128 francs, while that of a hospital patient cost as little as 89 francs, distributed as follows: Coffin 10 francs, choristers 10, sexton 15, commissary 48, his clerk 6. The payment therefor of 462 francs, more than three times the value of that sum at the present day, would have provided for an unusually large expenditure, and would have amply covered the cost of a substantial leaden coffin, a thorough preparation of the body to insure its preservation, and an elaborate system of packing, with a view to its transportation by sea.

There had now been fully established by authentic documents and convincing corroborative evidence the fact that the Saint Louis Cemetery was the actual burial place of Paul Jones; that he had been buried in a leaden coffin; that the body had been prepared for transportation to the United States; that the coffin had never been removed by legitimate means, and that there was no probability that it had been carried away by stealth or had been stolen.

After having studied the manner and place of his burial and contemplated the circumstances connected with the strange neglect of his grave, one could not help feeling pained beyond expression and overcome by a sense of profound mortification. Here was presented the spectacle of a hero whose fame once covered two continents, and whose name is still an inspiration to a world-famed navy, lying for more than a century in a forgotten grave, like an obscure outcast, relegated to oblivion in a squalid quarter of a distant foreign city, buried in ground once consecrated, but since desecrated by having been used at times as a garden, with the moldering bodies of the dead fertilizing its market vegetables, by having been covered later by a common "dump pile, where dogs and horses had been buried, and the soil was still soaked with polluted waters from undrained laundries, and, as a culmination of degradation, by having been occupied by a contractor for removing night soil.

It recalls the remark once made by a gallant naval officer: "When we give up our lives in the service of our country we do not ask that our graves be kept green, but we should like to have them kept clean."

Having collected all the facts necessary to justify an immediate attempt to remove the remains from such offensive surroundings, and secure for them appropriate sepulcher in America, I was about to open negotiations quietly with the proprietors and tenants who occupied the property with a view to purchasing the right to enter upon the premises and make the necessary excavations in order to explore thoroughly the cemetery, when unfortunately the news of this intention became publicly known through the indiscretion of persons who had been consulted on the subject. Self-constituted agents immediately began to busy themselves with circulating fantastic stories regarding the fabulous prices that were to be paid for the property, the whole of which it was said was going to be bought by a rich government, at any cost, as the only means of getting access to the cemetery and making the excavations necessary to find the body of its great admiral. Such representations naturally created intense excitement, raised false hopes in the minds of those interested in the property, and rendered negotiations on a practicable basis entirely impossible. This was altogether the most discouraging episode in the history of the undertaking.

There was then but one course to pursue, however reluctantly, which was to drop the matter entirely for a couple of years, in order to let the excitement subside.

At the end of that time negotiations were quietly opened upon the basis of purchasing the right to explore the abandoned cemetery by means of subterranean galleries, provided that all damages to houses should be repaired, any victims of disease caused by foul emanations from the disturbed soil indemnified, and the property afterwards restored to its former condition. After a series of prolonged and tedious negotiations, appeals to the public spirit of the occupants of the property, and an assurance that the United States Government had made no appropriation or taken any action in the matter, and that the work was simply an individual undertaking, I at last succeeded in procuring options in writing from all concerned granting the right for three months to enter upon the premises and make the necessary excavations.

President Roosevelt, upon learning of the undertaking, had asked for information regarding it, and upon receiving my reply, giving an account of the project, sent an urgent message to Congress in February, 1905, recommending an appropriation of \$35,000, the estimated cost of carrying out the work. It was late in the short session, and no action was taken. It would not have been altogether unnatural, however, to regard the scheme as too Utopian in its nature to receive serious consideration, the remains of the admiral having been long since relegated to the realms of mystery and given up as lost beyond recovery.

As no promise could be secured as to how long the options obtained would be allowed to hold good, and as it was quite certain that if they lapsed they could never be renewed upon any such terms, if at all, on account of changes among the tenants, the adverse disposition of some of the occupants, the publicity which had now been given the matter, etc., I deemed it a duty to pay at once the sums demanded in advance to bind the options, and to proceed with the work.

The prefect of the Seine kindly permitted M. Paul Weiss of the service of the carrières (quarries) of the city of Paris to direct the work, which was begun on Friday, February 3, 1905. This experienced and accomplished mining engineer displayed a professional skill of the

very highest order, and by his ability, zeal, and devotion to the work greatly facilitated the task. The project presented serious difficulties from the fact that the filling of earth above the cemetery was composed of the dumpings of loose soil not compact enough to stand alone, and the shafts and galleries had to be solidly lined and shored up with heavy timbers as the excavations proceeded. The drainage was bad in places and there was trouble from the water. The walls of one of the buildings were considerably damaged. Slime, mud, and mephitic odors were encountered, and long red worms appeared in abundance.

The first shaft was opened in one of the yards to a depth of 18 feet. It proved clearly that the dead had never been disturbed. This fact was most satisfactory as disproving the predictions so often made to the contrary. The skeletons were found lying about a foot apart, generally in two layers, one above the other, and in some places there were three. This was a verification of the report of Citizen Richer, hereinbefore mentioned, saying that the dead were buried in a fosse (trench), which indicated that they were not interred in separate graves and were of a poor class. This led to the conclusion that there would be very few leaden coffins found, as they could be afforded only by persons in easy circumstances. But few vestiges were left of the wooden coffins.

Two more large shafts were sunk in the yards, and two in the Rue Grange-aux-Belles, making five in all. Day and night gangs of workmen were employed, and active progress was made. Galleries were pushed in every direction, and "soundings" were made between them with long iron tools adapted to this purpose, so that no leaden coffin could possibly be missed.

The first of the four squares explored was the one on the right of the original entrance to the cemetery. Here the excavators encountered a mass of skeletons in three layers superposed. They were placed irregularly, some lying face down and others on their sides, in one layer piled lengthwise and in the one above crosswise, just as one would pile cord wood, the bodies being so close together that they could not have been buried in coffins. No explanation of the peculiar condition of things in this portion of the cemetery suggested itself until one day I came across a copy of a drawing by Béricourt representing the corpses of the Swiss Guard killed in defending the Tuileries, being hurriedly thrown into carts to be hauled away for burial. As it is known that most of them were Protestants, it is altogether likely that they were interred in the Saint Louis Cemetery in the confused manner indicated by the position of the skeletons found there. This slaughter occurred August 10, 1792, twenty-one days after Paul Jones's burial. If the above inference be correct, it furnishes another proof that although the cemetery was closed soon after his death, there was plenty of room left for his coffin at the time of his burial, for the reason that so many bodies were interred there afterwards.

I had given orders that if not present when a leaden coffin was discovered I should be sent for at once, as I was desirous of superintending personally the search for an inscription plate and any other indications that might aid in the identification.

On February 22 the first leaden coffin was discovered. The round projecting end containing the head had been broken off and the skull was detached from the body. The remains of a water barrel were found near by. As the cemetery, after being closed, had been used as

a market garden, the barrel had evidently been sunk in this spot to catch the water drained from the courtyard, and in excavating for it the head of the coffin had been knocked off. The outer wooden coffin had nearly disappeared, and the inscription plate it bore had fallen on the lid of the leaden coffin. This plate was of copper and had become so brittle that when lifted it broke and a portion of it crumbled to pieces. It was so corroded and incrustated that no portion of the inscription could be read. Handling it with great care, I proceeded with it in person to Messrs. André & Son, the well-known decipherers and restorers of ancient enamels and art objects, who promised to apply all their skill to the task of reading it.

By the next day the Messrs. André had cleansed the coffin plate sufficiently to be able to read distinctly the following portion of the inscription.:

“ \* \* \* M E Anglois, 20 de May 1790 Ans.” The French word *Mai* was spelled in old style with a *y*. No further attention was therefore paid to this coffin, and the search, which had not been interrupted, continued.

On March 23 a second leaden coffin was discovered, with a plate easily read, bearing the words “Richard Hay, esq., died in Paris the 29th January, 1785.”

On March 31 a third leaden coffin was unearthed. This, like the others, was of a shape resembling that of the mummy coffins, a form quite common then, gradually widening from the feet to the shoulders, with a round projection at the upper end, which contained the head. It was much superior in solidity and workmanship to the others. A thorough search was made, but no inscription plate could be found. It was decided to open this coffin, but as the odors were almost insupportable in the unventilated gallery, the examination was postponed until a connection could be made with another gallery, so as to admit a current of air.

On April 7 the coffin was opened in presence of Col. Blanchard, M. Weiss, M. Géninet, superintendent of the work, the foreman, several workmen, and myself. The lid was so firmly soldered that it was removed with considerable difficulty. There was a strong alcoholic odor, but the alcohol in which the body had evidently been preserved had in great part evaporated, doubtless through a hole made in the lid by a pick, as hereinafter described, and a crack in the edge of the coffin near the foot caused by the pressure of the earth after the wooden coffin had rotted away. However, the earth which covered these holes was hard and black, having evidently become indurated by the action of the escaping alcohol, so that the process of evaporation had doubtless been exceedingly slow. The body was covered with a winding sheet and firmly packed with hay and straw. A rough measurement indicated the height of Paul Jones. Those engaged upon the work had been furnished some time before with copies of the Admiral's Congressional medal showing his bust in profile. I had found in the Paris mint the die from which this medal was made and had had a number of copies struck from it. Half a dozen candles were placed near the head of the coffin, and the winding sheet was removed from the head and chest, exposing the face. To our intense surprise the body was marvelously well preserved, all the flesh remaining intact, very slightly shrunken, and of a grayish brown or tan color. The surface of the body and the linen were moist. The face presented



quite a natural appearance, except that the cartilaginous portion of the nose had been bent over toward the right side, pressed down, and disfigured by its too close proximity to the lid of the coffin. Upon placing a medal near the face, comparing the other features and recognizing the peculiar characteristics—the broad forehead, contour of brow, appearance of the hair, high cheek bones, prominently arched eye orbits, and other points of resemblance—we instinctively exclaimed, "Paul Jones!" and all those who were gathered about the coffin removed their hats, feeling that they were standing in the presence of the illustrious dead—the object of the long search.

Two theories suggested themselves to account for the absence of an inscription plate. A corpse had been buried immediately on top of the leaden coffin, the middle of the lid of which had been pierced as if by a pick. Surrounding the leaden coffin were some vestiges of a coffin of wood. It may be that the digger of the upper grave, finding that his pick had struck a hard substance, had applied his shovel, and in removing the decayed remains of the wooden coffin found a plate and carried it off as a relic, or, if of silver, for its intrinsic value. Or, as the death of Paul Jones occurred when the violence of the French Revolution was at its height and the streets were filled with idlers and excited crowds of workmen, it is likely that no engravers could be found at work to prepare a fitting inscription in the two days intervening between the death and burial. The latter theory seems rather more plausible.

For the purpose of submitting the body to a thorough scientific examination by competent experts for the purpose of complete identification, it was taken quietly at night, on April 8, to the Paris School of Medicine (*École de Médecine*) and placed in the hands of the well-known professors of anthropology, Doctor Capitan and Doctor Papilault and their associates, who had been highly recommended as the most accomplished scientists and most experienced experts that could be selected for a service of this kind. I, of course, knew these eminent professors by reputation, but I had never met them.

While the professional examinations for identifying the body were taking place, directions were given to let the workmen continue the excavations in order to explore the rest of the cemetery, as there was a small portion that had not yet been reached. On April 11 a fourth leaden coffin was found with a plate bearing the inscription: "Cygit Georges Maidison, Gentilhomme Anglais et Secrétaire de l'Ambassade de Sa Majesté britannique auprès de Sa Majesté très Chrétienne—decédé à Paris le 27 Août 1783—agé de 36 ans."

On April 18 the fifth and last leaden coffin was discovered. It was without an inscription plate and of unusual length. Upon opening it there was found the skeleton of a man considerably over 6 feet in height.

In excavating the cemetery, the exploration had corroborated the facts inferred from the hereinbefore mentioned report indicating that the main body of the four squares divided by the cross walks had been reserved for burying the ordinary dead in common trenches, and that personages important enough to be placed in leaden coffins were buried in separate graves near the walls. The Admiral's coffin was found in one of such spots.

All the coffins except the one containing the remains of the Admiral were left undisturbed in the places where they had been discovered,

and the cemetery having been fully explored the shafts and galleries were refilled and the property restored. There had been excavated 80 feet in length of shafts, 800 feet of galleries, and about 600 feet of soundings. The excavated earth had to be carted to a distance of 2 miles to find a dumping ground and afterwards hauled back. In refilling the galleries it was necessary in places to use stones and blocks of indurated clay to give proper stability.

There were discovered in all five leaden coffins in the cemetery. Four having been easily identified, reasoning upon the principle of elimination led to the conclusion that the other must be the coffin sought. However, the scientists were identifying the body by more positive means.

When the remains arrived at the School of Medicine, the lid of the coffin, which had been replaced and the edges of which had been sealed with a coating of plaster, was again removed, and the hay and straw surrounding the body were taken out. They were so firmly packed, evidently to prevent injury to the body from shocks caused by the rolling of the ship upon the contemplated transfer by sea, that in removing them pincers had to be used. It was noticed that there had been a hole three-quarters of an inch in diameter in the lid of the coffin just over the face, and that it had been closed by a screw and soldered over. It is supposed that the alcohol used to preserve the remains had been poured in through this aperture after the coffin had been closed. This immersion in alcohol was doubtless another reason why no uniform or object of value was placed in the coffin.

In order not to disturb the body or change in any way its position in removing it from the coffin, a vertical cut was made in the lead at each end which enabled the sides to be pressed apart. The body was then carefully placed upon a large dissecting table. Its state of preservation was such that it bore its own weight in handling it. The remains with all the flesh intact looked like the anatomical specimens preserved in jars of alcohol, such as one sees in medical museums. It was learned that a century ago this method of preserving the dead was frequently employed—that the bodies of Necker and his wife, buried at Coppet, in Switzerland, for instance, were so treated, and are still perfectly preserved.

The joints were somewhat flexible. In taking the right hand in mine I found that the knuckle joints could be easily bent.

The following is a list of the principal persons who participated in verifying the identification of the body: The American ambassador; Henry Vignaud, first secretary of the American embassy, commander of the Legion of Honor and a distinguished writer; John K. Gowdy, American consul-general; Col. A. Bailly-Blanchard, second secretary of the American embassy, ex-aid de camp to the governor of Louisiana, officer of the Legion of Honor, officer of public instruction; M. Justin de Selves, prefect of the Seine, grand officer of the Legion of Honor; M. Louis Lepine, prefect of police, ex-governor-general of Algiers, grand officer of the Legion of Honor; Dr. J. Capitan, professor in the School of Anthropology, member of the committee of historic and scientific works (ministry of public instruction), member of the municipal commission of Old Paris, member of the Society of Megalithic Monuments, member of a number of foreign scientific soci-

eties, ex-president of the Society of Anthropology of Paris, officer of public instruction, author of more than 250 monographs, memoirs, etc., on medical and other scientific subjects; Dr. Georges Papillault, assistant director of the laboratory of anthropology in the School for Advanced Studies, professor in the School of Anthropology, officer or member of several learned societies at home and abroad, and author of numerous scientific articles, a scientist of rare experience in the examination and identification of human bodies; Dr. George Hervé, professor in the School of Anthropology, ex-president of the Society of Anthropology of Paris, and author of many monographs and volumes on this subject; Dr. A. Javal, physician to the ministry of public instruction, laureate of the School of Medicine; M. J. Pray, chief architect of the prefecture of police, officer of public instruction; M. Paul Weiss, engineer of the quarries of the Seine, doctor of laws.

In addition to the above, the services were secured of Dr. V. Cornil, the eminent microscopist, professor of pathologic anatomy of the Paris School of Medicine.

The above scientists were not employed experts; they cheerfully gave their services gratuitously, purely in the interest of science and as an act of comity between two friendly nations in solving an important historical problem.

There now took place one of the most scientific, painstaking, and conscientious examinations conceivable for the purpose of verifying beyond all doubt the identification of the body submitted for this purpose.

The official and professional responsibility of those engaged in the task, their disinterestedness, and the fact that their established reputations were at stake gave abundant guarantee that the labor would be faithfully and impartially performed. Twelve American or French persons officially took part in or witnessed the work of identification, and their affirmative verdict, after six days passed in the application of every possible test, was positive and unanimous and was formally certified to under the official seals of their respective departments, as will be seen from their reports printed in the appendix.

The remains had been wrapped in a winding sheet of linen, the ends of which had been torn off, probably to make it fit the length of the body. On this was observed a small figure 2 worked in thread. Upon the removal of the sheet there was found upon the body but one garment, a linen shirt of very fine workmanship with plaits and ruffles, which corresponds with the Admiral's fondness for dress. "He is a master of the arts of dress and personal adornment and it is a common remark \* \* \* that he never fails to be the best dressed man at any dinner or fête he may honor by attending." ("Anecdotes of the Court of Louis XVI.") The long hair, measuring about thirty inches in length, had been carefully dressed and gathered into a linen cap at the back of the head. On this was found a small initial worked in thread. When the cap was right side up, the letter was a "J," with the loop well rounded; when reversed, it formed a "P." A careful search disclosed no other article in the coffin. On the hands, feet, and legs were found portions of tin foil, as if they had been wrapped with it.

Two circumstances combined to render the identification of the remains comparatively easy—the remarkable state of preservation

of the body due to the alcohol and the abundance of accurate information in existence descriptive of the dead.

To furnish the anthropologists with the required data, there was obtained upon personal application permission to make all the desired measurements of the Houdon bust of Paul Jones, a little more than three-quarter size, owned by the Marquis de Biron, a very artistic work representing the Admiral in court dress with the hair curled in rolls upon the temples. These rolls were identical with those found on the body.

There was procured through the courtesy of the director of the Trocadéro Museum a copy of the other well-known bust of Paul Jones by Houdon, one of the most accurate works of the famous sculptor, who was also an admirer of his subject. It represents Paul Jones in the uniform of an admiral, and was found more useful for the purpose of making the comparative measurements on account of its being life-size. James Madison, in a letter dated April 28, 1825, says: "His bust by Houdon is an exact likeness, portraying well the characteristic features." Sherburne, in his biography, says: "His bust by Houdon, of which several copies remain in this country, is believed to be the best representation of his features ever made." Besides these there were submitted a copy of the medal given by Congress—showing a profile of the face—and a mass of authentic information regarding the Admiral's chief characteristics, appearance, size, color of hair, age, etc.

Doctor Papillault, with his delicate instruments, made all the necessary anthropometric measurements of the head, features, length of body, etc., and found them so entirely exact as to be convinced that the busts were made from the subject before him, and that the length of the body, 5 feet 7 inches, was the same as the height of the Admiral. All of the comparative measurements are set forth in detail in his report, the greatest difference between any of them being only 2 millimeters, about seven-hundredths of an inch.

As said before, the cartilaginous portion of the nose had been bent over to the right side, pressed down, and distorted. This disfigurement was clearly due to the fact that when the body was put in the coffin an excess of the hay and straw packing had been placed under the head and across the face, and the mass of hair had been gathered into the linen cap at the back. This raised the face so high that the nose was pressed upon by the coffin lid. This pressure had been so great that the head itself was found turned a little to the right.

Professor Papillault says on this subject: "The bridge of the nose is rather thin, the root somewhat narrow. Seen in profile, the nose is of an undulating form on the bust; now this form depends a great deal on the cartilage. The bony part of the nose is quite compatible with it." The professional anthropologists pay little attention to the cartilages, as these are liable to change, and confine their measurements to the solid or bony structures.

Professor Capitan, after the examinations, had a photograph made of the head, but at the angle at which it was taken the disfigured nose is made to look as if it were Roman in shape, the end being bent over and depressed, and in consequence giving the bridge an unnatural prominence.

The expression of the face is not nearly so good as if the photograph had been taken immediately after opening the coffin. The

skin had shrunk, and the lips had contracted by exposure to the air and show the edges of the teeth, which were not visible at first. This gives the face a rather ghastly appearance. The hair, which was found neatly dressed, is in disorder and could not be rearranged, as an attempt to comb it revealed a danger of pulling it out. The photograph is herein reproduced, and is interesting for the reason that it shows the well-preserved condition of the flesh. The nose presented the only disfigurement. When the bust was placed beside the body, the resemblance of the other features was remarkably striking. Professor Hervé called attention to a peculiar shape of the lobe of the ear, which he said was, according to his experience, something very rarely seen. Its exact copy was observed upon the bust.

The hair was dark brown, slightly streaked with gray and thin above the temples, agreeing fully with the historical descriptions. The teeth were long and somewhat worn. The appearance of both hair and teeth was compatible with the Admiral's age at the time of his death—45 years.

Doctor Papillault, in his report setting forth the details of his investigations, remarks:

The dimensions of the bust, life-size, by Houdon, are exactly those of the body; the comparison is therefore easier than if the bust had been of a reduced size. Thus all the measurements offer an approximation truly extraordinary. Two experienced anthropologists measuring the same subject would often make as great differences. Thus I could not hope to find between a bust and its model a similar identity. I recollect having measured, some years ago, a cast of the head of Blanqui, and the statue which Dalon made from that same cast. Dalon was a very precise and conscientious artist, using and even abusing, as his colleagues said, the caliper compass. I found differences greater than in this case.

He concludes his report in the following words:

Without forgetting that doubt is the first quality of all investigators and that the most extreme circumspection should be observed in such matters, I am obliged to conclude that all the observations which I have been able to make plead in favor of the following opinion: The body examined is that of Admiral John Paul Jones.

Then came one of the most interesting features of the verification—the autopsy, doubtless the only one in history ever made upon a body that had been buried for a hundred and thirteen years. In order not to alter in anyway the appearance of the corpse, Doctor Capitan and his assistants laid the body upon its face and made the opening in the back to explore the thorax and the viscera contained therein. A quantity of alcohol ran out, the internal organs being thoroughly saturated with it. This accounted for their excellent state of preservation. The left lung showed a spot which was clearly the result of an attack of pneumonia or broncho-pneumonia. It had healed, but remained surrounded by fibrous tissue. Mr. Buell, in his "Paul Jones" (Vol. II, page 235), says: "During this inspection [of the Russian fleet], which consumed about fifteen days, the Admiral contracted a heavy cold, which almost the very day of his return to St. Petersburg developed into pneumonia. \* \* \* Both the eminent physicians who attended him pronounced his lungs permanently affected and told him he could never hope to endure again the rigors of a Russian winter." This was in June, 1789. In May, 1790, two years before the Admiral's death, he returned to Paris. The same author says of him (Vol. II, page 267), "The doctors declared that his left lung was more or less permanently affected."

Doctor Capitan and Professor Cornil found nothing particularly characteristic in the heart, which was still quite flexible. It was contracted, and the cardiac walls exhibited muscular fibers striated lengthwise and crosswise. An abundance of small crystals and bacteria were noticed. The liver was of a yellowish-brown color, somewhat contracted, and its tissues were rather dense and compact. There were found in the hepatic cells numerous varieties of crystals and microbes. The masses of tyrosin, appearing to the naked eye like white opaque granules, were less numerous than in the lungs. The cells of this organ were not so well preserved, and according to Doctor Capitan a positive opinion could not be given as to symptoms caused by its condition. The gall bladder was healthy and contained a pale yellowish-brown bile of a pasty consistency. The stomach was contracted and very small. The spleen appeared comparatively larger than it ought to have been, considering the marked contraction of all the viscera. Its tissues appeared rather firm; it showed no anatomic lesions. The kidneys were well preserved in form and presented very clearly under the microscope the evidences of interstitial nephritis, commonly called "Bright's disease." Doctor Capitan, in speaking of these organs, in his report says:

The vessels at several points had their walls thickened and invaded by sclerosis. A number of glomerules were completely transformed into fibrous tissue and appeared in the form of small spheres, strongly colored by the microscopic reactions. This verification was of the highest importance. It gave the key to the various pathological symptoms presented by Paul Jones at the close of his life—emaciation, consumptive condition, and especially so much swelling, which from the feet gained completely the nether limbs, then the abdomen, where it even produced ascites (exsudat intra abdominal). All these affections are often observed at the close of chronic interstitial nephritis. It can therefore be said that we possess microscopic proof that Paul Jones died of a chronic renal affection, of which he had shown symptoms toward the close of his life. In a word, like my colleague, Papillault, and by different means, relying solely upon the appearance of the subject, on the comparison of his head with the Houdon bust, and besides considering that the observations made upon his viscera agree absolutely with his clinical history, I reach this very clear and well-grounded conclusion, namely, that the corpse of which we have made a study is that of Paul Jones.

I will even add, always with Papillault, that being given this convergence of exceedingly numerous, very diversified, and always agreeing facts, it would be necessary to have a concurrence of circumstances absolutely exceptional and improbable in order that the corpse here concerned be not that of Paul Jones.

Professor Cornil concludes the report of his microscopic examinations as follows: "We believe that the case in point is interstitial nephritis with fibrous degeneracy of the glomerules of Malpighi, which quite agrees with the symptoms observed during life."

To show how perfectly the revelations of the autopsy agree with the symptoms of the malady which terminated the life of Paul Jones, in addition to the affection of the left lung described by his historians and hereinbefore mentioned, I give the following citations from authentic documents: Buell, in his "Paul Jones" (Vol. II, page 308), after mentioning that a week before his death it was proposed that he should be called to the bar of the French National Assembly to answer such questions as might be asked of him concerning the needs of the navy and to give his own ideas as to how those needs might best be met, says: "He asked to be excused on the ground that his articulation was not strong and he feared that an effort to make himself heard throughout the vast chamber would so strain his vocal organs as to bring on a fit of convulsive coughing." That night Paul Jones attended a supper at the Café Timon. Capelle, a French writer, describes the affair and gives the Admiral's speech, in which he said in

conclusion: "My friends, I would love to pursue this theme, but, as you see, my voice is failing and my lower limbs become swollen when I stand up too long."

Benoit-André, who published a memoir of Paul Jones six years after his death, says: "The day after the Admiral had been at supper at the Café Timon he did not rise until nearly noon. His lower limbs began to swell prodigiously, his stomach soon began to expand, and he had much difficulty at times in breathing; all the time afflicted with an exhausting cough and much raising of mucus."

Colonel Blackden's letter to Mrs. Janet Taylor, describing the drop-sical condition of the patient, has already been quoted.

The official certificate of burial says he died of dropsy of the chest ("hydropisie de poitrine").

The complete verification of all these symptoms by means of an autopsy made upon a corpse a hundred and thirteen years after death must be regarded as a notable triumph of anthropologic science, of deep interest to the medical profession, and a service of signal importance in the present instance.

No mark of a wound was discovered on the body. Paul Jones was never wounded. History is in abundant possession of the most detailed records of every fight in which he was engaged, and they make nowhere a single mention of his ever having received a wound. Buell finds no record of a wound. Sherburne, in his well-known "Life and Character of Paul Jones," page 362, says: "Commodore John Paul Jones on the ocean during the American Revolution was as General Washington on the land—never known to be defeated in battle, and neither ever receiving a wound." Sherburne's first edition was published while Richard Dale and other officers who had served with Paul Jones were still living and they never challenged this statement. Sands, in his "Life and Correspondence of Paul Jones," a work which presents a strange intermingling of official facts and uncorroborated assertions, says that it was known, as he was assured, that the Admiral was once wounded in the head, but admits further on that "he never chronicled his wounds in any letter or journal." The same writer asserts that the Admiral, four months before his death in 1792, wrote a draft of a letter, but which was never sent, addressed to the French minister of marine, complaining that his predecessor in that office, M. de Sartine, gave him (Jones) and our minister, who accompanied him, an icy reception, saying: "He did not say to me a single word, nor ask me if my health had not suffered from my wounds and the uncommon fatigue I had undergone." Even if the Admiral had ever made such a draft it would doubtless have been written, according to his custom, in French, and in the original might very well have meant simply that the minister did not take the trouble to ask him whether his health had suffered from wounds and fatigues, occurrences which might naturally be supposed to have happened to so combative a sailor; but as M. de Sartine had left the ministry of marine December 1, 1780, more than eleven years before, the statement does not carry any weight.

The detailed technical reports of the scientists were filed with my former communication to the government, and publicity has been given to them. Their production here in extenso would be beyond the scope of this report, so that I have confined myself to making the above most important extracts from them, giving the methods em-

ployed and the conclusions reached. After the autopsy the internal organs were replaced in the thorax.

Appended to this article are copies of the formal documents executed under seal containing the certifications of the official witnesses to the identification of the remains. I said to them all that if there existed a single doubt in the mind of anyone as to the absolute and unquestioned identity of the body submitted for examination, I begged that he would frankly make it known. Not a doubt was expressed, and their decision was unanimous.

It was now seen that some deterioration of the body was taking place from exposure to the air. I therefore gave instructions to the experienced specialists in the School of Medicine to take every precaution to preserve the flesh intact, and made arrangements to replace the remains in the original coffin, and incase them in a casket which could be hermetically sealed and prepared for transportation to America.

A leaden casket was procured, in the bottom of which was placed a bed of sawdust treated with phenyl. On this was laid the lid of the original coffin, next to it the original coffin, in the bottom of which the winding-sheet had been placed. On the top of the winding-sheet was spread a sheet of impermeable oiled silk and then a layer of cotton batting impregnated with phenic glycerin. The body was treated with a coating of the same substance, and the face was sprayed with the essence of thymol. The hair was gathered into the small linen cap in which it had been found. The body, upon which the shirt had been replaced, was then put into the original coffin and laid upon the cotton batting above mentioned, after which another layer of this material, saturated with phenic glycerin, was spread over the body and covered with a second sheet of oiled silk. The whole was then covered and packed with medicated cotton batting. There were also placed in the original coffin a glass jar containing specimens of the hay and straw which had been used in packing, and a package of fragments of the indurated earth which had closed the hole and the crack in the original coffin. The lid of the casket, in which is a large glass plate, was then soldered on and seals of the American embassy affixed. The casket was afterwards placed in an outer coffin of oak provided with 8 silver handles, the lid of which was secured by 16 silver screws.

On April 20 this coffin was taken to the American Church of the Holy Trinity, Avenue de l'Alma, accompanied by the American ambassador, M. Vignaud, first secretary of the embassy; Colonel Blanchard, second secretary; Mr. Gowdy, consul-general; and M. Weiss, engineer in charge of the excavations.

The coffin, covered with the American flag, was placed in the receiving vault; the rector of the church, the Rev. Doctor Morgan, offered a prayer, and the remains were left there to await the completion of arrangements for their transfer to the United States.

For several years a search had been pressed to find the house in which the Admiral died, No. 42 Rue de Tournon. There had been renumberings of the dwellings throughout the arrondissement, and it seemed impossible to trace them with sufficient accuracy to locate the house in which Paul Jones, as history states, occupied an "apartment on the first floor above the entresol." This furnished another instance of the mystery which pursued his memory. It was not until the first



week in July, 1905, that the place was found, thanks to the untiring and important assistance rendered by M. Taxil, chief surveyor of the city of Paris. The house is now No. 19 of that street. It is the only one in the immediate locality which has a first floor over an entresol.

The style of the ironwork on the balcony indicates an architecture of the period of the close of the reign of Louis XV or the beginning of that of Louis XVI: The street leads toward the entrance to the Senate, palace of the Luxembourg. It was once a fashionable street, and at the present time several persons of distinction live there. On the ground floor of the house a sign bears the words "Lessons in fencing, boxing, and the use of the singlestick." This proffered instruction in the several arts of fighting in the house in which Paul Jones resided, coupled with the fact that the underground station close to the cemetery where his body reposed is called "Combat," looks as if fate had determined that he should everywhere be identified with signs of conflict and struggle, whether in life or in death.

I visited this house for the first time, accompanied by Colonel Blanchard, July 4, 1905. Col. A. Bailly-Blanchard was my second secretary at the embassy, and it gives me peculiar pleasure to make conspicuous mention of his services. I assigned him to duty as my principal assistant, and he was constantly associated with me throughout the entire period of the researches. His rare accomplishments eminently fitted him for the service, and the ability and zeal displayed by him entitled him to the most grateful consideration.

Upon the receipt and examination of my detailed reports, the government recognized the completeness of the identification of the Admiral's body, and President Roosevelt ordered a squadron of war vessels, composed of the *Brooklyn*, *Tacoma*, *Chattanooga*, and *Galveston*, commanded by Admiral Sigsbee, to proceed to Cherbourg and convey the remains of Paul Jones to the Naval Academy at Annapolis, where it is to receive permanent interment in the crypt of the new chapel now under construction.

In the meantime I had consulted with the President of France, the minister of foreign affairs, president of the council, general of the army, admiral of the navy, and others, as to what part the French desired to take in the ceremonies attending the transfer of the remains. They all manifested an enthusiastic wish to pay every possible honor on that occasion to the memory of our illustrious sailor, and a programme was accordingly arranged which would best carry out this desire. Admiral Fournier, who represented the naval forces, told me that it was after reading the life of Paul Jones that he had resolved to become a sailor. So that it was the inspiration of our great sea fighter that gave to France an admiral who to-day commands the admiration of naval men of all countries.

Our squadron was heartily welcomed at Cherbourg by a French fleet, the inhabitants of the city vying with the officials to pay every possible attention to our officers and men. In Paris a series of public dinners and receptions were tendered them, and they were fêted in a manner rarely seen even in the brilliant and hospitable capital of France.

On July 6, the anniversary of Paul Jones's birth, Admiral Sigsbee brought 500 blue jackets to Paris, and at 3.30 p. m. the ceremonies attending the transfer of the remains began in the beautiful American Church of the Holy Trinity, Avenue de l'Alma.

In the morning I had had the coffin brought from the vault into the church, placed in front of the chancel, and covered with artistically arranged flowers. The church itself was tastefully dressed with floral decorations. The audience was one of the most distinguished that has ever been drawn together in Paris. The President of the Republic was represented by the chief of his household, who occupied a chair in front of the chancel. On the right of the middle aisle were seated the president of the council and minister of foreign affairs, the leading members of the cabinet, and the highest officers of the French army and navy; on the left the resident American ambassador, the two special ambassadors designated for the occasion, Admiral Sigsbee with his captains and staff officers, Senator Lodge, and the members of the diplomatic corps. Seated in the remaining pews and standing crowded in the aisles and doorways were distinguished persons from many countries. The elaborate uniforms, the exquisite flowers, the brilliant flags, enhanced the beauty of a scene which it is seldom one's fortune to witness and which will be memorable in history.

After careful consultation, I concluded that it would be appropriate to avoid an ordinary funeral service, with dirges and requiems, as the occasion was not a funeral, but rather a glorification of the dead, so that anthems, patriotic airs, and marches glorieuses constituted the music. After a simple but most impressive service had been conducted by the rector I formally delivered the remains to the Government of the United States in the following words:

This day America claims her illustrious dead.

In the performance of a solemn duty I have the honor to deliver to the Government of the United States, through its designated representative, the remains of Admiral John Paul Jones, to be borne with appropriate marks of distinction to the country upon whose arms his heroic deeds shed so much luster. It is believed that their permanent interment in the land to whose independence his matchless victories so essentially contributed will not be lacking in significance by reason of its long delay.

It is a matter of extreme gratification to feel that the body of this intrepid commander should be conveyed across the sea by the war vessels of a navy to whose sailors his name is still an inspiration, and that this high mission should be confided to so gallant an officer of the same noble profession as the distinguished admiral who commands the escorting squadron.

An earnest expression of recognition is due to the accomplished savants of France, whose acknowledged skill in anthropologic science confirmed in every particular, with entire accuracy and absolute certainty, the identification of the remains which were so marvelously preserved.

We owe a cordial tribute of gratitude to the Government of the French Republic for the cheerful proffer of facilities during the search for the body, the sympathy so generously manifested upon its recovery, and the signal honors rendered upon this occasion to the memory of a hero who once covered two continents with his renown in battling for the cherished principles of political liberty and the rights of man, for which the two sister republics have both so strenuously contended.

All that is mortal of this illustrious organizer of victory on the sea lies in yonder coffin beneath the folds of our national standard. When Congress adopted the present form of the American flag, it embodied in the same resolution the appointment of Capt. John Paul Jones to command the ship *Ranger*. When he received the news, history attributes to him the following remark: "The flag and I are twins; born the same hour from the same womb of destiny. We can not be parted in life or in death." Alas! they were parted during a hundred and thirteen years, but happily they are now reunited.

Mr. Loomis, Assistant Secretary of State and junior special ambassador, received the body, making an interesting address in which he recited the most stirring events in the career of Paul Jones, and expressed the extreme gratification of the government at the recovery of the remains. He finished by delivering them to Admiral Sigsbee for transportation to the United States. Admiral Sigsbee,

in accepting the high mission with which he had been charged, delivered a brief, appropriate, and eminently sailor-like address, which was warmly received.

Eight American blue jackets now stepped forward and bore the coffin solemnly from the church. They had been selected for their manly bearing and their stature, each being over 6 feet in height. They commanded the admiration of all who saw them, and the Americans present were naturally delighted to hear the whispered comments of the French ladies, "Quels beaux garçons!"

The coffin was placed upon a French artillery caisson tastefully adorned with flags.

The elaborate procession which took up its march at 5 o'clock was constituted as follows: A platoon of police, a regiment of French cuirassiers, 500 American sailors, the body of John Paul Jones, Admiral Sigsbee and staff, the American ambassadors and Senator Lodge, the personnel of the American embassy, the high officials of the French Government and of the diplomatic corps, delegations from the American Navy League and from the American Chamber of Commerce in Paris, members of the Society of the Cincinnati, Sons of the American Revolution, and other patriotic organizations, all on foot. Then came two batteries of French horse artillery, two companies of American marines, and two battalions of French infantry with their famous bands.

The column moved down the brilliant avenue of the Champs Élysées and across the Seine by the stately bridge of Alexander III, which leads to the Invalides. When the body of John Paul Jones was seen moving solemnly toward the body of Napoleon, each having died in a distant land to be brought back after many years with every mark of honor to the country he had so eminently served, there was a sentiment aroused which deeply touched the hearts of all participating in the ceremony.

When the wide Esplanade des Invalides was reached, the coffin was lifted from the caisson and placed upon a catafalque erected beneath a tent of superb construction, the material being a rich royal purple velvet hung with gold fringe, the front ornamented with swords, shields, cuirasses, and other warlike devices. Here the troops filed by the remains and rendered the highest military honors to the illustrious dead. The coffin was then borne to the mortuary car prepared for it in the railway station close by, and a special train bore it to Cherbourg that night with its guard of honor composed of Americans and Frenchmen.

Paris had that day witnessed a pageant entirely unique in its way, and of surpassing beauty and solemnity. The weather was superb, and the streets and houses were appropriately decorated. The vast crowds of spectators gazed upon the cortège with sympathy and respect. No cheers or other inappropriate demonstrations were indulged in. The onlookers simply uncovered reverently as the coffin passed. Their bearing in every respect was admirable.

The next day, July 7, I went to Cherbourg to sail for home. A cordial invitation had been received from the government and Admiral Sigsbee to take passage on board the flagship. While this was deeply appreciated, it was declined, as I felt that it would be in better taste to return by the ordinary lines of travel now that I had formally placed the subject of the mission in the hands of the Navy and could render no further useful service.

The fleets of the two nations lay side by side in that picturesque military harbor, discharging their peaceful and sympathetic mission, our phantom-colored vessels presenting an interesting contrast to the black hulls of the French warships. There I took a last look at the coffin which contained all that is mortal of the hero, the search for whose remains had furnished a congenial task for the past six years. Upon sailing out of the harbor, the squadron honored me with a parting ambassadorial salute, and I now felt that my mission in connection with the recovery of the body of our illustrious naval commander was definitely ended.

*Official Certification of the American Embassy and Consulate of the Identification of the body of Admiral John Paul Jones.*

This is to certify that we, the undersigned, met at the School of Medicine (L'École de Médecine), in the city of Paris, at 10 o'clock a. m. on the 14th day of April, 1905, for the purpose of verifying the identification of the remains recently found by the American ambassador in the old Saint Louis cemetery for the burial of foreign Protestants, and believed to be those of Admiral John Paul Jones.

The body was lying on a table, entirely uncovered, having been taken from the leaden coffin in which it had been found, and from which the linen had been removed and placed on another table.

We had familiarized ourselves with the historical information regarding the age, size, color of hair, general appearance, manner of dress, etc., of John Paul Jones, and there were placed near the body the medal presented to him by Congress to commemorate his battle with the *Serapis*, showing his head in profile, and a copy of the well-known bust made from life by Houdon, which had been loaned for the purpose by the Trocadéro Museum. The remains were those of a man, and were remarkably well preserved by having evidently been immersed in alcohol. The flesh seemed firm, and the joints were somewhat flexible. There were bits of tin foil adhering to the hands, feet, and other parts of the body, as if they had been wrapped with it. The body was lying on its back, the hands were crossed over the abdomen, the left hand resting on the right. It was of a grayish brown or, rather, a tan color. The right eyelid was closed, the other was slightly open. The features presented quite a natural appearance, except that the cartilaginous portion of the nose was bent over to the right and pressed down as if by the too close proximity of the lid of the coffin, or by the excess of the hay and straw in packing the body. Several fine oblique lines were traceable upon the face, made by the folds of the winding sheet, which had left upon the skin an imprint of the texture of the fabric. The lips were a very little shrunken or contracted, exposing the extreme ends of the teeth. This slight contraction did not exist when the coffin was opened, and seemed to have been caused by exposure to the air.

Doctor Papillault, professor of anthropology in the School of Anthropology, one of the scientists who had been highly recommended and selected to aid in the work of identifying the body on account of his valuable experience in such examinations, explained to us the methods he had adopted and showed us the elaborate comparative measurements he had made of all the important features of the body and of the Houdon bust. The agreement was singularly exact in every important particular, as will be shown in his report, which he read in our presence, explaining the details as he proceeded. The principal results were as follows: The word "identical" will be used to signify that the agreement between the corresponding dimensions of the body and of the Houdon bust is exact, and that the appearance conforms strictly to the authentic historical description of the Admiral.

Length of body, 5 feet 7 $\frac{3}{4}$  inches. Height of Paul Jones was 5 feet 7 inches. The three-eighths is the difference allowed by anthropologists between a person standing and the same person lying down. "Was 5 feet 7 inches tall, slender in build, of exquisitely symmetrical form, with noticeably perfect development of limbs." ("Anecdotes of the Court of Louis XVI.") Identical.

Principal features of face and head. Identical.

No beard. Identical. Face presented appearance of one who had not shaved for several days.

Hair very dark brown, generally speaking, might be called black. The front hair upon opening the coffin was found to be of an unnatural tan color, like the flesh, evidently discolored by the presence of the alcohol and straw. After taking some hair from the back of the head, where it had been protected by being gathered into a linen bag, and washing it its color was dark brown or black. "He was of the complexion usually united with dark hair and eyes, which were his." ("Memoirs of Paul Jones," Edingburgh edition.) "His hair and

eyebrows are black." ("Anecdotes of the Court of Louis XVI.") See specimen of hair accompanying this report. Identical.

The hair in a few places was slightly tinged with gray. This fact, together with the condition of the teeth, indicates a person between 40 and 50 years old. John Paul Jones was 45 at the time of his death.

Doctor Capitan, professor of historic anthropology in the School of Anthropology, vice-president of the commission on megalithic monuments, member of the committee on historical and scientific works, and of the society of Old Paris, etc., then explained the course pursued by him in the identification and the autopsy effected by opening the back and removing and examining the internal organs so singularly preserved, and gave convincing evidence that the deceased had died of the disease which terminated the life of John Paul Jones. (See Doctor Capitan's report.) In 1790 "the doctors declared that his left lung was more or less permanently affected." (Buell's "History of Paul Jones.") "He died of dropsy of the chest." (Official certificate of burial.) "For two months past he began to lose his appetite, grew yellow, and showed symptoms of jaundice." "A few days before his death his legs began to swell, which proceeded upward to his body, so that for two days before his decease he could not button his waistcoat and had great difficulty in breathing." (Letter of Colonel Blackden.)

The linen taken from the coffin, all in exceedingly good condition except stained in places a tan color, was then minutely examined. It consisted of a shirt of fine linen, handsomely made, with plaits and ruffles corresponding with the historical description of the Admiral's fondness for dress. "He is a master of the arts of dress and personal adornment, and it is a common remark that notwithstanding the frugality of his means he never fails to be the best dressed man at any dinner or fête he may honor by attending." ("Anecdotes of the Court of Louis XVI.") "To his dress he was, or at least latterly became, so attentive as to have it remarked." ("Memoirs of Paul Jones," Edinburgh edition.) Identical.

A sheet on which was worked with thread the figure 2. A linen bag or cap neatly made, which had been found at the back of the head and into which the hair had been gathered. Upon this was a small initial worked with thread. When the bag was held right side up, the letter was a "J," with the loop nearly closed. When held in a reverse position, it was a "P." If a "J," it would be the initial of Jones, the name which he added to his family name. If a "P," it would be the initial of his original family name, Paul. It may be remarked that then, as now, the French often marked their linen with the initial of their Christian name. In Paris the Admiral was sometimes familiarly addressed as "Mon Paul" and "Monsieur Paul." He often signed his name Paul Jones, and sometimes J. Paul Jones, as shown by his correspondence.

There were no other articles in the coffin except the hay and straw with which the body had been carefully packed, and no inscription plate had been found. Taking into careful consideration the convincing proofs of identification of the body by means of the measurements, the autopsy, etc., the marks upon the linen, the fact that the coffin was found in the cemetery in which it was proved to have been buried, that it was superior in solidity and workmanship to the others, that the body had been carefully preserved and packed as if to prepare it for a long voyage, "that, in case the United States, which he had so essentially served, and with so much honor, should claim his remains, they might be more easily removed" (Letter of Colonel Blackden, the Admiral's intimate friend, witness of his will and pall-bearer at his funeral, addressed to the eldest sister of Paul Jones, Mrs. Janet Taylor), and the further fact that in exploring the cemetery there was every evidence that the graves of the dead had never been disturbed, that only five leaden coffins were found, four of which were easily identified, three of them having inscription plates giving dates and names of the deceased, and the fourth containing a skeleton measuring about six feet two inches in length, we regard the identification as completely verified in every particular and are fully convinced that the body discovered is that of Admiral John Paul Jones.

	(Signed)	HORACE PORTER, <i>American Ambassador.</i>
[SEAL OF THE AMERICAN EMBASSY AT PARIS.]	(Signed)	HENRY VIGNAUD, <i>Secretary American Embassy.</i>
	(Signed)	JOHN K. GOWDY, <i>U. S. Consul-General.</i>
	(Signed)	A. BAILLY-BLANCHARD, <i>Second Secretary American Embassy.</i>
[SEAL OF THE AMERICAN CONSULATE AT PARIS.]		

*Translation of the Official Certification of the Participants and Witnesses.*

At the request of his excellency, Gen. Horace Porter, American ambassador, grand cross of the Legion of Honor, recipient of the Congressional medal of honor, I, Justin de Selves, prefect of the Seine, grand officer of the legion of honor, and I, Louis Lepine, prefect of police,

grand officer of the legion of honor, went on Friday, the 14th day of April, 1905, at 10 a. m., to the School of Medicine, where a leaden coffin was deposited containing the presumed remains of John Paul Jones.

The said coffin was discovered in the former cemetery for foreign Protestants under the conditions stated in the report drawn up by the service des carrières (quarries) of the department of the Seine, and annexed to the present certificate. It was transported to the School of Medicine through the care of M. Géninet, a municipal superintendent of public works, on Saturday, April 8, 1905.

In our presence and in the presence of the ambassador of the United States and in that of the following persons: Mr. Henry Vignaud, first secretary of the embassy of the United States, commander of the Legion of Honor; Col. A. Bailly-Blanchard, late aid-de camp to the governor of Louisiana, second secretary of the embassy of the United States, officer of the Legion of Honor, officer of public instruction, etc.; John K. Gowdy, consul-general of the United States; Doctor Capitan, professor of the school of anthropology, member of the committee of historic and scientific works (Ministry of Public Education), member of the municipal commission of Old Paris, late president of the Society of Anthropology of Paris, etc.; Dr. G. Papillault, assistant director of the Laboratory of Anthropology of the École des Hautes Études, professor in the School of Anthropology; Doctor Hervé, doctor of medicine, professor in the school of Anthropology; Dr. A. Javal, doctor of medicine, physician in the ministry of the interior, laureate of the School of Medicine; Mr. J. Pray, architect in chief of the prefecture of police; officer of public education; M. Paul Weiss, mining engineer, inspector of the quarries of the Seine, doctor of laws, the examination of the coffin and body was proceeded with. General Porter, Colonel Bailly-Blanchard, and Mr. Weiss declared that they recognized the coffin and the body as being those found in the former cemetery for foreign Protestants and transmitted to the School of Medicine for the purpose of identification.

Doctor Papillault read a detailed report and concluded that the body was that of John Paul Jones.

By the side of the body were placed the bust of the Admiral by Houdon, a plaster cast, loaned by the museum of the Trocadéro, of the original bust in the Academy of Fine Arts at Philadelphia, also the medal signed Dupré, which was struck in honor of Paul Jones by order of Congress to commemorate his famous battle with the *Serapis* and the *Scarborough*, which enabled one to verify the perfect resemblance existing between the reproduction of the features of the Admiral and the corpse.

The shirt and winding sheet in which the body was wrapped were likewise examined. On the cap which contained his hair those present noted the existence of an initial which in one direction is a capital "P" and in a contrary direction a "J," both letters constituting the initials of the Admiral.

After these various examinations Doctor Capitan read his report upon the result of the autopsy which he had made upon the corpse and which revealed the symptoms of the disease of which it is known the Admiral died. Doctor Capitan and Doctor Papillault were both in accord in affirming as a scientific truth the identity of the deceased.

In view of the perfect coincidence of all the facts relating to the burial and of the agreement of all the physical measurements, those present were unanimous in recognizing the body as being that of Admiral John Paul Jones.

Consequently, the body was replaced in the leaden coffin in which it was discovered, to be ultimately inclosed in a new triple coffin of pine, lead, and oak sealed and transferred to the vault of the American church in the Avenue de l'Alma.

In witness whereof we have drawn up and signed with all those in attendance the present certificate in triplicate, one of which will be sent through his excellency the minister of foreign affairs to his excellency the American ambassador for delivery to the Government of the United States, and the two others filed in the archives of the prefecture of the Seine and the prefecture of police.

Thus done and signed at Paris, the nineteenth day of May, 1905.

(Signed)	J. DE SELVES.
(Signed)	LOUIS LEPINE.
(Signed)	HORACE PORTER.
(Signed)	HENRY VIGNAUD.
(Signed)	A. BAILLY-BLANCHARD.
(Signed)	JOHN K. GOWDY.
(Signed)	J. CAPITAN.
(Signed)	DR. G. PAPILLAULT.
(Signed)	GEO. HERVÉ.
(Signed)	A. JAVAL.
(Signed)	J. PRAY.
(Signed)	PAUL WEISS.

## GERMANY.

### TREATIES OF COMMERCE AND NAVIGATION ENTERED INTO BY GERMANY WITH AUSTRIA-HUNGARY, BELGIUM, ITALY, ROUMANIA, RUSSIA, SERVIA, AND SWITZERLAND.

*Ambassador Tower to the Secretary of State.*

No. 617.]

AMERICAN EMBASSY,  
*Berlin, March 3, 1905.*

SIR: I have the honor to inclose to you herewith a translation into English of the text of the additional convention to the treaty of commerce and navigation between Germany and Russia of January 29 [February 10], 1894, of July 15 [July 28], 1904, of which the ratifications were exchanged on February 28, 1905. This additional convention will go into effect on March 1, 1906.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.—Translation.]

*Additional convention to the treaty of commerce and navigation between Germany and Russia of January 29 [February 10], 1894, of July 15 [July 28], 1904.*

His Majesty the German Emperor, King of Prussia, in the name of the German Empire of the one part and His Majesty the Emperor of Russia of the other part, led by the wish to make the commercial relations between Germany and Russia more active, have resolved to conclude an additional convention to the treaty of commerce and navigation of January 29 [February 10], 1894, <sup>a</sup> and the final protocol annexed to it, and have named for this purpose as their plenipotentiaries, to wit:

His Majesty the German Emperor, King of Prussia;

His Excellency Count Bernhard von Buelow, his imperial chancellor, and

His Majesty the Emperor of Russia;

His Excellency Mr. Sergius de Witte, his secretary of state, actual privy councilor and president of the committee of ministers, who, after having communicated to one another their full powers found to be in due and proper form, have agreed to the following articles:

#### ARTICLE 1.

The treaty of commerce and navigation of January 10 [February 10], 1894, is modified in the following manner:

#### I.—Article 2.

The following new paragraph is to be added after Paragraph I:

"The term of three years fixed by the Imperial Russian ukase of March 14, 1887, for the liquidation of real property by foreigners, is extended for German subjects to ten years."

The words "They will likewise be able," at the beginning of paragraph 2 of article 2, are replaced by "The subjects of each of the two contracting parties will be able."

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<sup>a</sup> Printed in British and Foreign State Papers, vol. 86, p. 442 et seq.

II.—*Article 6.*

The article is drawn up as follows:

## “ARTICLE 6.

“The products of the soil and industry of Russia which will be imported into Germany and the products of the soil and industry of Germany which will be imported into Russia, destined for consumption, warehousing, reexporting, or transit, will be treated in the same manner as the products of the most favored nation. In no case and on no account will they be liable to duties, charges, taxes, or dues higher or other, nor be subjected to surtaxes or to exclusion from importation by which the similar products of any other country are not affected. Especially any favor and facility, any immunity, and any reduction of the customs dues contained in the general tariff or in the treaty tariffs which one of the contracting parties may give to a third power permanently or temporarily, gratuitously or for compensation, will immediately and without conditions, reservations, or compensation be extended to the products of the soil and industry of the other.”

III.—*Article 7.*

The tariff schedules mentioned in this article are replaced by the annexed tariff schedules A and B.<sup>a</sup>

IV.—*Article 11.*

At the end of paragraph 1 of No. 3 the following is added:

“Nevertheless the German imports shall benefit equally from all customs facilities accorded to imports into these territories of a European or North American State.

V.—*Article 12.*

In paragraph 2:

1. After the word “samples,” the words “of all kinds” are added.
2. The words “within a space of time fixed upon in advance” are replaced by the words “within a space of one year.”

VI.—*New article.*

The following article is inserted after article 12:

## “ARTICLE 12.a

“The Imperial Russian Government declares itself ready to enter into negotiations within a period of three years following the going into effect of the present convention with the Imperial German Government, in regard to the conclusion of an arrangement respecting the reciprocal protection of the rights of authors to literary, artistic, and photographic works.”

## ARTICLE 2.

The final protocol of the treaty of commerce and navigation of January 29 [February 10], 1894, is modified in the following manner:

I.—*First part, in regard to the text of the treaty.*

1. New provision to article 1, the following provision is inserted:

## “TO ARTICLE 1.

“Household articles which have already been used and which constitute a part of the furniture of the subjects of one of the contracting parties who are about to establish themselves in the territory of the other will not be liable in the latter to any entrance customs duty.

“German professional consulates and the officials of the diplomatic missions and of the said consulates who will be sent to Russia by the German Government shall enjoy full and complete liberty, as regards the Russian censor, as well for newspapers as for the products of the sciences, arts, and belles-lettres.

“The privileges and exemptions extended to the consular officers by article 2 of the convention of November 26 [December 8], 1874, between Germany and Russia will also be accorded to the special officials attached to the German consulates in Russia and to the agents of the Russian ministry of finance and their secretaries (or attachés) in Germany.”



2. To articles 1 and 12 the following paragraphs are added:

"The duration of the validity of passport visés is extended in Russia to a period of six months.

"This provision also applies to the visé of passports of German commercial travelers of the Mosaic religion.

"The fee for issuing passports for abroad to Germans residing in Russia will not be above the sum of 50 copeks.

"Russia will continue to accord a period of 28 days for the validity of the certificates of legitimation which are valid within a frontier zone of 30 kilometres and give to the bearer the right, as is at present the case, to cross the frontier several times at different points of passage. This period of validity will be counted on both sides from the day on which the certificate has been used for the first time to cross the frontier in such wise that the said certificates lose their validity if they have not been used for the first time at latest on the fifteenth day from the day of their delivery. This period of twenty-eight days will in no case be affected by a change of year occurring during the time of the validity of the certificates. Certificates of legitimation drawn up in two languages, in German and in Russian, will only be delivered, on both sides, to the nationals and subjects of the other country domiciled in the country where the certificates are delivered.

"The date of crossing the frontier will in the future be marked by the Russian and German authorities upon the certificates according to the calendar in use in Russia as well as according to the calendar in use in Germany. Certificates will continue to be delivered, as it is done at present, to Christians as well as to Israelites.

"The Russian laborers who cross into Germany in order to work at agricultural pursuits or in pursuits connected with agriculture will be provided gratuitously, as up to the present, with documents of legitimation valid from February 1st to December 20th, new style.

"These documents likewise will be drawn up in Russian and German."

3. New provision to article 3; the following provision is inserted:

"TO ARTICLE 3.

"In so far as the subjects (ressortissants, Angehoerige) of a third state are exempt from guardianship in Russia by virtue of treaties and conventions in force, German subjects in Russia will enjoy the same privilege regarding the guardianship of minors other than German."

4. New provision to article 5; the following provisions are inserted:

"TO ARTICLE 5.

"The veterinary measures taken by the German Government as regards Russian imports will not be introduced in a more severe manner than those taken as regards states which are situated in respect to the contagious diseases of animals and veterinary arrangement in the same circumstances as Russia.

"This provision does not apply to the veterinary convention between Germany and Austria-Hungary.

"The number of living hogs which are permitted to be imported into Upper Silesia by virtue of the arrangements in force will be augmented to 2,500 a week.

"Meat which may be considered as prepared within the meaning of the German meat inspection law of June 3, 1900, will be admitted into Germany agreeably to the provisions of the said law.

"The concessions contained in paragraphs 3 and 4 of the present arrangement may be revoked or suspended temporarily if exceptional reasons of veterinary police require it.

"The Russian Government binds itself for the term of the present convention not to impose any export duties upon unhewn or unsquared wood not especially named in number 6 of the table of export duties, nor to forbid its export."

5. New provision to article 6; the following provision is inserted:

"TO ARTICLE 6.

"The German Federal Council (Bundesrat) will not during the entire present term of the present convention make use of its right to revoke the authorization in regard to establishing mixed transit storehouses for grain at Koenigsberg, Danzig, Altona, Mannheim and Ludwigschafen."

6. To articles 6 to 9; at the end of this provision the last words, starting from "equivalent to" are struck out and replaced by the following:

"equivalent to 462 roubles (1 rouble=1/15 Imperial). In the same ratio the Russian customs will accept in paying customs duties the notes of the German Imperial Bank (Reichsbanknoten)."

7. To articles 6 and 7, after the words "imported into the other" are inserted the words "if this merchandise is subjected to a different customs treatment according to the country of origin."

8. New provision to article 12; the following provision is inserted:

"TO ARTICLE 12.

"In order to exercise in Russia the right provided for in paragraph 1 of article 12, the persons therein named must be provided with special trade certificates, the fee for which, for the benefit of the State, shall not exceed 150 roubles for a whole year and 75 roubles for the second half of the year.

"If persons provided with the certificates mentioned desire to exercise the right provided for in paragraph 1 of article 12 by means of commercial travelers in their employ, these commercial travelers must each be provided in addition with a personal trade certificate, the fee for which shall not exceed 50 roubles for the whole year and 25 roubles for the second half of the year.

"The trade certificates provided for in paragraph 1 of the present stipulation may be delivered in the name of the persons who are themselves proceeding to Russia, and in this case these persons will not be obliged to provide themselves in addition with the personal trade certificate.

"Regarding the delivery of the trade certificates and the amount of the fee for them, no distinctions will be made between persons of the Christian and Mosaic religions.

"In so far as the importation of firearms from abroad is not forbidden in Russia, German commercial travelers may carry with them samples of these arms on the express condition that they will submit to all general or local regulations which are or will be in force concerning firearms."

9. To article 13, the following is added:

"German ships proceeding to Russia by waterways which cut across the common frontiers to return later into Germany, will be allowed to enter into Russia without paying or guaranteeing the payment of import duty.

"The period within which these ships must be reexported into Germany is fixed at two years from the day of their entrance into Russia. If the ship is sold in Russia or remains there more than two years, it is liable to the import duty provided. The said period will be lengthened if the ship is detained by circumstances independent of the will of the master, such as an insufficient depth of water, damage necessitating considerable repairs or other analogous causes. Import duties will not be levied if the ship is destroyed by fire or shipwreck.

The certificates containing the obligation to reexport the ship or to pay the import duty will be exempt from all dues.

"As long as the ship is in Russia the measurement certificate of the ship (Schiffseichschein) will be deposited in the custody of the Russian customs authorities.

"German passenger steamers on the Niemen are allowed as far as Georgenburg, and Russian passenger steamers are allowed as far as Schmaleningken and may winter in this port.

"The stamping of bills of carriage and bills of lading for the cargoes of the ships bound for Germany is done by the Russian customs-houses established upon the banks of the Vistula."

II.—*Second and third part, in regard to the tariff schedules.*

These two parts are struck out.

III.—*Fourth part, in regard to customs regulations.*

1. § 1. Paragraph 1 is drawn as follows:

The contracting parties are agreed to recognize that the first-class Russian customs-houses at Kroettingen and Praszka may be changed into second-class customs-houses and the branch customs-house at Sluziew into a point of passage if the powers especially stipulated for these customs-houses in the list annexed hereto are left to them.

As to the rest, the Imperial Russian Government not only will leave to the existing customs-houses the rank and powers which they possess, especially to the first-class customs-houses at Slupce and Herby, to the third-class customs-house at Piotrkow, to the branch customs-house at Twroki and Zakrzewo and to the points of passage at Degutzky, Rakowka, Upidamisch, Bakalarzewo, Skulsk, and Gostincezyk, but also it will raise the rank of some existing customs-houses and will grant to them more extensive powers and will establish some new customs-houses in places which are not yet provided with them.

In performance of what precedes:

1. The third-class customs-houses at Dobrzyń and Modrzewo are raised to the rank of second-class customs-houses;

The branch customs-houses at Paschwenty, Wladislawowo, Wilczyn, Gola, and Podlenka, as well as the point of passage at Radziejewo, to the rank of third-class customs-houses;

2. Points of passage will be established at Kirkily, Kibarty, and at Pely;

3. The bureaux at Ayssehnen, Kirkily, Wladislawowo, Czarnowka, Dombrowa, Karw, Osiek, Dobrzyn, Radziejewo, Wilczyn, Piesern, Gola, Podlenka, Gniazdow, Nezdara, Czeladz, and at Modrzejewo, named in the list annexed, will receive the powers especially indicated for each of these bureaux in the said list.

The extension of these powers will take place as soon as possible, and in any case in the course of the year following the going into effect of the present convention.

The point of passage at Kibarty will remain at the same time an advisory bureau for the first-class customs-house at Wirballen.

Second-class and third-class customs-houses and branch customs-houses will have power to clear:

1. Agricultural machinery and apparatus, indicated in the circular of the department of customs of January 31st, 1900, No. 2154.

2. The articles named in numbers 41, paragraphs 1, 2, and 3, 89 and 103, paragraph 1 of the Russian customs tariff.

All these concessions are accorded on the condition that Germany will establish and maintain opposite the Russian customs-houses and points of passage control bureaux or posts as German stations of passage and will invest them with equivalent powers. Especially the German customs-house at Zollhaus Gurzno, opposite Karw, will remain near the frontier and will not be moved into the town of Gurzno.

The contracting parties finally bind themselves to investigate with care requests, accompanied by the reasons for them, for establishing new customs-houses, for raising existing customs-houses to a higher rank, and for extending their powers, which one of the parties may address to the other even during the term of validity of the present convention and to give effect to them so far as possible. In the same manner the contracting parties will come to an understanding in regard to questions as to abolishing a customs-house, lowering its rank, or reducing its powers.

Any modification effected by one party in the character or powers of one of its customs-houses will immediately be brought to the knowledge of the other.

2. § 2. The following sentence is added at the end of the paragraph:

"A similar power has also been granted to the German first-class customs-house (Neben-zollamt 1. Klasse) at Preussisch-Herby, and this power will be left to it as long as the Russian first-class customs-house at Russisch-Herby is invested with corresponding powers."

3. § 7. (1) The words "three roubles gold" are struck out and replaced by "fifteen roubles."

(2) The words "nine marks" are struck out and replaced by "thirty-five marks."

4. New paragraph; the following provision is inserted after 8:

"8a. Except for the special provisions in regard to river ships (V. I. No. 9, paragraph 1-4 of the present article), vehicles (véhicules, Fahrzeuge) of every kind, including their fittings, employed at the time of their entry in the transportation of persons or of merchandise and imported solely for this reason temporarily into Russia by persons known to the Russian or German customs authorities, will be admitted to enter by the Russian authorities without a deposit of the customs duties or of security for these duties if the conductor (conducteur, Führer) of the vehicle binds himself to reexport it within a fixed time. The drafting of the obligation will be made gratuitously and without fees of any kind."

5. § 10. Paragraph 10 is drawn as follows:

"No special declaration will be required for the entry of merchandise into Russia by land when it is accompanied by bills of carriage. It is sufficient in this case to present the bills of carriage at the bureaux of entry. The number of the horses and carriages making up the convoy and the total number of bills of carriage and of the cases will then be entered upon one of the bills of carriage, and this statement will be signed by the chief conductor."

6. New paragraph; the following provision is inserted after § 12:

"§ 12a. Within one year after the present convention is put into effect the Imperial Russian Government will publish:

"1. A systematic edition of all the circulars of the department of customs in regard to the application of the customs tariff as well as the decisions of the directing senate concerning the same matter;

"2. An alphabetical list of all the products named in the customs tariff and in the above-mentioned circulars and decisions."

7. New paragraph; the following provision is inserted after the new § 12a, above:

"§ 12b. The fee payable for affixing identification marks will not exceed 5% of the total amount of the customs duties.

"The fees payable for affixing identification marks to buttons, ribands, laces, embroideries, and skins will not exceed 1 copek for each lead seal. The entire amount of the fees or the leading shall not exceed 5% of the sum total of the entrance duties in each special case.

"If, however, the interested party himself desires that the goods be leaded in a manner beyond the need of identification, he will be held to pay the additional amount of the fees resulting from this.

"The marking of German gold and silver ware will not be liable to fees other or higher than the marking of similar native ware."

8. § 13. (1) In paragraph 1 the words "counting from the day of beginning" are replaced by the words "counting from the fourth day after the beginning."

(2) The words "5 to 14 days," at the end of paragraph 2, are struck out and replaced by "5 to 14 days, augmented by the three days delay provided in paragraph 1."

9. § 15. Paragraph 15 is drawn as follows:

"§ 15. The order contained in article 292 of the Russian regulations of May 15, 1901, regarding the importation of merchandise, according to which the difference between the declared weight of articles or merchandise and the weight ascertained at the examination will remain unpunished if it does not exceed 5% of the total weight of the articles or merchandise, is modified and the toleration limit is raised to 10% of the total weight."

10. § 17. In paragraph 1 the words "at three weeks" are replaced by the words "at two months."

11. § 20. Paragraph 2 is replaced by the following stipulations:

"Local measures emanating from the personal initiative of the head of a district (Landrat in Germany, natchalnik, ouiesda, ispravnik in Russia) will immediately be communicated to the heads of districts concerned of the country. This communication shall contain at the same time the reasons for the measure unless the nature of this makes an indication of them superfluous.

"Measures emanating in Germany from a chief provincial president (Oberpraesident) or from a government president (Regierungspraesident) and in Russia from a governor-general or from a governor will be communicated reciprocally to the respective official having the corresponding rank. The communication of the reasons for these measures will be made through diplomatic channels.

"Measures emanating from the central authorities of the two countries, including the reasons for them, will be communicated reciprocally through diplomatic channels.

"It is understood that information regarding veterinary measures will be communicated reciprocally in advance, if possible, and at latest as soon as they will be decreed.

"The two governments will exchange lists, in which the authorities on both sides are designated, between whom the reciprocal exchange shall take place, in conformity with the manner indicated above."

#### ARTICLE 3.

The present additional convention will come into force at the expiration of a delay of twelve months after the exchange of the ratifications, but at latest on June 18 [July 1], 1906.

After the going into force of the additional convention, the present treaty of commerce and navigation, concluded January 29 [February 10], 1894, with the modifications and additions brought into it by the said additional convention, will remain in force until December 18 [December 31], 1917.

In case neither of the contracting parties has notified, twelve months before the expiration of this period, its intention of allowing the effects of this treaty to cease, this last, with the modifications and additions above mentioned, will continue to be effective until the expiration of a year from the day when one or the other of the contracting parties has denounced it.

#### ARTICLE 4.

The present convention will be ratified and the ratifications will be exchanged at Berlin as soon as possible.

In token whereof the respective plenipotentiaries have signed it and have sealed it with their arms.

Done at Berlin July 15 [July 28], one thousand nine hundred and four.

[L. s.]

[L. s.]

BUELOW.

SERGE WITTE.

The foregoing additional convention has been ratified and the exchange of the ratifications took place on February 28, 1905.

The additional convention goes into force on March 1, 1906.

*Ambassador Tower to the Secretary of State.*

No. 623.]

AMERICAN EMBASSY,  
*Berlin, March 10, 1905.*

SIR: I have the honor to inclose to you herewith three copies of a parliamentary document, No. 543, Reichstag II Legislatur Periode, I Session 1903/1905, with a supplement, containing the text of the treaties of commerce recently negotiated between Germany, on the one part, and Italy, Belgium, Russia, Roumania, Switzerland, Servia, and Austria-Hungary, respectively, on the other part, as well as the text of the veterinary convention recently negotiated between Germany and Austria-Hungary.<sup>a</sup>

This document contains the text of these treaties in the form in which they were severally submitted by the German Government to the Reichstag for discussion and ratification. The only one of them which has been duly ratified as yet by both contracting parties and promulgated is that between Germany and Russia, of which I have forwarded to the Department three copies in my dispatch No. 613, of the 2d of March, 1905.

I inclose herewith the texts of the other treaties, because while they have not as yet been promulgated they have been duly ratified by the German Reichstag in their present form and are likely to be ratified without change by the several other contracting parties, and in the meantime it will doubtless be of interest to the Department to be in possession of the details of each of these treaties.

The supplement contains the message of the imperial chancellor which accompanied these documents at the time when he submitted the treaties to the Reichstag. It also contains:

1. A comparison of the texts of the former treaties and of the new treaties with each of the countries, respectively, the text of the former treaty being printed upon one page with that of the new treaty placed opposite to it.

2. Tables which give in parallel columns a comparative statement of the tariff schedules established between Germany and each of the other countries, respectively, under the existing treaties, the new treaties, and under the ordinary customs tariff in each case.

3. Tables giving statistics of trade between Germany and each of the other countries during recent years, as well as other tables containing a statement of the general export and import trade of each of those countries.

I have, etc.,

CHARLEMAGNE TOWER.

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<sup>a</sup>Not printed. Treaty with Russia printed ante. Treaty with Austria-Hungary printed on p. 61.

*Consul-General Mason to the Secretary of State.*

[Extract.]

AMERICAN CONSULATE-GENERAL,  
*Berlin, March 15, 1905.*

On February 22 the German Reichstag, by a vote of 228 to 81, adopted the treaty of commerce with Russia, the last of the seven similar treaties which the imperial chancellor has negotiated, since the enactment of the tariff law of December, 1902, with Italy, Belgium, Roumania, Switzerland, Servia, Austria-Hungary, and Russia, respectively. The conclusion and acceptance of these conventions is regarded as the most important governmental act of recent years, and marks an epoch in the history of German economic legislation.

There is transmitted as an exhibit with this report an unofficial but accurate, clear, and well-arranged compendium, prepared and published by the Central League of German Industrials for the information of its members, under the title of "The German Treaty Tariff."<sup>a</sup> In this compilation is shown the new tariff law of December 25, 1902, with each article of import in order as classified under that act, and the duty to which each article will be subject under that autonomous schedule unmodified by any treaty or other concession. In the next parallel column is shown the tariff rate on each article as it is modified for certain specified countries by one or more of the seven treaties which have just been adopted. In the final parallel column is shown the autonomous duty rate on each article under the old tariff of July 15, 1879, and, finally, the same rates as modified by treaties and concessions hitherto enacted and now in force. It is under this latter tariff, with its various modifications, that German import trade has been conducted during the past ten years, and will continue to be governed until the new tariff law, modified for certain countries by the treaties cited, shall come into effect—probably during the month of March, 1906. The reason for this year of further delay is that certain of the commercial treaties made under the Caprivi administration had a uniform duration of ten years, and could then be terminated at any time after a year's notice, or "Kündigung," from either party to the convention. Accordingly, it was deemed judicious to postpone such notice of termination until the seven pending treaties with the European countries named should be secure. This having been achieved, one year has still to elapse before the new treaties and the tariff act on which they are based will go into effect.

The publication of this compilation of the treaty tariffs enables one to see at a glance their effect on the import duties on goods coming into Germany from each of the seven treaty nations, the advantages which each thereby secures over the countries having no such special convention with Germany, and gives an easy and direct comparative exhibit between the rates under the new autonomous tariff schedule and the one now in force. It has been followed by meetings, discussions, protests, and predictions, in which the representatives of many diverse industries and interests have endeavored to foresee and portray the conditions under which their special form of business will be

<sup>a</sup> The German treaty tariff is on file in the Bureau of Statistics, Department of Commerce and Labor, where it may be consulted by interested parties.

placed by the new schedule. Naturally the complainants, those who foresee danger, are much more voluble and eloquent than those who are satisfied with the new duties. Even the agrarians, in whose interest the whole schedule of rates on agricultural and food products was enacted, are still unsatisfied and regret that the minimum rates to which the grain duties might be reduced by treaty were not made higher. Manufacturers of machinery and many other forms of iron and steel are dismayed over the restrictions left on their trade by the treaty with Russia, in which country they have expected, with the return of peace, to find an important increase in the demand for their products. And throughout the whole of industrial Germany there is an apprehension lest the increased duties on cereals and other food products which will come in with the new tariff will either render living so costly and difficult that the efficiency of labor will be impaired or compel the payment of enhanced wages that will in effect increase the cost of manufactures to a point which will weaken Germany's power of competition in foreign markets. How far these apprehensions are well founded, time and actual experience under the new schedule can alone determine.

At present it is not practicable within the limits of a report of this character to more than briefly summarize the more important changes which will be introduced by the new tariff and treaties and which will have a direct relation to German import trade from the United States in the event that after March, 1906, the advantages of the most-favored-nation clause shall be denied to our country and that meanwhile no reciprocal trade treaty or other convention affecting duties on imports shall be concluded between the United States and Germany.

#### SOME CHANGES UNDER THE NEW TARIFF AND TREATIES.

The following table will show in respect to forty-six of the principal articles of German import from America (1) the present maximum or autonomous duty as now paid under the tariff of 1879; (2) the same duties as now modified and reduced by existing treaty concessions; (3) the new autonomous duties that will go into effect next year, and (4) the amounts to which each of these rates of duty will be reduced on merchandise coming from certain of the seven European countries which have just concluded treaties of commerce with Germany. The figures show in all cases, unless otherwise specified, the amount in American currency of duty per double centner (100 kilograms or 220.4 pounds):

*Tariff duties of Germany: Maximum under present law, reductions by treaty, autonomous duties to go into effect in 1906, and reductions granted to certain European countries on forty-six articles of imports, expressed in American currency per 100 kilograms (220.4 pounds).*

Merchandise.	Present tariff (adopted in 1879).		New tariff law of 1902 (to go into effect in 1906).		Difference.
	Maximum.	Reduced by treaty.	Autonomous.	Reduced by treaty.	
Wheat.....	\$1.19	\$0.83	\$1.78	\$1.30	\$0.58
Rye.....	1.19	.83	1.66	1.19	.47
Oats.....	.95	.67	1.66	1.19	.47
Barley.....	.53	.47	1.66	.95	.71
Corn.....	.47	.38	1.19	.71	.48
Wheat flour.....	2.50	1.74	4.36	2.42	1.94
Malt.....	.95	.85	2.44	1.37	1.07
Potatoes.....	Free.	Free.	.59	1.24	(a)
Hops.....	4.76	3.38	16.66	4.76	11.90
Dried apples, pears, apricots, and peaches.....	.95	.95	2.38	.95	1.43
Dried prunes.....			2.38	1.19	1.19
Fresh apples in barrels.....	Free.	Free.	2.38	1.19	1.19
Sausages.....	4.76	4.04	16.66	9.52	7.14
Lard.....	2.38	2.38	2.97	2.38	.59
Salted meats.....	4.76	4.04	10.71	8.33-9.25	2.38-1.46
Butter.....	4.76	3.80	7.14	4.76	2.38
Cheese.....	4.76	4.76	7.14	3.57-4.76	3.57-2.38
Eggs.....	.71	.47	1.42	.71	.71
Margarine.....	4.76	3.80	7.14	4.76	2.38
Wood alcohol.....	Free.	Free.	4.76	Free.	4.76
Cows and oxen, per head.....	2.14	2.14	4.28	1.90	2.38
Horses, per head.....	4.76	4.76	21.42-85.68	7.14-28.56	14.28-57.12
Hogs, per head.....	1.42	1.19	4.28	2.14	2.14
Shoes, coarse.....	11.90	11.90	20.23	20.23	
Shoes, medium.....	16.66	15.47	28.86	23.80	5.06
Shoes, fine.....	16.66	15.47	42.84	35.70	7.14
Lumber, rough.....			1.42	.47	.95
Lumber, dressed.....	2.38	2.38	2.38	2.38	
Sewing machines.....	5.71	5.71	8.33	2.85	5.48
Sewing machines, power.....	5.71	5.71	4.76	1.90	2.86
Electrical machinery:					
a. Under 500 kilograms (1,102 pounds) per 100 kilograms.....			2.14	2.14	
b. 500 to 3,000 kilograms (1,102 to 6,614 pounds).....			1.66	1.42	.24
c. More than 3,000 kilograms.....			1.42	.95	.47
Machine tools:					
a. 250 kilograms (551 pounds or less), per 100 kilograms.....			4.76	2.85	1.91
b. 250 to 1,000 kilograms (551 to 2,205 pounds).....			2.85	1.90	.95
c. 1,000 to 3,000 kilograms (2,205 to 6,614 pounds).....			1.90	1.42	.48
d. 3,000 to 10,000 kilograms (6,614 to 22,046 pounds).....			1.42	1.19	.23
Over 10,000 kilograms.....			.97	.97	
Telegraph instruments, telephones, electric lighting and power apparatus.....			14.28	b. 95-9.52	(b)
Railway and street cars.....			2.38	.71	1.67
Motor cars and motor bicycles, each:					
a. 50 kilograms (110 pounds) or less, each.....			35.70		
b. 50 to 100 kilograms (110 to 220 pounds), each.....			28.56		
c. 100 to 250 kilograms (220 to 550 pounds), each.....			21.42		
d. 250 to 500 kilograms (550 to 1,110 pounds).....			14.28	9.52	4.76
e. 500 to 1,000 kilograms (1,110 to 2,220 pounds).....			9.52	5.95	3.57
f. 1,000 kilograms and over.....			4.76	3.57	1.19

<sup>a</sup> Free from August 1 to February 14.

<sup>b</sup> According to weight.

#### SOME EFFECTS OF THE NEW RATES.

It needs but a glance at this list to show how important will be the concessions granted to one or more of the seven treaty nations, and how formidable will be their competition in the German market against similar goods coming from countries which, for want of a reciprocal treaty or other convention, will be subject to the autonomous or unmodified tariff in exporting goods into Germany.

As an example of this may be cited the schedule relating to dried apples, pears, peaches, and apricots, on all of which there is at present a duty of 4 marks (95 cents) per 100 kilograms (220.4 pounds), and in all of which a very large and important import trade from the United States has been built up. Under the new autonomous schedule these



goods will be dutiable at 10 marks (\$2.38) per 100 kilograms (220.4 pounds), while imports from Italy, Roumania, Austria-Hungary, and Servia (the European countries which notably produce a surplus of these dried fruits), will come in under a uniform duty of 95 cents per double centner (220.4 pounds), an advantage of \$1.43 in favor of the treaty favored product. Will the superior dried fruits of our Pacific States, with their long journey to Bremen and Hamburg, be able to stand this new competition?

Take fresh apples in barrels, of which there were imported into Germany from the United States 5,835 tons in 1902, 17,806 tons in 1903, and 14,924 tons in 1904, which, under the present tariff, are admitted free of duty. Under the new tariff all apples in barrels will be dutiable at 10 marks (\$2.38) per 100 kilograms (220.4 pounds) except those coming from Italy, Belgium, Servia, Roumania, and Switzerland, the duty on which will be \$1.19, or half that imposed by the autonomous tariff. Another important and very obvious feature of paragraph 47, which fixes the duty on such fresh fruits, provides that apples, pears, and quinces unpacked, that is, piled loosely in bulk or carried in bags, may be imported free from September 25 to November 25, and during the remainder of the year at the nominal duty of 2.50 marks (60 cents) per 100 kilos. This will enable the great cargoes of fruit that come by canal boat and rail from Austria, the Tyrol, Italy, and Switzerland to enjoy a decisive advantage over apples of American origin, which are now imported uniformly in barrels.

The decisive advantage of \$2.85 per double centner (220.4 pounds) duty on sewing machines, as compared with the autonomous rate of \$8.33, is granted only in the treaty with Switzerland, which ought thereby to find an important outlet for its surplus machines in Germany. The increased rate on shoes will have the effect of raising the import duty on an average stock of men's, women's, and children's shoes to about 25 cents per pair, instead of about 14 cents under the present tariff. Importers of shoes from Italy, Switzerland, Belgium, and Austria-Hungary will have an advantage of \$5.06 and \$7.14 per 100 kilos (220.46 pounds) in medium and fine shoes, respectively, over importers of similar goods from the United States. This, however, is not a heavy handicap, and if the increase shall be shared by the American manufacturer and his German customers it ought not to be fatal to the continued sale of American shoes to Germany.

#### THE QUESTION OF RECIPROCIITY.

Under a treaty of commerce and navigation concluded between the United States Government and the King of Prussia on May 1, 1828, and proclaimed on March 14, 1829—which treaty was taken over and continued by the German Empire after its organization in 1870—imports from and to both countries have enjoyed hitherto the advantages of Article IX of that treaty, the so-called "most favored nation clause," under which it was agreed that "if either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party," etc. Under this long-standing agreement American wheat, corn, and other dutiable merchandise has come into Germany at the lowest rates

of duty which had been granted by this country to Russia, Austria, or any other nation.

This was further supplemented by a commercial agreement concluded between the Governments of Germany and the United States under date of July 13, 1900, whereby the duties fixed by the Dingley tariff law of July 24, 1897, were specially modified in regard to certain articles of German origin, argols, brandies, still wines, vermouth, paintings, drawings, statuary, etc., when imported directly from this country to the United States. Under these conditions the reciprocal commerce between our country and Germany has developed to its present imposing proportions, the exports from Germany to the United States during the year 1904 having had a declared value of \$106,909,600, while those to Germany from the United States amounted to \$216,841,800. As a source of merchandise imported into Germany the United States leads all countries, the second on the list being Russia, with \$184,116,800.

The all-important question which intimately concerns the future trade between the United States and Germany is whether the present amicable arrangement, namely, the most-favored-nation clause, which has withstood all mutations of tariff laws in both countries for nearly three-fourths of a century, will be allowed to stand under the new situation that will be created in Germany a year hence by the enforcement of the new tariff law and the commercial treaties which have been based upon it. Germany has a similar convention with Argentina, and one of the most absorbing issues now before the Bundesrath and the public is whether both these agreements shall be denounced and terminated with the life of the present tariff of 1879. On this question public opinion is sharply divided, and the discussion holds a leading place in the daily and periodical literature of the day.

On the one side are the agrarians, and in general, the high protectionists of all walks and professions, who insist that as Germany buys annually from the United States more than twice as much merchandise as our country buys from Germany, the present arrangement is, in view of the high duties imposed by the present United States tariff, unfair to Germany and unduly favorable to the United States. They therefore insist that the most-favored-nation privilege shall be withdrawn and the United States compelled to either make a new and comprehensive treaty of reciprocity with Germany or have its cereals, shoes, machinery, and other manufactured goods subject to the full duties of the new tariff. In that case American wheat and rye, for example, would pay each 47 cents per 100 kilograms (220.4 pounds) more duty than similar grains from Russia, Roumania, Austria-Hungary, and Servia.

On the other hand, the commercial and industrial classes generally, the manufacturers who appreciate the importance of cheap goods for their workingmen, and especially the great merchant steamship companies of Bremen and Hamburg, whose prosperity hangs upon their direct freight and passenger traffic with the United States—these, like most government officials and the majority of educated men in the various liberal professions, who appreciate the value of close and friendly relations between the two countries, are opposed to a drastic policy that might lead to reprisals and, moreover, increase the cost of bread.

No one can read the elaborate discussion of this subject which is now going on in the German press without reaching the conclusion that what the best intelligence and statesmanship of Germany hopes for is that out of the pending situation may come a new, broad, and carefully drawn treaty of amity and commerce which shall promote a normal and increased reciprocal trade while conserving and protecting the true interests of both nations.

FRANK H. MASON.

### CONSULAR IMMUNITIES.

*Ambassador Tower to the Secretary of State.*

No. 671.]

AMERICAN EMBASSY,  
*Berlin, May 11, 1905.*

SIR: I have the honor to report to you for your information a case which recently occurred at the United States consulate in Solingen, in which the American vice and deputy consul, Mr. Victor W. Heldt, was summoned to appear before the Amtsgericht in Solingen in a civil suit. The summons was issued to him upon the ordinary printed form used by that court, which form contained the following paragraph, in addition to the usual order from the court requiring the person summoned as a witness to be present at a certain day and hour, the time fixed for the appearance of Mr. Heldt being May 5, 1905, at 10 o'clock in the forenoon:

Witnesses who fail, without good cause, to appear, will be charged with the costs incurred by their nonappearance and will also be subject to a fine not to exceed 300 marks, or, in default of that sum, to imprisonment for a term not exceeding six weeks.

The evidence of the vice and deputy consul was required by the court to be given in a suit for damages which had been brought by a certain Otto Schmitz, a merchant in Solingen, against one C. W. Stöcker, a manufacturer in Gräfrath, and the testimony of Mr. Heldt was required in connection with a contract which the defendant in this case had made in the year 1903 with Mr. Joseph J. Langer, former American consul at Solingen, in which the said Langer had agreed for a consideration to obtain for the said defendant an agent in the United States acquainted with the manufacture of sugar, and that in return for the service rendered the said defendant agreed to pay a part of the said Langer's traveling expenses to the United States.

Mr. Heldt wrote me a letter, calling my attention to this summons, in which he said:

I am called upon to act as witness in a matter concerning the former consul at this place, Mr. Joseph J. Langer. Kindly advise me whether, according to the treaty our government has with the German Empire, I am obliged to act as such witness.

Mr. Heldt has been appointed vice and deputy consul of the United States at Solingen, though exequatur has not as yet been granted to him, and this summons was addressed to him as "secretary of the United States consulate."

In view of the provisions of article 3 in the treaty between the United States and Germany of 1871 that the respective consuls-general, consuls, vice-consuls, or consular agents, as well as their chancellors and secretaries, should enjoy in the two countries all privileges, exemptions, and immunities which have been granted or may in future be

granted to the agents of the same rank of the most favored nation, and having in mind a similar case in which the American consul-general at Frankfort on the Main was called upon in 1889 to testify before a German court, I advised Mr. Heldt that he ought to reply to the court and declare his willingness to testify in the case before it if he were requested so to do, but that he should decline to obey a summons in which a penalty is set forth for his nonappearance, and I sent to him in a letter which I wrote to him on the 4th of May a copy of a note verbale addressed by the Imperial German ministry for foreign affairs to this embassy on August 15, 1899. It was declared therein that immunity from the duty to appear as a witness before German courts is not legally accorded to the consuls of foreign powers by any of the consular treaties now in force. The concession is made, however, to all consular officials of Russia, Greece, and Japan that in civil procedure in case they are prevented from appearing through official duties or sickness they be examined at their residence or that they present their testimony in writing within a certain period allotted to them. Furthermore, the consular officers of Servia and the South African Republic when they are subjects of the state by which they are appointed have the greater privilege accorded them, which is not restricted to civil procedure, that in case they are prevented from appearing they have the right to be examined by the judicial authorities at their residence or to present their testimony in writing. It is, therefore, not to be regarded as a principle that the consuls of the United States of America, who have been recognized in the German Empire, are to be freed from the obligation of appearing as witnesses before a court after having been summoned. They are, however, in accordance with article 3 of the treaty of December 11, 1871, which embraces the most-favored-nation right, entitled to the privileges referred to above in performing their duties as witnesses—that is to say, the concessions granted to the consular representatives of Russia, Greece, and Japan will be accorded to all consular officials of the United States who have been recognized in the German Empire, and that granted to the consuls of Servia and the South African Republic, however, only to those who are in the possession of the citizenship of the United States. As regards the individual case in Frankfort on the Main, investigation has shown that by reason of an oversight the consul-general of the United States of America was summoned to appear before the Amtsgericht by use of the ordinary form. The consul-general did not comply with this summons, but addressed a communication to the Amtsgericht on February 20, 1899, in which he protested against this citation, but he declared that he would be willing to give the information asked for in case he were requested to do so. The Amtsgericht at Frankfort on the Main thereupon requested the consul-general to appear. In this communication it is stated that the use of the original formula was an oversight. The consul-general complied with this request.

I wrote to Mr. Heldt therefore:

As I understand it, you should comply with the request of the court to appear and give your testimony, but, as a consular officer of the United States, you ought to be requested to appear, and not to be summoned. Of course you will remember, in regard to your testimony, that article 5 of the convention of 1871 provides that the consular archives shall be at all times inviolable, and under no pretense whatever shall the local authorities be allowed to examine or seize the papers forming part of them.

After receiving that letter Mr. Heldt wrote a note to the Amtsgericht at Solingen, declaring his readiness to appear and give his testimony in compliance with a request of the court, but declined at the same time to answer the summons which contained the paragraph relating to a fine and imprisonment for nonappearance. He then wrote to me as follows:

I beg to inclose to you herewith a copy of my reply to the court, upon receipt of which reply the court requested me to appear as a witness, and entered upon its minutes that I could not be summoned, but had appeared at the request of the court.

With this the incident would seem to be satisfactorily closed.

I have, etc.,

CHARLEMAGNE TOWER.

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*The Acting Secretary of State to Ambassador Tower.*

No. 356.]

DEPARTMENT OF STATE,  
Washington, May 29, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 671, of the 11th instant, reporting a case which recently occurred at the American consulate in Solingen, in which the American vice and deputy consul, Mr. Victor W. Heldt, was summoned to appear before the Amtsgericht in Solingen in a civil suit. It appears as a result (of the course taken by you) in the matter that Mr. Heldt declared to the court his readiness to appear and give his testimony in compliance with a request of the court, but declined at the same time to answer the summons which contained the paragraph relating to a fine and imprisonment. It further appears that the court, on receipt of Mr. Heldt's reply, requested him to appear as a witness, and entered on its minutes that he could not be summoned, but had appeared at the request of the court.

The incident may, therefore, be regarded to be satisfactorily closed, as you indicate in your dispatch.

I am, sir, etc.,

F. B. LOOMIS.

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*The German Ambassador to the Secretary of State.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
Washington, November 29, 1905.

MR. SECRETARY OF STATE: On the occasion of a claim advanced by a consul of the United States in Germany to exemption from the payment of the dog tax, under article 3 of the consular convention of December 11, 1871, I have the honor to request that your excellency will kindly inform me whether a corresponding tax exemption is granted to consuls of the German Empire in the United States.

Accept, etc.,

STERNBURG.

*The Secretary of State to the German Ambassador.*

No. 298.]

DEPARTMENT OF STATE,  
*Washington, December 6, 1905.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 29th ultimo in regard to a claim advanced by an American consul in Germany to exemption from the payment of the dog tax, under Article III of the convention between the United States and Germany of December 11, 1871. You ask whether a similar exemption is granted to German consuls in the United States.

In reply, I have the honor to say that the Department is disposed to question whether the charge for the issuance of the license to keep a dog is in fact a tax upon the dog (Hundesteuer). An American legal authority upon taxation writes:

Municipal corporations may levy a tax on the privilege of keeping dogs. Such a tax is not assessed by valuation, but is a specific assessment, to be regarded as a license. It can not be regarded as a tax on property within a statute exempting personal property from taxation. It is a special privilege tax; a special and peculiar regulation for the purpose of repressing mischief likely to be done by them to more valuable property and to persons. It is not a charge on property to raise revenue, but is in the nature of a license under a special police regulation, and is a constitutional exercise of the police power. (2 *Desty on Taxation*, pp. 1403, 1404.)

This view of the matter is backed by judicial decisions in the United States to the same effect.

If, as is generally the case, the so-called tax is in the nature of a license under a police regulation and not a municipal tax on the dog as property it would seem not to come within the exemption defined in the treaty between the United States and the German Empire of 1871.

As the state laws in this regard may vary, I am not able to give you an assurance that, the case arising, exemption from the payment of the license fee for keeping a dog would be uniformly granted to German consuls in the United States, although it is possible that exemption might be accorded under the laws of some of the states.

If the laws of the constituent German states provide for exemption of foreign consuls from the payment of such a license tax upon evidence of reciprocity by the consul's government this Department would be pleased to advise the authorities of any particular state or municipality in which the question might be presented as to the liability of a German consul therefor, that reciprocity in this respect would be appropriate; but the result of giving such advice could not be foreseen.

I should be glad to be informed of the decision of the German Government in this matter, in order that the interested consul may be instructed.

Accept, etc.,

ELIHU ROOT.

**INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE  
"WHITE SLAVE TRAFFIC."**

*Ambassador Tower to the Secretary of State.*

No. 729.]

AMERICAN EMBASSY,  
*Berlin, August 3, 1905.*

SIR: I have the honor to inclose to you herewith three copies of the Reichs-Gesetzblatt, No. 33, of the 15th of July, 1905, containing the text in French and in German of a convention entered into by the Imperial German Government on the 18th of May, 1904, at Paris, with the Governments of Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Portugal, Russia, Sweden and Norway, and Switzerland for the purpose of checking and controlling in the countries of the respective signatory powers the traffic in girls ("traite des blanches," "Mädchenhandel").

This convention was ratified by the contracting powers at Paris on the 18th of January, 1905, and was published in Berlin on the 12th of July, 1905.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.—Translation.]

*Arrangement respecting white slave traffic, signed at Paris, May 18, 1904.*

His Majesty the German Emperor, King of Prussia, in the name of the German Empire; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and of the Algarves; His Majesty the Emperor of all the Russias; His Majesty the King of Sweden and Norway, and the Swiss Federal Council, being desirous of securing to women of full age who have suffered abuse or compulsion, as also to women and girls under age, effective protection against the criminal traffic known as the "white slave traffic," have decided to conclude an arrangement with a view to concerting measures calculated to attain this object, and have appointed as their plenipotentiaries, that is to say:

His Majesty the German Emperor, King of Prussia, His Serene Highness Prince Radolin, his ambassador extraordinary and plenipotentiary to the President of the French Republic;

His Majesty the King of the Belgians, M. A. Leghait, his envoy extraordinary and minister plenipotentiary to the President of the French Republic;

His Majesty the King of Denmark, Count F. Reventlow, his envoy extraordinary and minister plenipotentiary to the President of the French Republic;

His Majesty the King of Spain, his excellency M. F. de Leon y Castillo, Marquis del Muni, his ambassador extraordinary and plenipotentiary to the President of the French Republic.

The President of the French Republic, his excellency M. Th. Delcassé, deputy minister for foreign affairs of the French Republic;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, his excellency Sir E. Monson, his ambassador extraordinary and plenipotentiary to the President of the French Republic;

His Majesty the King of Italy, his excellency Count Tornielli Brusati di Vergano, his ambassador extraordinary and plenipotentiary to the President of the French Republic;

Her Majesty the Queen of the Netherlands, M. le Chevalier de Stuers, her envoy extraordinary and minister plenipotentiary to the President of the French Republic;

His Majesty the King of Portugal and of the Algarves, M. T. de Souza Roza, his envoy extraordinary and minister plenipotentiary to the President of the French Republic;

His Majesty the Emperor of all the Russias, his excellency M. de Nélidow, his ambassador extraordinary and plenipotentiary to the President of the French Republic;

His Majesty the King of Sweden and Norway, for Sweden and for Norway, M. Akerman, his envoy extraordinary and minister plenipotentiary to the President of the French Republic;

And the Swiss Federal Council, M. Charles Edouard Lardy, envoy extraordinary and minister plenipotentiary of the Swiss Confederation to the President of the French Republic.

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions:

## ARTICLE I.

Each of the contracting governments undertakes to establish or name some authority charged with the coordination of all information relative to the procuring of women and girls for immoral purposes abroad, this authority shall be empowered to correspond direct with the similar department established in each of the other contracting states.

## ARTICLE II.

Each of the governments undertakes to have a watch kept, especially in railway stations, ports of embarkation, and en route, for persons in charge of women and girls destined for an immoral life. With this object instructions shall be given to the officials and all other qualified persons to obtain, within legal limits, all information likely to lead to the detection of criminal traffic.

The arrival of persons who clearly appear to be the principals, accomplices in, or victims of such traffic shall be notified, when it occurs, either to the authorities of the place of destination, or to the diplomatic or consular agents interested, or to any other competent authorities.

## ARTICLE III.

The governments undertake, when the case arises, and within legal limits, to have the declarations taken of women or girls of foreign nationality who are prostitutes, in order to establish their identity and civil status, and to discover who has caused them to leave their country. The information obtained shall be communicated to the authorities of the country of origin of the said women or girls, with a view to their eventual repatriation.

The governments undertake, within legal limits, and as far as can be done, to entrust temporarily, and with a view to their eventual repatriation, the victims of a criminal traffic when destitute, to public or private charitable institutions, or to private individuals offering the necessary security.

The governments also undertake, within legal limits, and as far as possible, to send back to their country of origin those women and girls who desire it, or who may be claimed by persons exercising authority over them. Repatriation shall only take place after agreement as to identity and nationality, as well as place and date of arrival at the frontiers. Each of the contracting countries shall facilitate transit through its territory.

Correspondence relative to repatriation shall be direct as far as possible.

## ARTICLE IV.

Where the woman or girl to be repatriated can not herself repay the cost of transfer and has neither husband, relations, or guardian to pay for her, the cost of repatriation shall be borne by the country where she is in residence as far as the nearest frontier or port of embarkation in the direction of the country of origin and by the country of origin as regards the rest.

## ARTICLE V.

The provisions of the foregoing Articles III and IV shall not affect any private conventions existing between the contracting governments.

## ARTICLE VI.

The contracting governments undertake within legal limits to exercise supervision as far as possible over the offices or agencies engaged in finding employment for women or girls abroad.

## ARTICLE VII.

Nonsignatory states can adhere to the present arrangement. For this purpose they shall notify their intention through the diplomatic channel to the French Government, who shall acquit all the contracting states.

## ARTICLE VIII.

The present arrangement shall come into force six months after the exchange of ratifications. If one of the contracting parties denounces it, this denunciation shall only have effect as regards that party, and that only twelve months after the date of denunciation.

The present arrangement shall be ratified and the ratifications shall be exchanged at Paris with the least possible delay.

In faith whereof the respective plenipotentiaries have signed the present arrangement and thereunto affixed their seals.



Done at Paris, the 18th May, 1904, in single copy, which shall be deposited in the archives of the ministry of foreign affairs of the French Republic, and of which one copy, certified correct, shall be sent to each contracting party.

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

RADOLIN.  
A. LEGHATT.  
F. REVENTLOW.  
F. DE LEON Y CASTILLO.  
DELCASSÉ.  
EDMUND MONSON.  
G. TORNIELLI.  
A. DE STUERS.  
T. DE SOUZA ROZA.  
NELIDOW.

For Sweden and Norway, the minister of Sweden and Norway:

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

ÅKERMAN.  
LARDY.

The undersigned plenipotentiaries, assembled this day for the purpose of proceeding to the signature of the arrangement intended to secure effective protection against the "white-slave traffic," have exchanged the following declaration respecting the application of the said arrangement to the respective colonies of the contracting states:

ARTICLE 1. The countries, signatories of the arrangement, have the right to accede thereto at any time for their colonies or foreign possessions.

They may do this either by a general declaration comprehending all their colonies or possessions within the accession, or by specially naming those comprised therein, or by simply indicating those which are excluded.

ART. 2. The German Government declare that they reserve their decisions of the subject of their colonies.

The Danish Government declare that they reserve the right to accede to the arrangement for the Danish colonies.

The Spanish Government declare that they reserve their decisions on the subject of their colonies.

The French Government declare that the arrangement shall apply to all French colonies.

The Government of His Britannic Majesty declare that they reserve the right to accede to the arrangement and to denounce it for each of the British colonies or possessions.

The Italian Government declare that the arrangement shall apply to the colony of Erythræa.

The Netherlands Government declare that the arrangement shall apply to all the Netherlands colonies.

The Portuguese Government declare that they reserve the right to decide subsequently whether the arrangement shall be put in force in any of the Portuguese colonies.

The Russian Government declare that the arrangement shall be applicable in its integrity to all the territory of the Empire in Europe and in Asia.

ART. 3. Any governments who may subsequently have declarations to make on the subject of their colonies shall make them in the form provided in article 7 of the arrangement.

At the moment of proceeding to the signature of the arrangement His Serene Highness, Prince Radolin, ambassador of Germany, desires, in the name of his Government, to make the following declaration:

In the view of the German Government the rules which may exist between the German Empire and the country of origin respecting the mutual assistance of paupers are not applicable to persons who are repatriated in virtue of the present arrangement on their way through Germany.

In faith whereof plenipotentiaries have signed this procès-verbal.

Done at Paris, May 18, 1904.

RADOLIN.  
A. LEGHATT.  
F. REVENTLOW.  
F. DE LEON Y CASTILLO.  
DELCASSÉ.  
EDMUND MONSON.  
G. TORNIELLI.  
A. DE STUERS.  
T. DE SOUZA ROZA.  
NELIDOW.

For Sweden and Norway:

ÅKERMAN.  
LARDY.

## MILITARY SERVICE CASE OF HANS WILHELM PETERS.

*Ambassador Tower to the Secretary of State.*

No. 722.]

AMERICAN EMBASSY,  
*Berlin, July 24, 1905.*

SIR: I have the honor to call your attention to the case of one Hans Wilhelm Peters, who is now serving as an enlisted man in the German army, and whose father, Peter Peters, a naturalized American citizen residing at Marengo, Iowa, wishes to have him released from military service.

This case was brought to my attention by the American consul-general at Hamburg, in a letter dated the 11th of April, 1905, in which he inclosed to me a letter from Messrs. Popham and Havner, dated at Marengo, March 4, 1905, and one from the Hon. A. F. Dawson, dated at Preston, Iowa, March 27, 1905. With these letters was also a petition of Mr. Peter Peters, the father, written in German and dated at Marengo the 3d of March, 1905, addressed to "the American consulate," and asking for the release of his son from military service.

It appears from the facts, as they have been presented to me, that Hans Wilhelm Peters was born in Prussia, of German parents, on the 24th of January, 1883, and emigrated to the United States with his parents at the age of 1½ years. He returned to Germany with his parents in the year 1902, being then 19 years of age. His father had been naturalized as a citizen of the United States, before the district court of the State of Iowa in and for Scott County, on the 11th of September, 1888. The son, Hans Wilhelm Peters, was in the United States, therefore, during his minority and subsequently to the naturalization of the father.

Hans Wilhelm Peters remained in Germany until the year 1904. There is no evidence to show that he ever intended to return to the United States, or that he considered himself to be an American citizen, although his father says that he did not take him back to America with him when he returned to Iowa, because he had not money enough to pay his passage.

The son, Hans Wilhelm Peters, remaining in Germany, enlisted as a private soldier in the Infantry Regiment No. 31 (Graf Bosche), at Altona, in October, 1904, and, after having served since that time, now wishes the embassy of the United States to intercede for him in order that he may be released from the army.

When the case was first presented to the consul-general at Hamburg, Messrs. Popham and Havner declared in their letter to him that "Mr. Peters was naturalized when his son was only 3 or 4 years of age, and had it not been for the enlistment of the son in the German army he would at this time be a citizen of the United States, his father having been naturalized prior to his attaining majority. \* \* \* If there is any way that this man's release can be secured from the German army it will be a great benefit to his parents and will keep them from coming to want in their declining years."

Messrs. Popham and Havner did not advance the argument here that the young man is an American citizen and should be released from military service in Germany on that account, but, on the contrary, they intimated that they did not consider him to be an American

citizen. The Hon. A. F. Dawson appears to take the same view of the case in his letter addressed to the consul-general at Hamburg, in which he says to him:

Will you kindly take the matter up and use your best endeavors to secure the discharge of the young man from the German army? If the same regulation prevails in the German army as in the United States, whereby an enlisted man can purchase his discharge after serving one year, kindly advise me fully in that respect.

This clearly is not based on any rights which the young man may be supposed to have acquired through the naturalization of his father as an American citizen, and the father, Peter Peters, frankly admits in his petition addressed to "the American consulate" that after having returned to Germany upon a visit he decided to go back to America with his wife, but "not having sufficient money, we could not bring our son, W. Peters, with us, and, as he had a liking for a soldier's life, he enlisted in the Infantry Regiment No. 31 (Graf Bosche), at Altona, and is serving now in the Tenth Company of that regiment."

It appears also from what the young man told the consul-general at Hamburg that he was so anxious to enter the army that he made three attempts to enlist, and having been rejected twice was accepted at Altona upon his third application.

I wrote to the consul-general at Hamburg that it appeared to me that the young man Peters had voluntarily enlisted in the army, and that having become tired of his undertaking he now wished the United States to relieve him from his duties, whereupon the consul-general sent for the young man to come to his office and had a conversation with him, as a result of which he wrote to me on the 9th of May as follows:

Peters's father, when he came to Germany in 1902, had the intention of residing here several years, and not being able to make his living in this country returned to the United States sooner.

It would appear from this that the elder Peters had come back to Germany with the intention of abandoning his American citizenship, but that failing to find employment here he was driven back to Iowa against his will. There is no indication of his intention to take his son back with him, though he says that he had not money enough to do so if he had wished to. The consul-general says in this connection:

When he thus left Germany he had not the means required for his son's return passage, and he therefore left him here. At that time Peters's father must have been under the impression that his son was obliged to serve in the army, and anticipating difficulties with the military authorities for his son he advised him to enlist voluntarily, but this was after the son's first obligatory examination and while he was a minor.

Here the father evidently had no thought of considering his son an American citizen. The consul-general further says:

After the father had returned to the United States he sent a prepaid steamship ticket to his son in Germany. This the latter could not make use of, however, for the reason that the authorities of the place where he resided at that time and the steamship company stated to him that he was not permitted to leave Germany. He therefore remained here until he was finally enlisted in the regiment in which he is now serving, which was in no way voluntary. From the foregoing it appears that both he and his father were ignorant of their rights as American citizens, in so far as they did not protest before to the son's medical examination by the military authorities or to his enlistment in the Thirty-first Regiment of Infantry.

I do not take this view, for my part, because the father admits that his son preferred a soldier's life and had voluntarily enlisted, and, further, that before returning to America he had advised him to enlist.

I wrote to the consul-general in reply that I believed that young Peters had enlisted voluntarily in the army, but, in order to examine the question as fully as possible and in view of what the consul-general had written to me after his conversation with the young man, I added in my letter:

As you are in direct communication with young Peters himself, I wish you would kindly obtain from him an affidavit setting forth the facts under which he entered the German army. If you believe from that statement that he has actually suffered an injustice and has been illegally forced into the army, I shall take the matter up immediately with the German foreign office.

Whereupon, on the 30th of May, the consul-general at Hamburg sent to me an affidavit made before him on that day by Hans Wilhelm Peters, in which the affiant declares:

I lived in the United States of America uninterruptedly until the latter part of the year 1902, when my father returned with me to Germany on a visit. In March, 1903, when I was sojourning with my father at Sonderburg, in the said province of Schleswig-Holstein, I was summoned by the German military authorities to appear for medical examination, but at such examination I was temporarily rejected on account of physical unfitness for service. I did not protest at that time because I was ignorant of the laws in force. In March, 1904, I was examined the second time, but also rejected. When my father came to Germany in 1902, as above mentioned, it was his intention to reside here several years, but not being able to make his living he returned to the United States sooner. When he thus left Germany he had not the means for my return passage, and I was consequently obliged to remain here. Although my father had been naturalized as a citizen of the United States several years ago, it is my impression that he believed that I was obliged to serve in the German army, because when we were here on a visit, as above stated, he advised me to enlist voluntarily, but this was after my above-mentioned first obligatory examination and while I was still a minor. This advice, however, I never followed. After my father had returned to the United States he sent a prepaid steamship ticket to me in Germany, but of which I did not make use for the reason that I was informed by the Hamburg-American Line that I would not be permitted to leave Germany. About the same time I again received a "Gestellungsbefehl" at Altona, was medically examined again, and enlisted in the Thirty-first Regiment of Infantry, in which I have been serving as a private since about the 28th day of October, 1904. I claim American citizenship through the naturalization of my father, which took place several years ago, while I was still a minor and residing with my father in the United States.

Whatever the truth may be as to the ignorance upon the part of this young man and his father of their rights as American citizens \* \* \* it is quite evident that Hans Wilhelm Peters enlisted in the army. He might have done this as an American citizen if he had wished to do so; for I apprehend that an American citizen, native or naturalized, may enlist in foreign service in time of peace, if he wishes so to do, and if he is acceptable in the service which he selects to enter. But having engaged himself voluntarily in a foreign service the fact that he is an American citizen would not, as I conceive, be reasonable ground upon which to assert a claim for the annulling of his contract. Therefore I do not incline to the view that Peters has a right to claim his discharge from the army on account of his citizenship; neither do I believe that he can demand such discharge merely because he says that when he enlisted he did not know that he might have claimed exemption from military service as an American citizen, for there is no evidence of force upon the part of the German authorities or of resistance upon his part; quite the contrary, he appears to have gone into the army of his own free will.

He was 21 years of age at the time of his enlistment, the period at which, having returned to the land of his birth, he might choose whether to remain a German subject or to avail himself of the rights acquired by him during his minority through the naturalization of his father in the United States. As he enlisted in the army, however, he was accepted there as a German subject and so considered by the authorities, and the question arises whether his act in so enlisting and so allowing himself to be regarded as a German subject is not tantamount to an abandonment of his American citizenship.

In any event I do not conceive that there are sufficient reasons for me to make a formal request to the German Government for the release of Hans Wilhelm Peters from military service upon the ground of his American citizenship; and subject to your instructions I have declined until now to make such a request. The most that could be done with propriety in the circumstances, it seems to me, would be to address a note of inquiry to the Imperial German foreign office, setting forth the claim of Hans Wilhelm Peters and asking for a statement from the German authorities as to the circumstances of his enlistment. I beg to receive your instructions in this connection, which I shall not fail to carry out.

I have, etc.,

CHARLEMAGNE TOWER.

*The Acting Secretary of State to Ambassador Tower.*

No. 392.]

DEPARTMENT OF STATE,  
Washington, August 15, 1905.

SIR: I have to acknowledge the receipt of your No. 722 of the 24th ultimo, reporting the circumstances attending the military case of Hans Wilhelm Peters, son of a naturalized American citizen.

In reply to your request for instructions in the matter I have to state that the view you take that young Peters voluntarily enlisted in the German army appears in all probability to be correct. If so, his enlistment, occurring just after he had reached majority and when it was incumbent upon him to elect whether he would conserve the nationality conferred upon him by his parents' naturalization during his (the son's) minority and residence in the United States or that conferred by birth may be regarded as plainly indicating his choice of German nationality and as precluding any claim on his part to the protection of this Government.

Inasmuch as there is some doubt as to the facts concerning Peters' enlistment, however, and as the matter would appear to be one plainly susceptible of proof the Department is of opinion that it would be best for you to request information (as you suggest in the last paragraph of your dispatch) on this point from the German war office.

I am, etc.,

ALVEY A. ADEE.

*Chargé Dodge to the Secretary of State.*

No. 839.]

AMERICAN EMBASSY,  
Berlin, December 15, 1905.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 392, of August 15 last, in regard to the desire of one Hans Wilhelm Peters to be released from military service in the

German army on account of his American citizenship. In accordance with this instruction the ambassador addressed a communication on September 6 last, to Count von Pourtalès, at that time imperial acting secretary of state for foreign affairs. In this communication, after giving the facts of the case, so far as they are known to the embassy, the ambassador stated that there seemed to be some doubt as to the facts concerning Peters's enlistment in the German army, as well as some question as to whether he did not represent himself to the German military authorities to be a German subject, and whether he did not voluntarily enlist. The ambassador further stated:

If he returned to Germany during his minority, with the intention of remaining here, he would be obliged by the laws of the United States to elect, at the time when he reached the age of 21 years, whether he would conserve the citizenship acquired by him through the naturalization of his father or return to the nationality conferred upon him by his birth. In consequence of this, if Hans Wilhelm Peters enlisted voluntarily in the German army just after he had attained his majority, that act may be regarded as an indication that he had chosen German nationality, and that he is not now entitled to the protection of the Government of the United States.

The ambassador accordingly requested that he might be furnished with the facts in regard to the enlistment of Peters.

To-day a reply to this communication has been received from Dr. von Mühlberg, imperial under secretary of state for foreign affairs, of which a copy and English translations are annexed. This communication states that Peters was admitted on April 11, 1903, by the *Regierungs-Präsident* of Schleswig-Holstein to Prussian allegiance again, at his own request, and that as he is therefore a German his request through the embassy to be released from German military service can not be acceded to.

It is noted that as Peters was born on January 24, 1883, he was still a minor at the time he is stated to have been naturalized a German. He was therefore not then competent to renounce his American citizenship, and accordingly would still have been considered to be an American citizen. Upon becoming of age, however, on January 24, 1904, he continued living in Germany, and that in connection with his previous voluntary German naturalization and the other facts of his case would seem to show that he had intended to renounce his American citizenship before his enlistment in the German army.

I have, etc.,

H. PERCIVAL DODGE.

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[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Dodge.*

BERLIN, *December 12, 1905.*

The undersigned, referring to his excellency the ambassador's note of the 6th September last, has the honor to inform Mr. H. Percival Dodge, *chargé d'affaires* of the United States of America, that Hans Wilhelm Peters, now serving in Infantry Regiment Graf Bose (1st Thuringian) No. 31, was, at his own request readmitted to Prussian allegiance by the Royal Prussian *Regierungs-Präsident* at Schleswig on the 11th April, 1903.

Since Peters is therefore a German his request made through the embassy for release from military service can not be acceded to.

The undersigned avails himself, etc.,

MÜHLBERG.

**MILITARY SERVICE CASE OF MAURICE KAHN.***Ambassador Tower to the Secretary of State.*

No. 798.]

AMERICAN EMBASSY,  
*Berlin, November 14, 1905.*

SIR: I have the honor to report to you for your information the case of one Maurice Kahn, a native of Alsace naturalized as an American citizen, who has been fined 600 marks for nonperformance of military service and whose application for the removal of that fine has recently been rejected by the German authorities upon the ground that as he was born in Alsace he is held to be still a German subject.

It appears that Maurice Kahn was born at Biesheim, Kreis Colmar, in Ober-Elsass, on the 30th of June, 1879, and emigrated to the United States in 1891 or 1892. He does not remember the exact date of his emigration, though he says that he was 12 or 13 years of age at the time. Since the date of his emigration he has not returned to Germany, but was naturalized as a citizen of the United States before the district court of the third judicial district of Oklahoma on October 18, 1904, in proof of which he has exhibited at this embassy the certificate of his naturalization in due form issued by that court.

He applied to this embassy in June, 1905, for permission to return to Alsace-Lorraine for the purpose of making a visit, and I addressed a note to the Imperial German ministry for foreign affairs on the 25th of July, setting forth his request for permission to revisit his former home and asking that, if the facts of his case as presented by him were found to be substantially true, his desire might be acceded to.

I have received a reply from the ministry for foreign affairs, under date of the 28th of October, 1905, in which the ministry declares that Maurice Kahn was condemned by the Imperial provincial court at Colmar on the 9th of December, 1903, to pay a fine of 600 marks for evasion of military service and that orders were issued to the police officials for his arrest. The ministry declares that "as Kahn is still a subject of Alsace-Lorraine he requires no especial permission to reside within this country, but if he should return he would be liable to fulfill the sentence passed upon him, as well as to the ultimate performance of his military service."

This case, which is similar to those of Emil B. Kauffman (*Foreign Relations*, 1896, p. 186), Casimir Hartmann (*Foreign Relations* 1897, p. 230), Jacob Roos (*Foreign Relations* 1903, p. 442), and Emil Vibert (*Foreign Relations* 1904, p. 317), indicates that the German Government still maintains its attitude in regard to the connection of the Reichsland provinces of Alsace and Lorraine with the Empire and confirms its determination hitherto frequently announced not to admit that the treaty of naturalization with the United States entered into in 1868 extends to those provinces as well as to other portions of the Empire.

Since receiving the note of the 28th of October from the Imperial ministry for foreign affairs I have made a verbal inquiry there as to whether the authorities would be willing to grant permission to Mr. Kahn to return to his native country upon a further request of this embassy and in view of his naturalization as an American citizen; but I have received a verbal reply that as the naturalization treaty with the United States is not considered by the German Government

to apply to Alsace-Lorraine the German authorities still regard Kahn as a subject of those provinces.

The situation is a singular one in view of the extraordinary privileges of autonomy and protective control enjoyed by the provinces of Alsace and Lorraine, which were fully discussed in Mr. Olney's dispatch of the 3d of March, 1896, to Mr. Jackson (*Foreign Relations 1896*, p. 187). But until the United States and Germany shall agree upon some terms by which American naturalization may be recognized equally throughout the whole Empire there appears to be no method by which a native of Alsace-Lorraine can claim in those provinces the privileges of American citizenship, even after his naturalization in the United States.

I have discussed this question at considerable length with the authorities at the Imperial German ministry for foreign affairs upon several occasions since I have been at this post, and the general impression that I have obtained is that the difficulty does not arise exclusively in regard to the naturalization in America of subjects of those provinces, but that the relation of the Reichsland to the whole of the Empire is such in view of the fact that when Alsace and Lorraine were ceded to Germany the present federation had already been formed and the Empire established, in consequence of which the provinces belong to the federation as a whole and not to any particular state, no one of the federated states of the Empire having any greater rights or authority in the Reichsland than has any other; that consequently there are a number of quite delicate questions in connection with these provinces still in abeyance between the different federated states of the Empire which the government is unwilling to take up at present and which may not be definitively settled for some years to come. I have gained the impression that it is chiefly this consideration which prevents an agreement with us in regard to Alsace-Lorraine, lest the extension at present of our treaty of naturalization to the provinces of the Reichsland should create a precedent that might be found embarrassing hereafter in the adjustment of certain unsettled claims between the States of the Empire themselves.

\* \* \* \* \*

I have, etc., CHARLEMAGNE TOWER.

*The Secretary of State to Ambassador Tower.*

No. 438.]

DEPARTMENT OF STATE,  
*Washington, December 13, 1905.*

SIR: I have to acknowledge the receipt of your No. 798, of the 14th ultimo, reporting the case of Maurice Kahn, a native of Alsace, naturalized as an American, who has been fined 600 marks for nonperformance of military service, and whose application for the removal of that fine has recently been rejected by the German authorities on the ground that as he was born in Alsace he is held to be still a German subject.

You refer to this case as being similar to those of Emil B. Kauffmann (*Foreign Relations 1896*, p. 186), Casimir Hartmann (*Foreign Relations 1897*, p. 230), Jacob Roos (*Foreign Relations 1903*, p. 442), and Emil Vibert (*Foreign Relations 1904*, p. 317), and note that the German Government's action in Kahn's case indicates its attitude in



regard to the connection of the Reichsland provinces of Alsace and Lorraine with the Empire and confirms its determination, hitherto frequently announced, not to admit that the treaty of naturalization with this country, entered into in 1868, extends to those provinces as well as to other provinces of the Empire.

You will, notwithstanding the present status of the matter, keep Mr. Kahn's case in mind and continue your efforts in his behalf, making it clear that this government does not acquiesce in the contention of the German Government as to the nonapplicability of the Bancroft naturalization treaties to Alsace-Lorraine.

I am, etc.,

ELIHU ROOT.

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**MILITARY SERVICE CASE OF JOSEPH A. DECKER.**

*Chargé Dodge to the Secretary of State.*

No. 824.]

EMBASSY OF THE UNITED STATES,  
*Berlin, December 6, 1905.*

SIR: I have the honor to inform you that on September 18 last Mr. Joseph A. Decker requested the embassy to obtain permission for him to make a visit of a few months' duration during the coming winter at Blodelsheim, Kreis Gebweiler, Canton Euisheim, Alsace, in order to see his parents. After some correspondence Mr. Decker submitted his naturalization certificate, by which it appeared that he was naturalized a citizen of the United States before the district court of the third judicial district of Oklahoma, October 18, 1904. He also stated that he was born at Blodelsheim on March 19, 1869, and emigrated to the United States February 2, 1888, where he has since continuously resided.

A communication was accordingly addressed, on October 24 last, to the Imperial foreign office, inquiring whether there was any reason to prevent Mr. Decker from making his visit as desired. A reply to this communication has been received to-day, stating that—

Joseph Alexander Decker, who was born on December 9, 1869, at Oberschöffelsheim, emigrated to France in 1888, and since then has not returned to Germany. The judgment of the Imperial Landgericht at Strassburg in Alsace, of February 14, 1894, imposed upon him on account of evasion of military service and sentencing him to a fine of 600 marks or forty days imprisonment, has not yet been executed and is not yet invalid through lapse of time, therefore the warrant issued against him is still in force. On the 9th of December, 1900, Decker lost his Alsace-Lorraine nationality through lapse of time. The Imperial Statthalter, according to the rules in force, does not consider himself able to grant to Decker a temporary residence in Alsace-Lorraine in order to visit his parents.

In this connection it may be well to refer to the somewhat similar case of Maurice Kahn, reported by the ambassador in his dispatch No. 798 on November 14 last.

I have etc.,

H. PERCIVAL DODGE.

## GREAT BRITAIN.

### REPORT OF THE INTERNATIONAL COMMISSION OF INQUIRY INTO THE FIRING ON BRITISH FISHING VESSELS BY RUSSIAN WAR VESSELS IN THE NORTH SEA.

*Ambassador Choate to the Secretary of State.*

No. 1539.]

AMERICAN EMBASSY,  
*London, March 1, 1905.*

SIR: I have the honor to inclose herewith as of interest two copies of a parliamentary publication (Russia No. 3, 1905) containing the dispatch from the British agent, forwarding the report of the commissioners in the International Commission of Inquiry into the North Sea Incident.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.—Translation.]

Report of the commissioners, drawn up in accordance with article 6 of the declaration of St. Petersburg of the 12th (25th) November, 1904.<sup>a</sup>

1. The commissioners, after a minute and prolonged examination of the whole of the facts brought to their knowledge in regard to the incident submitted to them for inquiry by the declaration of St. Petersburg of the 12th (25th) November, 1904, have proceeded to make in this report an analysis of these facts in their logical sequence.

By making known the prevailing opinion of the commission on each important or decisive point of this summary they consider that they have made sufficiently clear the causes and the consequences of the incident in question, as well as the deductions which are to be drawn from them with regard to the question of responsibility.

2. The second Russian squadron of the Pacific fleet, under the command in chief of Vice-Admiral Aid-de-Camp General Rojdestvensky, anchored on 7th (20th) October, 1904, off Cape Skagen, with the purpose of coaling before continuing its voyage to the Far East.

It appears from the depositions made that from the time of the departure of the squadron from the roads of Réval Admiral Rojdestvensky had had extreme precautions taken by the vessels placed under his orders in order that they might be fully prepared to meet a night attack by torpedo boats, either at sea or at anchor.

These precautions seemed to be justified by the numerous reports received from the agents of the Imperial Government on the subject of hostile attempts to be feared, which in all likelihood would take the form of attacks by torpedo boats.

Moreover, during his stay at Skagen Admiral Rojdestvensky had been warned of the presence of suspect vessels on the coast of Norway. He had learned also from the commander of the transport *Bakan* coming from the north that he had seen on the previous four torpedo boats carrying a single light only and that at the masthead.

This news made the admiral decide to start twenty-four hours earlier.

3. Consequently, each of the six distinct divisions of the fleet got under way separately in its turn and reached the North Sea independently in the order indicated by Admiral Rojdestvensky's report; that flag-officer commanding in person the last division formed by the four new battle ships *Prince Souworoff*, *Emperor Alexander III*, *Borodino*, *Orel*, and the transport *Anadyr*.

This division left Skagen on the 7th (20th) October at 10 o'clock in the evening.

A speed of 12 knots was ordered for the two first divisions and of 10 knots for the following divisions.

4. Between 1.30 and 4.15 on the afternoon of the next day, the 8th (21st) October, all the divisions of the squadron passed in turn the English steamer *Zero*, the captain of which examined the different units attentively enough to enable them to be recognized from his description of them.

The results of his observations are, moreover, in general agreement with the statements in Admiral Rojdestvsky's report.

5. The last vessel which passed the *Zero* was, from his description of her, the *Kamchatka*.

This transport, which originally was in a division with the *Dmitri Donskoi*, and the *Aurora* was therefore left behind and isolated about 10 miles to the rear of the squadron. She had been obliged to slacken speed in consequence of damage to her engines.

This accidental delay was, perhaps, incidentally the cause of the events which followed.

6. Toward 8 o'clock in the evening this transport did, in fact, meet the Swedish vessel *Aldebaran* and other unknown vessels and opened fire on them, doubtless in consequence of the anxiety inspired in the circumstances of the moment by her isolation, the damage to her engines, and her small fighting value.

However this may be, the commander of the *Kamchatka* at 8.45 o'clock sent a message by wireless telegraphy to his commander in chief, regarding this encounter, stating that he was "attacked on all sides by torpedo boats."

7. In order to understand the effect which this news had on Admiral Rojdestvsky's subsequent decisions, it must be remembered that in his estimate the attacking torpedo boats, of whose presence 50 miles to the rear of the division which he commanded, he was thus rightly or wrongly informed, might overtake and attack him about 1 o'clock in the morning.

This information led Admiral Rojdestvsky to signal to his ships about 10 o'clock in the evening to redouble their vigilance and look out for an attack by torpedo boats.

8. On board the *Soworoff* the admiral had thought it indispensable that one of the two superior officers of his staff should be on watch on the captain's bridge during the night in order to observe in his place the progress of the squadron and to warn him at once if any incident occurred.

On board all the ships, moreover, the standing orders of the admiral laid down that the officer of the watch was authorized to open fire in case of an evident and imminent attack by torpedo boats.

If the attack was from the front, he was to open fire on his own initiative, and in the contrary case, which would be much less pressing, he was to refer to his commanding officer.

With regard to these orders the majority of the commissioners consider that they were in no way excessive in time of war, and particularly in the circumstances, which Admiral Rojdestvsky had every reason to consider very alarming, seeing that it was impossible for him to verify the accuracy of the warnings that he had received from the agents of his government.

9. Toward 1 o'clock in the morning of the 9th (22d) October, 1904, the night was rather dark, a slight, low fog partly clouding the air. The moon only showed intermittently between the clouds. A moderate wind blew from the southeast, raising a long swell which gave the ships a roll of 5 degrees on each side.

The course followed by the squadron toward the southwest would have taken the two last divisions, as the event proved, close past the usual fishing ground of the fleet of Hull trawlers, which was composed of some thirty of these small steamboats and was spread over an area of several miles.

It appears from the concordant testimony of the British witnesses that all these boats carried their proper lights and were trawling in accordance with their usual rules under the direction of their "admiral" and in obedience to the signals given by the conventional rockets.

10. Judging by the communications received by wireless telegraphy, the divisions which preceded that of Admiral Rojdestvsky across these waters had signaled nothing unusual.

It became known afterwards in particular that Admiral Fölkersam, having been led to pass around the fishing fleet on the north, threw his electric searchlight on the nearest trawlers at close quarters, and having seen them to be harmless vessels quietly continued his voyage.

11. A short time afterwards the last division of the squadron, led by the *Soworoff*, flying Admiral Rojdestvsky's flag, arrived in its turn close to the spot where the trawlers were fishing.

The direction in which this division was sailing led it nearly toward the main body of the fleet of trawlers, round which and to the south of which it would therefore be obliged to sail, when the attention of the officers of the watch on the bridges of the *Soworoff* was attracted by a green rocket, which put them on their guard. This rocket sent up by the "admiral" of the fishing fleet, indicated in reality according to regulation, that the trawlers were to trawl on the starboard tack.

Almost immediately after this first alarm, and as shown by the evidence, the lookout men, who from the bridges of the *Soworoff* were scanning the horizon with their night glasses,

discovered "on the crest of the waves on the starboard bow at an approximate distance of 18 to 20 cables" a vessel which aroused their suspicions, because they saw no light and because she appeared to be bearing down upon them.

When the suspicious looking vessel was shown up by the searchlight, the lookout men thought they recognized a torpedo boat preceding at great speed.

It was on account of these appearances that Admiral Rojdestvensky ordered fire to be opened on this unknown vessel.

The majority of the commissioners express the opinion on this subject that the responsibility for this action and the results of the fire to which the fishing fleet was exposed are to be attributed to Admiral Rojdestvensky.

12. Almost immediately after fire was opened to starboard the *Soworoff* caught sight of a little boat on her bow barring the way and was obliged to turn sharply to the left to avoid running it down. This boat, however, on being lit up by the searchlight was seen to be a trawler.

To prevent the fire of the ships being directed against this harmless vessel, the searchlight was immediately thrown up at an angle of 45°.

The admiral then made the signal to the squadron "not to fire on the trawlers."

But at the same time that the searchlight had lit up this fishing vessel, according to the evidence of witnesses, the lookout men on board the *Soworoff* perceived to port another vessel, which appeared suspicious from the fact of its presenting the same features as were presented by the object of their fire to starboard.

Fire was immediately opened on this second object and was therefore being kept up on both sides of the ship, the line of ships having resumed their original course by a correcting movement without changing speed.

13. According to the standing orders of the fleet, the admiral indicated the objects against which the fire should be directed by throwing his searchlight upon them; but as each vessel swept the horizon in every direction with her own searchlights to avoid being taken by surprise it was difficult to prevent confusion.

The fire, which lasted from ten to twelve minutes, caused great loss to the trawlers. Two men were killed and six others wounded; the *Crane* sank; the *Snipe*, the *Mino*, the *Moulmein*, the *Gull*, and the *Majestic* were more or less damaged.

On the other hand, the cruiser *Aurora* was hit by several shots.

The majority of the commissioners observed that they have not sufficiently precise details to determine what was the object fired on by the vessels; but the commissioners recognize unanimously that the vessels of the fishing fleet did not commit any hostile act, and the majority of the commissioners being of opinion that there were no torpedo boats either among the trawlers nor anywhere near the opening of fire by Admiral Rojdestvensky was not justifiable.

The Russian commissioner, not considering himself justified in sharing this opinion, expresses the conviction that it was precisely the suspicious-looking vessels approaching the squadron with hostile intent which provoked the fire.

14. With reference to the real objectives of this nocturnal firing, the fact that the *Aurora* was hit by several 47-millimeter and 75-millimeter shells would lead to the supposition that this cruiser and perhaps even some other Russian vessels, left behind on the route followed by the *Soworoff* unknown to that vessel, might have provoked and been the object of the first few shots.

This mistake might have been caused by the fact that this vessel, seen from astern, was apparently showing no light and by a nocturnal optical illusion which deceived the lookout on the flagship.

On this head the commissioners find that they are without important information which would enable them to determine the reasons why the fire on the port side was continued.

According to their conjecture, certain distant trawlers might have been mistaken for the original objectives, and thus fired upon directly. Others, on the contrary, might have been struck by a fire directed against more distant objectives.

These considerations, moreover, are not in contradiction with the impressions formed by certain of the trawlers, who finding that they were struck by projectiles and remained under the rays of the searchlights, might believe that they were the object of a direct fire.

15. The time during which the firing lasted on the starboard side, even taking the point of view of the Russian version, seems to the majority of the commissioners to have been longer than was necessary.

But that majority consider that, as has already been said, they have not before them sufficient data as to why the fire on the port side was continued.

In any case the commissioners take pleasure in recognizing unanimously that Admiral Rojdestvensky personally did everything he could from beginning to end of the incident to prevent trawlers, recognized as such, from being fired upon by the squadron.

16. Finally, the *Dmitri Donskoi*, having signaled her number, the admiral decided to give the general signal for "cease firing." The line of his ships then continued on their way and disappeared to the southwest without having stopped.

On this point the commissioners recognize unanimously that after the circumstances which preceded the incident and those which produced it there was at the cessation of fire sufficient uncertainty with regard to the danger to which the division of vessels was exposed to induce the admiral to proceed on his way.

Nevertheless the majority of the commissioners regret that Admiral Rojdestvensky, in passing the Strait of Dover, did not take care to inform the authorities of the neighboring maritime powers that, as he had been led to open fire near a group of trawlers, these boats, of unknown nationality, stood in need of assistance.

17. In concluding this report, the commissioners declare that their findings, which are therein formulated, are not in their opinion of a nature to cast any discredit upon the military qualities or the humanity of Admiral Rojdestvensky or of the personnel of his squadron.

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**VISIT OF THE SECOND CRUISER SQUADRON UNDER THE COMMAND OF PRINCE LOUIS OF BATTENBERG TO THE UNITED STATES.**

*The British Ambassador to the Secretary of State.*

No. 35.]

BRITISH EMBASSY,  
*Washington, March 1, 1905.*

SIR: By instructions from His Majesty's principal secretary of state for foreign affairs, I have the honor to inform you that it is in contemplation to arrange for a cruise by the second cruiser squadron, under the command of Rear-Admiral His Serene Highness Prince Louis of Battenberg, G. C. B., G. C. V. O., during the ensuing autumn.

It is proposed that this squadron should visit the ports of Newport, New York, and Annapolis, and the lords commissioners of the admiralty suggest that, in the event of these visits meeting with the acquiescence of the United States Government, the President should be asked to receive the rear-admiral and his officers at Washington.

I am instructed therefore to inquire of the United States Government whether the contemplated visits to the three American ports mentioned would be acceptable and whether the President would be willing to receive the rear-admiral and his officers, and if so, what date would be most convenient.

The lords commissioners are prepared, as soon as the wishes of the President and the United States Government are known, to furnish the names, ranks, and seniority of the members of the rear-admiral's staff and of the captains of the several ships. They have suggested to Lord Lansdowne that perhaps the month of October would be the most convenient period.

The squadron will consist of the following first-class armored cruisers: His Majesty's ships *Drake, Cornwall, Essex, Berwick, Cumberland,* and *Suffolk*.

I have, etc.,

H. M. DURAND.

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*The Secretary of State to the British Ambassador.*

No. 177.]

DEPARTMENT OF STATE,  
*Washington, March 7, 1905.*

EXCELLENCY: The President has been gratified to learn by your note No. 35 of the 1st instant, which I laid before him, of the purpose of your government to have His Majesty's second cruiser squadron, under the command of Rear Admiral His Serene Highness Prince

Louis of Battenberg, G. C. B., G. C. V. O., visit the ports of Newport, New York, and Annapolis during the ensuing autumn, and charges me to say to you that this contemplated friendly visit of His Majesty's ships will be most agreeable to this government.

Regarding his reception of the rear-admiral and his officers he wishes me to say, in expressing the great pleasure which such reception will afford him, that, as suggested by the lords commissioners of the admiralty, the month of October ensuing would suit him best as the most convenient period.

I shall be happy to receive from you, agreeably to your promise, the names, ranks, and seniority of the rear-admiral's staff and of the captains of the several ships forming the squadron.

I have, etc.,

JOHN HAY.

*The British Ambassador to Acting Secretary of State Adee.*

No. 117.]

BRITISH EMBASSY,  
*Washington, May 30, 1905.*

SIR: With reference to previous correspondence on the subject of the proposed visit of the second cruiser squadron to this country, I have the honor to inform you that I have received a telegram from His Majesty's principal secretary of state for foreign affairs stating that His Serene Highness Prince Louis of Battenberg, who will be in command of the squadron, has expressed the desire that his first visit in the United States might be paid to the President in Washington. If this could be arranged Annapolis would be the first port of call after leaving Canada, and New York would be visited after Washington, instead of before, as previously proposed.

I am instructed to inquire whether this alteration in the programme would be agreeable to the President, and if so, I should be glad to be informed on what date His Serene Highness could be received in Washington.

I have, etc.,

For the ambassador,

HUGH O'BEIRNE.

*The British Ambassador to Acting Secretary of State Adee.*

No. 193.]

BRITISH EMBASSY,  
*Lenox, Mass., September 25, 1905.*

SIR: With reference to Mr. O'Beirne's note No. 99 of the 9th of May [not printed], I have the honor to transmit to you herewith a revised list of the staff of His Serene Highness Prince Louis of Battenberg and of the captains of the ships of the second cruiser squadron who will accompany the rear-admiral on his forthcoming visit to Washington.

I have, etc.,

H. M. DURAND.

[Inclosure.]

*Staff of H. S. H. Prince Louis of Battenberg.*

Flag captain, Mark E. F. Kerr, M. V. O.  
Flag lieutenant, Gerald Sowerby.  
Secretary, Edward H. Shearme.  
Engineer commander, William F. Pamphlett.

*Captains of ships of second cruiser squadron.*

Charles H. Robertson, C. M. G., M. V. O., H. M. S. *Cornwall*.  
 Richard B. Farquhar, H. M. S. *Essex*.  
 Richard H. Peirse, M. V. O., H. M. S. *Bedford*.  
 Charles H. Dare, M. V. O., H. M. S. *Berwick*.  
 Herbert G. King Hall, D. S. O., H. M. S. *Cumberland*.

*The Assistant Secretary of State to the British Ambassador.*

No. 338.]

DEPARTMENT OF STATE,  
 Washington, October 23, 1905.

EXCELLENCY: I have the honor to make known to you formally the arrangements which have been perfected for the reception of His Serene Highness Prince Louis of Battenberg, admiral of His Majesty's second cruiser squadron, and his staff during their visit to Washington as guests of the government.

The admiral and his staff will be brought to Washington on a special train, which will leave Annapolis about 10 o'clock on the morning of Friday, November 3. At 3 o'clock in the afternoon of the same day they will be received by the President at the White House. It is the President's expectation that the staff of His Majesty's embassy will attend your excellency on this occasion. On Saturday, the 4th proximo, at 8 o'clock in the evening, it will be the President's pleasure to entertain the admiral and his staff at dinner.

From the time they reach Washington until their departure from the city the official responsibility of the Navy Department will be superseded by that of the Department of State.

They will be returned to Annapolis on the special train which brought them over, but the hour of its departure has not yet been definitely determined.

I have, etc.,

ROBERT BACON.

**DELIMITATION OF THE ALASKAN BOUNDARY.**

## EXCHANGE OF NOTES.

*Acceptance of the report of the commissioners to complete the award under the convention of January 24, 1903, respecting the boundary line between Alaska and the British North American possessions.*

[Agreement effected by exchange of notes, March 25, 1905.]

*The Acting Secretary of State to the British Ambassador.*

No. 187.]

DEPARTMENT OF STATE,  
 Washington, March 25, 1905.

EXCELLENCY: Referring to your note of October 1 and Mr. Hay's reply of December 2, 1904,<sup>a</sup> in regard to the report of Messrs. O. H. Tittmann and W. F. King, the commissioners appointed to carry out the delimitation of the Alaska boundary, so far as it was left undefined by the award of the London tribunal, and concerning the character of

<sup>a</sup>Printed in *Foreign Relations*, 1904, pp. 325 and 326.

our agreement between the United States and Great Britain for the formal acceptance of the recommendations of the commissioners by an exchange of notes, I have the honor to state, by direction of the President, that the Government of the United States agrees with the Government of His Britannic Majesty that the part of the boundary between Alaska and Canada lying between the points P and T mentioned in the award of the tribunal of 1903, shall be defined, in accordance with the general principles laid down by said tribunal, by the summits whose geographical coordinates are given with sufficient approximation for identification in the attached table, provided that the commissioners are hereby empowered, after they have secured sufficient data, to select additional and intermediate peaks between the points 7 and 8 and 8 and T where the distances between the peaks given in the table exceed the probable limit of intervisibility. Provided also that no such additional and intermediate peak shall be more than 2,500 meters from the straight line joining peaks 7 and 8 or 8 and T of the attached table, as follows:

TABLE SHOWING THE POSITIONS AND DISTANCES OF PEAKS.

The latitudes and longitudes are taken from and refer to the maps numbers 10 and 12 of the surveys made by the British commission under the convention of 1892. The successive peaks are designated by consecutive numbers, counting southward from point P.

Points.	Latitude.			Longitude.			From—	To—	Approximate distances.
	°	'	"	°	'	"			
Sheet 12:									<i>Meters.</i>
1.....	58	36	29	133	41	55	P	1	15,840
2.....	58	31	01	133	33	14	1	2	12,800
3.....	58	24	40	133	26	09	2	3	13,680
4.....	58	22	35	133	27	09	3	4	4,000
5.....	58	16	10	133	21	08	4	5	13,200
6.....	58	13	24	133	16	48	5	6	6,960
7.....	58	09	07	133	11	10	6	7	9,700
Sheet 10.....							7	8	81,440
8.....	57	29	47	132	32	52	8	T	36,800

Your acknowledgement of this communication, with a similar statement on behalf of the Government of His Majesty, will complete the agreed exchange of notes and will confirm and give validity to the agreement reached by the commissioners, thus completing the award of the London tribunal under the convention of January 24, 1903, as to the above-described part of the Alaska boundary.

Expressing the President's satisfaction at this settlement of the matter,

I have, etc.,

ALVEY A. ADEE.

*The British Ambassador to the Secretary of State.*

No. 50.]

BRITISH EMBASSY,  
Washington, March 25, 1905.

SIR: I have the honor to acknowledge the receipt of your note, No. 187, of this date, in regard to the report by Messrs. W. F. King and O. H. Tittmann, the commissioners appointed to carry out the delimitation of the Alaska boundary, so far as it was left undefined by the



award of the London tribunal, and concerning the character of an agreement between Great Britain and the United States for the formal acceptance of the recommendations of the commissioners by an exchange of notes.

By direction and on behalf of the Government of His Britannic Majesty, I have the honor to state that the Government of His Majesty agrees with the Government of the United States that the part of the boundary between Canada and Alaska lying between the points P and T mentioned in the award of the tribunal of 1903 shall be defined, in accordance with the general principles laid down by said tribunal, by the summits whose geographical coordinates are given with sufficient approximation for identification in the attached table, provided that the commissioners are hereby empowered, after they have secured sufficient data, to select additional and intermediate peaks between the points 7 and 8 and 8 and T where the distances between the peaks given in the table exceed the probable limit of intervisibility. Provided also that no such additional and intermediate peak shall be more than 2,500 meters from the straight line joining peaks 7 and 8 or 8 and T of the attached table, as follows:

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Points.	Latitude.			Longitude.			From—	To—	Approximate distances.
	°	'	"	°	'	"			
Sheet 12:									<i>Meters.</i>
1.....	58	36	29	133	41	55	P	1	15,840
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3.....	58	24	40	133	26	09	2	3	13,680
4.....	58	22	35	133	27	09	3	4	4,000
5.....	58	16	10	133	21	08	4	5	13,200
6.....	58	13	24	133	16	48	5	6	6,960
7.....	58	09	07	133	11	10	6	7	9,700
Sheet 10.....							7	8	81,440
8.....	57	29	47	132	32	52	8	T	36,800

I am instructed to express the gratification of my government that by this exchange of notes confirmation and validity are given to the agreement reached by the commissioners, thus completing the award of the London tribunal under the convention of January 24, 1903, as to the above-described part of the Alaska boundary.

I have, etc.,

H. M. DURAND.

#### PROTECTION OF NIAGARA FALLS.

*The Secretary of State to the British Ambassador.*

No. 72.]

DEPARTMENT OF STATE,  
Washington, May 6, 1904.

EXCELLENCY: In accordance with the conversation which I had with your excellency on the 5th of May, I have the honor to inclose a copy of a resolution adopted by the senate and assembly of the

State of New York, suggesting joint action by the Governments of the United States and Great Britain for the protection of the Niagara Falls.

I am not prepared at this moment to formulate any scheme of an international convention for this purpose, and, therefore, transmit the resolution as I have received it, for the information of your excellency's government, hoping that the subject may engage the attention of the British foreign office and the Dominion government, to the end that we may in future agree upon some means of attaining the laudable object contemplated by the legislature of the State of New York.

I should be glad to receive any suggestions which may occur to your excellency on the matter in question.

I have, etc.,

JOHN HAY.

[Inclosure.]

STATE OF NEW YORK, IN SENATE,  
*Albany, March 17, 1904.*

By Mr. E. R. BROWN:

Whereas the grants of water power at Niagara Falls heretofore made by Canada and the State of New York have established a policy in relation to the diversion of the waters of Niagara River, the indiscriminate pursuit of which may seriously impair if not destroy the beauty of this wonder of nature; and

Whereas there can be no adequate protection of the Falls against injurious grants except through the united action of the United States and Great Britain,

*Resolved* (if the assembly concur), That this legislature memorialize the President of the United States to open negotiations with Great Britain for the purpose of framing a treaty which shall prevent any diversions of waters of the Niagara River injurious to Niagara Falls as they now exist.

*Resolved further*, That in the opinion of this legislature this State should, so far as necessary to the final accomplishment of this purpose, cooperate with the National Government by withholding legislation likely to render such action on the part of the National Government nugatory and to unite in any legislation or constitutional enactment essential to give such treaty when executed full effect.

By order, Senate:

[SEAL.]

In Assembly, April 9, 1904.

Concurred in without amendment.

By order of the Assembly:

J. S. WHIPPLE, *Clerk.*

A. E. BAXTER, *Clerk.*

*The British Ambassador to the Secretary of State.*

No. 94.]

BRITISH EMBASSY,  
*Washington, May 7, 1904.*

SIR: I have the honor to acknowledge the receipt of your note No. 72 of yesterday's date inclosing copy of a resolution adopted by the senate and assembly of the State of New York suggesting that joint action be taken by the Governments of the United States and Great Britain for the protection of the Niagara Falls.

I shall have much pleasure in forwarding copies of your note, together with its inclosure, to His Majesty's principal secretary of state for foreign affairs and to the governor-general of Canada.

I have, etc.,

H. M. DURAND.

*The Acting Secretary of State to the British Ambassador.*

DEPARTMENT OF STATE,  
Washington, September 26, 1905.

MY DEAR MR. AMBASSADOR: With reference to your note of May 7, 1904, in which you informed Mr. Hay that you had been so good as to forward to the secretary of state for foreign affairs and the governor-general of Canada copies of Mr. Hay's note and its inclosures regarding the scheme to prevent the destruction of Niagara Falls by the use of its waters by manufactures, I venture to bring the matter to your attention again.

The Department is in daily receipt of letters of inquiry on this subject from anxious correspondents, many from persons of high standing and importance, and would be glad to tell them that there is hopeful progress toward a mutually beneficial understanding in this regard.

I am, etc.,

F. B. LOOMIS.

*The British Ambassador to Acting Secretary of State Loomis.*

BRITISH EMBASSY,  
Lenox, Mass., September 28, 1905.

DEAR MR. LOOMIS: I have had the honor to receive your letter of the 27th instant regarding the proposal to prevent the destruction of Niagara Falls by the use of its waters by manufacturers.

I will forward a copy of your letter to the principal secretary of state for foreign affairs and also to the governor-general of Canada, and I will request Lord Lansdowne to inform me whether any decision has been taken regarding the proposed joint action by the Governments of the United States and Great Britain, as suggested in Mr. Hay's note of May 6, 1904.

Believe me, etc.,

H. M. DURAND.

*The Secretary of State to the British Ambassador.*

DEPARTMENT OF STATE,  
Washington, November 3, 1905.

MY DEAR MR. AMBASSADOR: Since our conversation the other day about the preservation of Niagara Falls, I have examined the invitation from the United States to Great Britain for the formation of the International Waterways Commission and the acceptance by Great Britain. It seems quite clear that to investigate the withdrawal of water from the Niagara River above the Falls and the effect of such withdrawal would be within the scope of the commission's duties. If it would be agreeable to you, I should be glad to join in a request or instruction to the commission to make such investigation and report. I suggest that their attention should be directed—

A. To the existing withdrawal from both sides of the river.

B. To the extent to which further withdrawals can be permitted without seriously damaging the Falls.

C. To the regulations which if agreed upon and put in force by the governments would be effectual to prevent the destruction of or serious impairment to the Falls.

I am, etc.,

ELIHU ROOT.

*The British Ambassador to the Secretary of State.*

BRITISH EMBASSY,  
Washington, November 4, 1905.

DEAR MR. SECRETARY: I have received your note of yesterday's date respecting the preservation of Niagara Falls.

I have thought it well to telegraph to Lord Lansdowne your proposal that the question should be referred for investigation to the International Waterways Commission.

I have, etc.,

H. M. DURAND.

*The British Ambassador to the Secretary of State.*

BRITISH EMBASSY,  
Washington, November 9, 1905.

DEAR MR. SECRETARY: With reference to the letter which I had the honor to receive from Mr. Loomis, dated September 26, on the subject of the preservation of Niagara Falls, I have the honor to inform you that the substance of Mr. Loomis's communication was referred to the governor-general of Canada, with a request for an expression of his views on the subject.

This action had already been taken prior to the receipt of your letter of November 3, the substance of which I have communicated to Lord Lansdowne.

Believe me, etc.,

H. M. DURAND.

*The British Ambassador to the Secretary of State.*

BRITISH EMBASSY,  
Washington, November 13, 1905.

DEAR MR. SECRETARY: With reference to my letter of November 4 on the subject of the preservation of Niagara Falls, I have the honor to forward a copy of an approved minute of the privy council for Canada.

You will notice that it is stated that a report from the Joint International Waterways Commission on the subject may shortly be expected.

Believe me, etc.,

H. M. DURAND.

[Inclosure.]

PRIVY COUNCIL, CANADA.

*Extract from a report of the committee of the honorable the privy council, approved by the governor-general on 2d November, 1905.*

The committee of the privy council have had under consideration a dispatch, dated 28th September, 1905, from His Majesty's ambassador at Washington, respecting the proposed joint action by the Governments of the United States and Canada in order to prevent the destruction of Niagara Falls by the use of its waters by manufacturers.

The minister of public works, to whom the said dispatch was referred, states that he has received a report from the secretary of the Canadian section of the International Waterways Commission to the effect that "the commission is at the present time studying the use, generally, of the waters of Niagara River and of Niagara Falls, and expect to be able to make a joint report to the Government of the United States and to the government of Canada before

long recommending the adoption of rules and regulations which would prevent in the future the destruction of Niagara Falls by the use of its waters by manufacturers."

The committee advise that his excellency the governor-general be moved to forward a copy of this minute to His Majesty's ambassador at Washington.

All which is respectfully submitted for his excellency's approval.

JOHN J. MCGEE,  
Clerk of the Privy Council.

*Extracts from the report of the International Waterways Commissioners to the Secretary of War.*

INTERNATIONAL WATERWAYS COMMISSION,  
OFFICE OF AMERICAN SECTION, 328 FEDERAL BUILDING,  
Buffalo, N. Y., December 1, 1905.

MR. SECRETARY:

\* \* \* \* \*

10. The full commission held its second meeting at Toronto July 14 and 15, 1905. Among the questions brought to the attention of the commission at this meeting were the following, viz:

a. The uses of the waters at Sault Ste. Marie for power purposes, and the regulations necessary to insure an equitable division of the waters between the two countries and the protection of the navigation interests.

b. The uses of the waters in the Niagara River for power purposes, and the regulations necessary to insure an equitable division of the waters between the two countries, and the protection of Niagara Falls as a scenic spectacle.

c. The alleged differences in the marine regulations of the two countries with respect to signal lights and the advisability of adopting uniform signals for both countries.

d. The advisability of building controlling works at the outlet of Lake Erie, including the effect upon the levels of the Lakes and upon their shores and upon the river St. Lawrence.

e. The diversion southward by the Minnesota Canal and Power Company, of Duluth, of certain waters in the State of Minnesota that now flow north into the Rainy River and the Lake of the Woods.

f. The effect of the Chicago Drainage Canal upon the levels of Lakes Michigan, Huron, Erie, and Ontario, and upon the river St. Lawrence.

g. Delimiting the international boundary on the international waterways and delineating the same on modern charts.

11. At subsequent meetings the following additional questions were brought to the attention of the commission, viz:

h. The suppression or abatement of illegal fishing on the Great Lakes.

i. The location and construction of common channels.

j. Regulations to govern navigation in narrow channels.

k. Protection of shores from damage due to deepening of channels and increased speed.

\* \* \* \* \*

22. The questions which have been brought to the attention of this commission, enumerated above in paragraphs 10 and 11, cover a wide range of subjects. Some of them clearly come under the jurisdiction of the commission as constituted, while some do not, and about others there is room for doubt. The Canadian members of the commission

are ready and anxious to consider all of these questions and to extend the jurisdiction of the commission to all international waters between the Atlantic and the Pacific oceans. It is desirable that the wishes of Congress in this matter be more clearly defined.

23. Since it completed its organization in September the commission has made good progress in the collection of data bearing upon some of these questions, particularly those relating to the use of water at Niagara Falls and to the regulation of the level of Lake Erie by works near its outlet. With reference to the former, although not ready to report, it thought proper to pass, at its session of October 28, the following resolution, of which copies were sent to the Secretary of War of the United States and the minister of public works of Canada, viz:

*Resolved*, That this commission recommends to the Governments of the United States and Canada that such steps as they may regard as necessary be taken to prevent any corporate rights or franchises being granted or renewed by either Federal, State, or Provincial authority for the use of the waters of the Niagara River for power or other purposes until this commission is able to collect the information necessary to enable it to report fully upon the "conditions and uses" of those waters to the respective Governments of the United States and Canada.

\* \* \* \* \*

Very respectfully,

O. W. ERNST,  
*Chairman American Section.*  
GEORGE CLINTON,  
GEO. Y. WISNER,  
*Members, American Section.*

NOTE.—To be continued in Foreign Relations, 1906.

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**TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN  
BY WHICH THE UNITED STATES RELINQUISHES EXTRATER-  
RITORIAL RIGHTS IN ZANZIBAR.**

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*Signed at Washington, February 25, 1905.*

*Ratification advised by the Senate, March 8, 1905.*

*Ratified by the President, May 12, 1905.*

*Ratified by Great Britain, April 3, 1905.*

*Ratifications exchanged at Washington, June 12, 1905.*

*Proclaimed, June 12, 1905.*

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India acting in the name of His Highness the Sultan of Zanzibar, by which the United States agrees to renounce in the British Protectorate of Zanzibar, and in that part of the mainland dominions of His Highness, the Sultan of Zanzibar which lies within the Protectorate of

British East Africa, its extraterritorial rights in favor of the British courts therein established, was concluded and signed by their respective Plenipotentiaries at Washington, on the twenty-fifth day of February, one thousand nine hundred and five, the original of which Convention is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, acting in the name of His Highness the Sultan of Zanzibar, have, for the purposes hereinafter stated, appointed as their Plenipotentiaries, namely:

The President of the United States of America, the Honorable John Hay, Secretary of State of the United States of America; and

His Britannic Majesty, the Right Honorable Sir Henry Mortimer Durand, G. C. M. G., K. C. S. I., K. C. I. E., his Ambassador Extraordinary and Plenipotentiary near the Government of the United States;

Who, after having communicated each to the other their respective full powers, found in good and due form, have agreed upon the following articles:

#### ARTICLE I.

The United States of America agrees to renounce in the British Protectorate of Zanzibar, and in that part of the mainland dominions of His Highness the Sultan of Zanzibar which lies within the Protectorate of British East Africa, the extraterritorial rights secured to it by the treaty of September 21, 1833, between the United States and the Sultan of Muscat, and the treaty of July 3, 1886, between the United States and Zanzibar.

The jurisdiction exercised thereunder by consular courts of the United States in the British Protectorate of Zanzibar and in that part of the mainland dominions of His Highness the Sultan of Zanzibar which is under British Protection, and all the exceptional privileges, exemptions, and immunities enjoyed by citizens of the United States as a part of or appurtenant to such jurisdiction, shall absolutely cease and determine. It being understood, however, that this renunciation shall not take effect until such time as the rights of extraterritoriality enjoyed in Zanzibar by other nations shall have been likewise renounced.

#### ARTICLE II.

In consideration of this renunciation by the United States of America, the Government of His Britannic Majesty agrees to empower the competent British courts which have been established in the British Protectorate of Zanzibar and in that part of the mainland dominions of His Highness the Sultan of Zanzibar which is under British protection, to exercise jurisdiction over citizens of the United States the same as over British subjects and British protected persons, and that citizens of the United States shall have in and before said courts all the rights and privileges that belong and are accorded therein to British subjects and to British protected persons.

## ARTICLE III.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications shall be exchanged at Washington as soon as possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in duplicate at the City of Washington this twenty-fifth day of February, in the year of our Lord one thousand nine hundred and five.

JOHN HAY [SEAL.]  
H M DURAND [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twelfth day of June, one thousand nine hundred and five;

Now, therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

[SEAL] Done at the city of Washington, this twelfth day of June, in the year of our Lord one thousand nine hundred and five, and of the independence of the United States of America the one hundred and twenty-ninth.

THEODORE ROOSEVELT

By the President:

FRANCIS B. LOOMIS,  
*Acting Secretary of State.*

**AGREEMENT OF ALLIANCE BETWEEN GREAT BRITAIN AND JAPAN.**

*Ambassador Reid to the Secretary of State.*

No. 55.]

AMERICAN EMBASSY,  
*London, September 28, 1905.*

SIR: I have the honor to inclose herewith a Parliamentary publication, Japan No. 2, 1905, containing a dispatch to His Majesty's ambassador at St. Petersburg forwarding a copy of the agreement between the United Kingdom and Japan, signed in London August 12, 1905.

I have, etc.,  
For the ambassador.

J. R. CARTER.



[Inclosure.]

*Agreement between the United Kingdom and Japan, signed at London, August 12, 1905.*

## PREAMBLE.

The Governments of Great Britain and Japan, being desirous of replacing the agreement concluded between them on the 30th of January, 1902, by fresh stipulations, have agreed upon the following articles, which have for their object—

(a) The consolidation and maintenance of the general peace in the regions of eastern Asia and of India.

(b) The preservation of the common interests of all powers in China, by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China.

(c) The maintenance of the territorial rights of the high contracting parties in the regions of eastern Asia and of India, and the defense of their special interests in the said regions.

## ARTICLE I.

It is agreed that whenever in the opinion of either Great Britain or Japan any of the rights and interests referred to in the preamble of this agreement are in jeopardy, the two governments will communicate with one another fully and frankly and will consider in common the measures which should be taken to safeguard those menaced rights or interests.

## ARTICLE II.

If by reason of unprovoked attack or aggressive action, wherever arising, on the part of any other power or powers either contracting party should be involved in war in defense of its territorial rights or special interests mentioned in the preamble of this agreement, the other contracting party will at once come to the assistance of its ally and will conduct the war in common and make peace in mutual agreement with it.

## ARTICLE III.

Japan possessing paramount political, military, and economic interests in Korea, Great Britain recognizes the right of Japan to take such measures of guidance, control, and protection in Korea as she may deem proper and necessary to safeguard and advance those interests, provided always that such measures are not contrary to the principle of equal opportunities for the commerce and industry of all nations.

## ARTICLE IV.

Great Britain having a special interest in all that concerns the security of the Indian frontier, Japan recognizes her right to take such measures in the proximity of that frontier as she may find necessary for safeguarding her Indian possessions.

## ARTICLE V.

The high contracting parties agree that neither of them will without consulting the other enter into separate arrangements with another power to the prejudice of the objects described in the preamble of this agreement.

## ARTICLE VI.

As regards the present war between Japan and Russia, Great Britain will continue to maintain strict neutrality unless some other power or powers should join in hostilities against Japan, in which case Great Britain will come to the assistance of Japan and will conduct the war in common and make peace in mutual agreement with Japan.

## ARTICLE VII.

The conditions under which armed resistance shall be afforded by either power to the other in the circumstances mentioned in the present agreement, and the means by which such assistance is to be made available, will be arranged by the naval and military authorities of the contracting parties, who will from time to time consult one another fully and freely upon all questions of mutual interest.

## ARTICLE VIII.

The present agreement shall, subject to the provisions of Article VI, come into effect immediately after the date of its signature and remain in force for ten years from that date.

In case neither of the high contracting parties should have notified twelve months before the expiration of the said ten years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the high contracting parties shall have denounced it. But if when the date fixed for its expiration arrives either ally is actually engaged in war the alliance shall *ipso facto* continue until peace is concluded.

In faith whereof the undersigned, duly authorized by their respective governments, have signed this agreement and have affixed thereto their seals.

Done in duplicate at London, the 12th day of August, 1905.

[L. s.]

LIANSDOWNE,  
*His Britannic Majesty's Principal Secretary of State for Foreign Affairs.*

[L. s.]

TADASU HAYASHI,  
*Envoy Extraordinary and Minister Plenipotentiary of  
His Majesty the Emperor of Japan at the Court of St. James.*

## NEWFOUNDLAND FISHERY QUESTION.

*The Secretary of State to Ambassador Reid.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 13, 1905.*

(Mr. Root informs Mr. Reid that the Newfoundland government has forbidden American fishing vessels already on the treaty coast to take fish within the treaty limits prescribed in article 1 of the treaty of 1818. They consider that their right is perfectly clear and in accordance with the construction of the treaty always followed and never questioned by the British Government, and they have been so advised by the Department. Should this prohibition be insisted upon at this time former difficulties, such as the Fortune Bay affair, indicate that serious trouble may result. Instructs him to urgently represent to the British Government that if any question is to be raised about the construction of the treaty of 1818 it should be done through diplomatic representation and not by the prohibition of a long-established practice without communication between the two governments, and to urge that the Newfoundland authorities be communicated with for the withdrawal of the prohibition. The Government of the United States will insist upon the rights American fishing vessels have always enjoyed under the treaty of 1818, and feels bound to afford them protection against violation of the treaty through interference by the Newfoundland authorities.)

*Ambassador Reid to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*London, October 16, 1905.*

(Mr. Reid reports that the British minister for foreign affairs has just sent him a dispatch received from the governor of Newfoundland stating that there has been no attempt to prevent American fishermen from catching fish, and the minister for foreign affairs hopes that the reports made to the Department were due to misapprehension.)

*The Secretary of State to the British Ambassador.*

No. 336.]

DEPARTMENT OF STATE,  
*Washington, October 19, 1905.*

EXCELLENCY: Mr. Gardner, the representative in Congress of the Gloucester district, has placed in my hands a number of dispatches received by him from masters of American vessels now on the Newfoundland coast. These dispatches are answers to inquiries sent by him upon my request, for the purpose of ascertaining definitely, if possible, what is the precise difficulty there.

These dispatches agree in the statement that vessels of American registry are forbidden to fish on the treaty coast. One captain says that he was informed that he could not fish, by the inspector of the revenue protection service of Newfoundland, and several of them say that they have been ordered not to take herring by the collector of customs at Bonne Bay, Newfoundland.

It would seem that the Newfoundland officials are making a distinction between two classes of American vessels. We have vessels which are registered and vessels which are licensed to fish and not registered. The license carries a narrow and restricted authority; the registry carries the broadest and most unrestricted authority. The vessel with a license can fish, but can not trade; the registered vessels can lawfully both fish and trade. The distinction between the two classes in the action of the Newfoundland authorities would seem to have been implied in the dispatch from Senator Lodge, which I quoted in my letter of the 12th,<sup>a</sup> and the imputation of the prohibition to the minister of marine and fisheries may, perhaps, have come from the port officers in conversation with the masters of American vessels, giving him as their authority for their prohibitions.

As the buying of herring and bait fish, which until recently has been permitted for a good many years in Newfoundland, is trading, the American fishing fleet have come very generally to take an American registry, instead of confining themselves to the narrower fishing license, and far the greater part of the fleet now in northern waters consists of registered vessels. The prohibition against fishing under an American register substantially bars the fleet from fishing. American vessels have also apparently been in the habit of entering at the Newfoundland custom-houses, and applying for a Newfoundland license to buy or take bait, and I gather from all the information I have been able to get that both the American masters and the customs officials have failed to clearly appreciate the different conditions created by the practical withdrawal of all privileges on the part of Newfoundland and the throwing of the American fishermen back upon the bare rights which belong to them under the treaty of 1818.

I am confident that we can reach a clear understanding regarding those rights and the essential conditions of their exercise, and that a statement of this understanding to the Newfoundland government for the guidance of its officials on the one hand, and to our American fishermen for their guidance on the other, will prevent causeless injury and possible disturbances such as have been cause for regret in the past history of the northeastern fisheries.

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<sup>a</sup> Not printed.

I will try to state our view upon the matters involved in the situation which now appears to exist upon the treaty coast. We consider that—

1. Any American vessel is entitled to go into the waters of the treaty coast and take fish of any kind. She derives this right from the treaty (or from the conditions existing prior to the treaty and recognized by it) and not from any permission or authority proceeding from the government of Newfoundland.

2. An American vessel seeking to exercise the treaty right is not bound to obtain a license from the government of Newfoundland, and, if she does not purpose to trade as well as fish, she is not bound to enter at any Newfoundland custom-house.

3. The only concern of the government of Newfoundland with such a vessel is to call for proper evidence that she is an American vessel and therefore entitled to exercise the treaty right, and to have her refrain from violating any laws of Newfoundland not inconsistent with the treaty.

4. The proper evidence that a vessel is an American vessel and entitled to exercise the treaty right is the production of the ship's papers of the kind generally recognized in the maritime world as evidence of a vessel's national character.

5. When a vessel has produced papers showing that she is an American vessel, the officials of Newfoundland have no concern with the character or extent of the privileges accorded to such a vessel by the Government of the United States. No question as between a registry and license is a proper subject for their consideration. They are not charged with enforcing any laws or regulations of the United States. As to them, if the vessel is American she has the treaty right and they are not at liberty to deny it.

6. If any such matter were a proper subject for the consideration of the officials of Newfoundland, the statement of this Department that vessels bearing an American registry are entitled to exercise the treaty right should be taken by such officials as conclusive.

If your government sees no cause to dissent from these propositions, I am inclined to think a statement of them as agreed upon would resolve the immediate difficulty now existing on the treaty coast.

I have, however, to call your attention to a further subject which I apprehend may lead to further misunderstanding in the near future if it is not dealt with now. That is the purposes of the government of Newfoundland in respect of the treatment of American fishing vessels, as exhibited in a law enacted during the past summer by the legislature of that colony under the title "An act respecting foreign fishing vessels."

This act appears to be designed for the enforcement of laws previously enacted by Newfoundland, which prohibited the sale to foreign fishing vessels of herring, caplin, squid, or other bait fishes, lines, seines, or other outfits or supplies for the fishery, or the shipment by a foreign fishing vessel of crews within the jurisdiction of Newfoundland.

The act of last summer respecting foreign fishing vessels provides:

SEC. 1. Any justice of the peace, subcollector, preventive officers, fishery warden, or constable may go on board any foreign fishing vessel being within any port on the coasts of this island or hovering in British waters within three marine miles of any of the coasts, bays, creeks, or harbors in this island and may bring such foreign fishing vessel into port, may search her cargo, and may examine the master upon oath touching the cargo and voyage, and the master or person in command shall answer truly such questions as shall be put to him under a pen-

alty not exceeding *five hundred dollars*. And if such foreign fishing vessel has on board any herring, caplin, squid, or other bait fishes, ice, lines, seines, or other outfits or supplies for the fishery purchased within any port on the coasts of this island or within the distance of three marine miles from any of the coasts, bays, creeks, or harbors of this island, or if the master of the said vessel shall have engaged or attempted to engage any person to form part of the crew of the said vessel in any port or on any part of the coasts of this island or has entered such waters for any purpose not permitted by treaty or convention for the time being in force, such vessel and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

\*            \*            \*            \*            \*            \*

SEC. 3. In any prosecution under this act the presence on board any foreign fishing vessel in any port of this island or within British waters aforesaid of any caplin, squid, or other bait fishes, of ice, lines, seines, or other outfits or supplies for the fishery shall be *prima facie* evidence of the purchase of the said bait fishes and supplies and outfits within such port or waters.

It seems plain that the provisions above quoted constituted a warrant to the officers named to interfere with and violate the rights of American fishing vessels under the treaty of 1818.

The first section authorizes any of the officers named to stop an American vessel while fishing upon the treaty coast and compel it to leave the fishing grounds, to prevent it from going to the places where the fish may be, to prevent it from departing with the fish which it may have taken, and to detain it for an indefinite period during a search of the cargo and an examination of the master under oath under a heavy penalty.

It is to be observed that this section does not require that the vessel shall have been charged with any violation of the laws of Newfoundland or even that she shall have been suspected of having violated the laws of Newfoundland as a condition precedent to compelling it to desist from the exercise of its treaty rights and virtually seizing it and taking it into port. In the consideration of this provision it is unnecessary to discuss any question as to the extent to which American vessels may be interfered with in the exercise of their treaty rights pursuant to judicial proceedings based upon a charge of violation of law or even upon reasonable ground to believe that any law has been violated, for the authority for the acts authorized appears to be part of no such proceeding.

When we consider that the minor officials named in the act invested with this extraordinary and summary power are presumptively members of the fishing communities in competition with which the American fishermen are following their calling, it is plain that in denying the right of the government of Newfoundland to do what this section provides for we are not merely dealing with a theoretical question, but with the probability of serious injustice.

The third section of the act above quoted in full makes the presence on board of an American vessel of the fish gear—the implements necessary to the exercise of the treaty right—*prima facie* evidence of a criminal offense against the laws of Newfoundland, and it also makes the presence on board the vessel of the fish which the vessel has a right to take under the treaty *prima facie* evidence of a criminal offense under the laws of Newfoundland. This certainly can not be justified. It is, in effect, providing that the exercise of the treaty right shall be *prima facie* evidence of a crime.

I need not argue with the Government of Great Britain that the first section of this act purports to authorize the very kind of official conduct which led to the establishment in England of the rule against unreasonable searches and seizures now firmly imbedded in the juris-

prudence of both nations. Nor need I argue that American vessels are of right entitled to have on them in the waters of the treaty coast both fish of every kind and the gear for the taking of fish, and that a law undertaking to make that possession *prima facie* proof of crime deprives them of that presumption of innocence to which all citizens of Great Britain and America are entitled. When the legislature of Newfoundland denies these rights to American fishing vessels it imposes upon them a heavy penalty for the exercise of their rights under the treaty, and we may reasonably apprehend that this penalty will be so severe in its practical effect as to be an effectual bar to the exercise of the treaty right.

I feel bound to urge that the Government of Great Britain shall advise the Newfoundland government that the provisions of law which I have quoted are inconsistent with the rights of the United States under the treaty of 1818 and ought to be repealed, and that in the meantime, and without any avoidable delay, the governor in council shall be requested, by a proclamation which he is authorized to issue under the eighth section of the act respecting foreign fishing vessels, to suspend the operation of the act.

There is still another phase of this subject to which I must ask your attention. I am advised that there is a very strong feeling among the Newfoundland fishermen on the treaty coast against the enforcement of the Newfoundland act prohibiting the sale of bait, and that at a recent mass meeting of fishermen at the "Bay of Islands" resolutions were adopted urging the repeal or suspension of that act and containing the following clauses:

If our requests are not granted immediately, we shall be compelled, in justice to ourselves and families, to seek other ways and means to engage with the Americans.

We would also direct the attention of his excellency the governor in council to what took place in Fortune Bay a few years ago, when Capt. Solomon Jacobs seined herring against the wishes of the people, and the result. If a similar occurrence should take place here, who will be responsible?

This resolution indicates the existence of still another source from which, if not controlled, may come most unfortunate results when the American fishermen proceed to the exercise of their treaty rights—this is the Newfoundland fishermen themselves acting independently of their government.

You are aware that for a considerable period American fishing vessels, instead of themselves taking herring, caplin, and squid upon the treaty coast, have been in the habit of buying those fish from the Newfoundland fishermen. For many of the Newfoundland fishermen this trade has been a principal means of support. That has been especially so in and about the Bay of Islands. It has been profitable to the local fishermen, and it has been for the Americans a satisfactory substitute for the exercise of their treaty right to catch the fish themselves. It is indeed not unnatural that these fishermen should struggle in every way open to them to prevent the loss of their means of support, and that if they can not control their own government so as to secure permission to sell herring and bait they should seek to prevent the Americans from taking the bait, in the hope that as the result of that prevention their profitable trade may be restored. The resolution which I have quoted referring to the Fortune Bay case is a clear threat of violence to prevent the exercise of the treaty right. If the threat should be carried out, it is too much to expect that some at

least of the American fishermen will not refuse to yield to lawless force which seeks to deprive them of their rights and of their means of livelihood.

We shall do everything in our power to prevent any such collision, and we should indeed deeply deplore it, but the true and effective method of prevention plainly must be the exercise of proper control by the government of Newfoundland over the fishermen of Newfoundland, and it seems to me that the danger is sufficiently real and imminent to justify me in asking that the Government of Great Britain shall take speedy steps to bring about the exercise of such control.

I have, etc.,

ELIHU ROOT.

*The Secretary of State to Ambassador Reid.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 20, 1905.

(The Secretary of State sends to Ambassador Reid copy of the note to the British ambassador of October 19. He directs him to urge upon foreign office the considerations which it contains and importance of prompt action to avoid increasing bad feeling among fishermen and possible recurrence of incidents like Fortune Bay affair. Unless action is prompt American vessels will lose fishing season.)

*The British Ambassador to the Secretary of State.*

BRITISH EMBASSY,  
Washington, October 20, 1905.

SIR: I have the honor to acknowledge the receipt of your dispatch dated the 19th of October, regarding the Newfoundland fishery question.

I do not think it desirable at present to make any detailed observations on this dispatch, but I have sent a copy to His Majesty's Government, and have also telegraphed the substance of it both to His Majesty's Government and to the governor of Newfoundland.

I note with satisfaction that the Government of the United States will do everything in their power, as we on our side shall certainly do, to prevent any collision between American fishermen and those of Newfoundland, and I trust that they will also do everything in their power to prevent the occurrence of any other untoward incident pending inquiry into the question of the Newfoundland "Act respecting foreign fishing vessels," and the supposed misapprehension on the part of certain Newfoundland officials with regard to the status of vessels on the American register.

The Government of the United States can not doubt the desire of His Majesty's Government to adhere strictly to all treaty provisions, and all that seems required in order to bring about a satisfactory conclusion in a case of this nature is the exercise by those concerned, on both sides, of patience and temper in the assertion of what they conceive to be their rights. It would be most unfortunate if the case were to be complicated by any precipitate action on the part of

American fishermen or local officials. I will do all I can to prevent such action on the part of the local officials and look to you with confidence to prevent it on the part of the American fishermen.

I have, etc.,

H. M. DURAND.

*Ambassador Reid to the Secretary of State.*

No. 64.]

AMERICAN EMBASSY,  
London, October 20, 1905.

SIR: I have the honor to report the receipt of your telegram of the 13th instant and my action under it as shown in my telegram of the 16th instant.

As intimated in my dispatches, Lord Lansdowne has been out of town for some days. As he was expected on Monday, however, I sent a private note to his residence on Saturday, a few hours after the receipt of your dispatch, asking the favor of an appointment at as early an hour as convenient on Monday.

Finding on Monday that he had not yet returned, I went to the foreign office and saw the first permanent under secretary, Sir Thomas Sanderson, to whom I stated the substance of the information received from my government, and asked for the promptest action in communicating with the Newfoundland authorities, adding I was sure Sir Thomas would agree with me in the belief that if any new question were to be raised at this late date about the rights of American fishermen under the treaty of 1818 it should be raised through the regular diplomatic channels instead of through abrupt action on the part of the Newfoundland authorities. This view seemed to strike Sir Thomas as reasonable and he promised that on the return of Lord Lansdowne this should be one of the first subjects brought to his attention.

The same evening the unofficial letter from Lord Lansdowne mentioned in my cable despatch was sent to me at my private residence. To-day a note has been received from him (dated yesterday) repeating the statement that the governor of Newfoundland denies any attempt to prevent American fishermen from catching fish, and the hope that the reports which reached you were the result of misapprehension. A copy of this note is inclosed.

\* \* \* \* \*

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

*Ambassador Reid to the Marquess of Lansdowne.*

AMERICAN EMBASSY,  
London, October 16, 1905.

MY LORD: Referring to my conversation to-day with Sir Thomas Sanderson about the fisheries situation on the Newfoundland coast, I have the honor to express my gratitude at the prompt inquiries already instituted and to repeat the earnest desire of my government that your lordship should secure from the Newfoundland authorities the immediate withdrawal of their notice prohibiting Americans from taking fish from within the limits plainly granted in Article I of the treaty of 1818.



As I explained to Sir Thomas Sanderson, our American fishermen have been advised by my government that their right to take fish within these limits is quite clear; that it is in accordance with the construction of the treaty always followed heretofore, and that it has never been questioned by the British Government.

Such previous difficulties as that at Fortune Bay certainly indicate a probability of serious trouble again if this Newfoundland prohibition is actively enforced.

If it is really desired now to raise any question as to the construction of the treaty of 1818, I feel sure that you will agree with my government in thinking that it should be done by suitable diplomatic representation and not by abrupt prohibition of the established practice without any communication on the subject between the two governments.

Your lordship will of course understand that my government insists on the rights always enjoyed under the treaty of 1818 and feels bound to protect our fishermen against an interference by the Newfoundland authorities which is plainly in violation of the uniform construction heretofore given to that treaty.

I have, etc.,

WHITELAW REID.

[Inclosure 2.]

*The Marquess of Lansdowne to Ambassador Reid.*

FOREIGN OFFICE,  
London, October 19, 1905.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 16th instant relative to a report which has reached the United States Government that steps are being taken by the Newfoundland authorities to prohibit United States citizens from taking fish within the limits open to them under Article I of the convention of 1818.

As I have already had the pleasure of privately informing your excellency, the governor of Newfoundland, to whom on the receipt of a message from His Majesty's ambassador at Washington telegraphic inquiries were at once addressed, has replied that the visit of the Newfoundland minister of marine to this part of the island was for the purpose of arranging the disposal of French fishery effects on the treaty shore, and that there has been no attempt to prevent American fishermen from catching fish.

I trust, therefore, that the reports which reached the United States Government are the result of a misapprehension as to the facts of the case.

I have, etc.,

LANSDOWNE.

*The British Ambassador to the Secretary of State.*

BRITISH EMBASSY,  
Washington, October 22, 1905.

SIR: In continuation of my note of the 20th of October regarding the Newfoundland fishery question, I have now the honor to inform you that I have received from the governor of Newfoundland a telegram which seems to dispose of one important part of that question.

His excellency telegraphs that no Newfoundland officer is preventing American vessels from fishing on the treaty coast, and that no distinction is being drawn between registered vessels and licensed vessels.

The local officers have been told that American captains must not engage crews on the Newfoundland coast to fish for them, but no objection is made to their using the nets themselves.

I have, etc.,

H. M. DURAND.

*The Secretary of State to the British Ambassador.*

No. 337.]

DEPARTMENT OF STATE,  
*Washington, October 23, 1905.*

EXCELLENCY: I have the honor to acknowledge receipt of your note of the 22d instant, and to express my gratification at the information it communicates on the authority of a telegram from the governor of Newfoundland, that no Newfoundland officer is preventing American vessels from fishing on the treaty coast; that no distinction is being drawn between registered vessels and licensed vessels and; that the local officers in Newfoundland have been told that American captains must not engage crews on the Newfoundland coast to fish for them, but that no objection is made to their using the nets themselves.

I have, etc.,

ELIHU ROOT.

*The Secretary of State to the British Ambassador.*

No. 340.]

DEPARTMENT OF STATE,  
*Washington, October 25, 1905.*

EXCELLENCY: I beg to acknowledge the receipt on the 23d of October of your note of the 20th relating to the Newfoundland fisheries question.

I wish to express my high appreciation of your observations upon the course which should properly be followed by both sides and my hearty agreement with the spirit and purpose of your expressions. I think that nothing could more promote the patience and good temper which we agree to be so important on the part of every one on the treaty coast than a knowledge of the spirit in which the subject is being dealt with by both governments. Unless it should be disagreeable to you, I purpose to embody the substance of your note in a letter which can be published for the purpose of communicating such a knowledge to our American fishermen.

I have, etc.,

ELIHU ROOT.

*The British Ambassador to the Secretary of State.*

No. 213.]

BRITISH EMBASSY,  
*Washington, October 27, 1905.*

SIR: I have the honor to acknowledge with thanks the receipt of your letter No. 340, of the 25th October, regarding the Newfoundland fishery question, and to assure you that I highly appreciate the spirit in which it was written.

It will be in no way disagreeable to me that you should take the course you propose with regard to my letter of the 20th October, and I will with your permission communicate to the Newfoundland government, for the information of their people on the treaty coast, the substance of your reply.

I have, etc.,

H. M. DURAND.

*The Secretary of State to the British Ambassador.*

No. 343.]

DEPARTMENT OF STATE,  
Washington, October 31, 1905.

EXCELLENCY: I have the honor to acknowledge the receipt of, and cordially to thank you for, your note No. 213, of the 27th instant, regarding the Newfoundland fishery question.

It will be equally agreeable to me that you should take the course you propose with regard to my note of the 25th instant, in communicating to the Newfoundland government, for the information of their people on the treaty coast, the substance of my reply.

I have, etc.,

ELIHU ROOT.

*Ambassador Reid to the Secretary of State.*

No. 71.]

AMERICAN EMBASSY,  
London, October 31, 1905.

SIR: Referring to my dispatch No. 66 of the 24th instant [not printed], I have the honor to inclose herewith the copy of a note which I have received from Lord Lansdowne relating to the Newfoundland fisheries question.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Marquess of Lansdowne to Ambassador Reid.*FOREIGN OFFICE,  
London, October 25, 1905.

YOUR EXCELLENCY: I have the honor to acknowledge your excellency's note of the 23d instant relative to American fishing rights off the coast of Newfoundland, and I have to thank you for this statement, which usefully supplements the information your excellency gave me on the 21st instant.

After my conversation with you on that date I at once placed myself in communication with His Majesty's secretary of state for the colonies, to whom your excellency's note of the 23d has also now been referred, and you may rely on his Majesty's Government to second your efforts to clear up any misunderstanding which may have arisen.

I have, etc.,

LANSDOWNE.

*The Secretary of State to the British Ambassador.*

No. 344.]

DEPARTMENT OF STATE,  
Washington, November 1, 1905.

EXCELLENCY: With reference to the Newfoundland fishery question I have the honor to inclose herewith copy of my letter of the 25th ultimo to the Secretary of the Treasury, the contents of which have already been communicated to you orally. The Secretary advises me that it has been forwarded to the collectors of the ports of Gloucester and Boston, with instructions to make it known to the American fishermen.

I have, etc.,

ELIHU ROOT.

[Inclosure.]

*The Secretary of State to the Secretary of the Treasury.*DEPARTMENT OF STATE,  
Washington, October 25, 1905.

SIR: The immediate difficulty experienced by the American fishing fleet on the treaty coast of Newfoundland appears to have been happily disposed of. There are, however, some other questions bearing upon the relations between the recent legislation of Newfoundland and American rights under the treaty of 1818 with Great Britain from which, in default of a clear understanding, further difficulties may possibly arise. These questions are now under consideration by the two governments with a confident expectation of reaching a satisfactory conclusion.

In the meantime I wish to bring to the attention of our American fishermen some expressions contained in a recent letter received by me from the British ambassador. He says:

"I note with satisfaction that the Government of the United States will do everything in their power, as we on our side shall certainly do, to prevent any collision between American fishermen and those of Newfoundland, and I trust that they will also do everything in their power to prevent the occurrence of any other untoward incident pending inquiry into the question of the Newfoundland 'act respecting foreign fishing vessels,' and the supposed misapprehension on the part of certain Newfoundland officials with regard to the status of vessels on the American register.

"The Government of the United States can not doubt the desire of His Majesty's Government to adhere strictly to all treaty provisions, and all that seems required in order to bring about a satisfactory conclusion in a case of this nature is the exercise by those concerned on both sides of patience and temper in the assertion of what they conceive to be their rights. It would be most unfortunate if the case were to be complicated by any precipitate action on the part of American fishermen or local officials. I will do all I can to prevent such action on the part of the local officials and look to you with confidence to prevent it on the part of the American fishermen."

We can not fail to agree heartily with the spirit and purpose thus expressed by the British ambassador. I am sure that knowledge of the fact that the Government of Great Britain is dealing with the subject in this spirit will lead all American fishermen to exercise under all circumstances the patience and good temper which the ambassador justly deems so important.

May I ask that you will communicate the contents of this letter to the collector of the port of Gloucester with the request that he bring it to the notice of the owners and masters of the American fishing fleet, so largely owned at that port?

I have, etc.,

ELIHU ROOT.

*Ambassador Reid to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
London, November 3, 1905.

(Mr. Reid reports that the minister for foreign affairs has reiterated his earnest desire to adjust the fishery question satisfactorily. He has consulted with the secretary of state for the colonies and law officers on the six points of agreement proposed by the Department to the British ambassador at Washington. A dispatch received by him yesterday from the governor of Newfoundland gives positive assurances that no arrests will be made on American vessels and that his action will be confined to his own people. Confidence of friendly adjustment of the question is expressed if the impetuosity of the people on the spot can be restrained during the remainder of the fishing season. Reports the publication of a telegram of Reuter's agency from St. Johns which states that American fishing vessels attempted to enlist 50 men by taking them outside of the 3-mile limit, that the men were sent back by a colonial cruiser, and that threats had been made by the Americans to appeal for a war vessel.)

*The Secretary of State to Ambassador Reid.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 4, 1905.

Say to British Government that I have advised Secretary Commerce and Labor to inform American fishermen this government will not support evasion of Newfoundland law by taking men across 3-mile line for enlistment and bringing them back, as described in the Reuter's dispatch reported by you November 3.

Root.

*Chargé Carter to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
London, December 16, 1905.

(Mr. Carter reports that according to information received by the British Government platforms are being constructed by American fishermen for freezing herring on the shore of the Bay of Islands on the west coast of Newfoundland. Article 1 of the treaty of 1818 has been pointed out by Sir Edward Grey as limiting American fishermen to that part of the Newfoundland coast lying between Cape Ray and Rameau Islands, and that the United States renounced any liberty to take, dry, or cure fish on or within 3 marine miles of any coast, creeks, bays, or harbors not included within above-mentioned limits. He calls attention to the matter and expresses the hope that the Government of the United States will instruct the American fishermen to refrain from any act contrary to treaty rights.)

*The Secretary of State to Chargé Carter.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, December 16, 1905.

(Mr. Root instructs Mr. Carter to inform Sir Edward Grey that the Secretary of Commerce and Labor has been advised that American fishermen have no right to construct platforms for freezing fish on the west coast of Newfoundland, and that in all probability our fishermen have already been instructed accordingly.)

The Department is informed that the cutting of American nets has been commenced to prevent American fishing, as was done in the Fortune Bay affair. Instructs him to request that suitable measures be taken to prevent unlawful interference by natives.)

*Chargé Carter to the Secretary of State.*

No. 107.]

AMERICAN EMBASSY,  
London, December 16, 1905.

SIR: I have the honor to inclose herewith a translation of my cable of this date with reference to the Newfoundland fisheries question, and also a copy of the memorandum upon which it was based.

I was sent for yesterday by Sir Edward Grey to come and see him at the foreign office, where, through Mr. Villiers, one of the under secretaries, he communicated to me the substance of the above-mentioned memorandum, at the same time stating in the most friendly spirit that although convinced that the present incident, which might not seem important in itself and probably occurred owing to ignorance or misapprehension of the terms of the convention of 1818 on the part of those engaged, under the present circumstances he considered it necessary to call your attention to the matter, hoping you would receive it in the spirit it was offered, and would be disposed to cause the American fishermen to be instructed to desist from this action, which he submitted was clearly in excess of their treaty rights.

I have, etc.,

JOHN RIDGELY CARTER.

[Inclosure.]

*Memorandum.*

FOREIGN OFFICE,  
London, December 16, 1905.

His Majesty's Government have received information that United States fishermen are constructing platforms for freezing herring on the shore of Bay of Islands *on the west coast of Newfoundland.*

Article I of the convention of 1818 between Great Britain and the United States stipulated that American fisherman shall "have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks *of the southern part of the coast of Newfoundland*" described previously in the same article as the part of the coast between Cape Ray and the Rameau Islands; but that "the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britanic Majesty's dominions in America *not included within the above-mentioned limits.*"

The incident now reported has probably occurred owing to ignorance or misapprehension of the terms of the convention. His Majesty's Government consider it necessary, however, to call attention to the matter and to express the hope that the American fishermen may be instructed to desist from action which is clearly in excess of their treaty rights.

*Chargé Carter to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
London, December 18, 1905.

(Mr. Carter conveys the thanks of Sir Edward Grey for the prompt action of the Department in regard to the matter reported in his telegram of the 16th instant. Equal prompt consideration will be given to Department's recommendation regarding the cutting of nets.)

*Chargé Carter to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
London, December 28, 1905.

(Mr. Carter reports that Sir Edward Grey is informed by the governor of Newfoundland that the rumor that American fishing nets and tackle had been maliciously interfered with is unfounded. The inspector who had been sent to investigate the matter reports that no willful detachment of nets and tackle has taken place, and that no complaints of willful damage have been made to the magistrate at Bonne Bay, and that no antagonistic feeling exists between the citizens of the two countries.)

*Chargé Carter to the Secretary of State.*

No. 118.]

AMERICAN EMBASSY,  
London, December 29, 1905.

SIR: I have the honor to inclose herewith a translation of my cablegram of the 28th instant and also a copy of a memorandum handed me by Sir Edward Grey in reply to my note of the 18th instant, all in connection with the Newfoundland fisheries question.

From the memorandum in question it will be seen that Mr. O'Reilly, the inspector of the Newfoundland customs, who had spent ten days among the fishing smacks at Bay of Islands, reported that though fishing nets and tackle had been lost through stress of weather no willful destruction of any kind had taken place, and that on the contrary the fishermen were all quiet and on friendly terms and in fact no antagonistic feeling whatever existed between the Newfoundlanders and the American fishermen.

I have, etc.,

JOHN RIDGELY CARTER.

[Inclosure.]

*Memorandum.*

FOREIGN OFFICE,  
London, December 27, 1905.

His Majesty's Government have received by telegraph from Sir W. MacGregor, the governor of Newfoundland, a reply to their inquiry concerning the complaint that American fishing nets and fishing tackle had been maliciously damaged or interfered with by Newfoundland fishermen.

His excellency states that he is able emphatically to contradict this rumor. Inspector O'Reilly, who had spent ten days among the fishing smacks at Bay of Islands, reported that though fishing nets and tackle had been lost through stress of weather or inexperience, no willful destruction of any kind had taken place. On the contrary, the fishermen were all quiet and on friendly terms. The magistrate at Bonne Bay reported that he had received no complaints and that he was unaware of any willful damage having been inflicted.

Sir W. MacGregor's statement is corroborated by the officer commanding His Majesty's ship *Latona*, who reports that after a gale at the beginning of December rumors of willful damage had been spread. Investigations had, however, resulted in eliciting the fact that many nets had, owing to the gale, been dragged and fouled and in some cases had been cut to clear them. This was due in some measure to the inexperience of the United States fishermen, who were unaccustomed to the herring fishery. There was no antagonistic feeling whatever between the subjects of the respective countries.

NOTE.—To be continued in Foreign Relations, 1906.

## BOYCOTT OF AMERICAN GOODS AT SINGAPORE.

*The Secretary of State to Ambassador Reid.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 14, 1905.*

(Mr. Root informs Mr. Reid that the consul-general at Singapore reports that the boycott has taken a serious turn, that the Chinese trade is at a standstill, that circulars are posted on all Chinese shops, that anonymous warning letters are being circulated and he fears that the trouble has only begun. He has been instructed to give information of anonymous threats and unlawful combinations to the local authorities. Mr. Reid is instructed to request that the British Government take the gravity of the situation into consideration and adopt such protective and repressive measures as may be practicable.)

*Ambassador Reid to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*London, November 15, 1905.*

(Mr. Reid reports that Lord Lansdowne has promised him that he will immediately communicate with the colonial department and do everything possible.)

*Chargé Carter to the Secretary of State.*

No. 103.]

AMERICAN EMBASSY,  
*London, December 13, 1905.*

SIR: With reference to your telegram to Mr. Reid of the 15th ultimo with regard to the boycott of American goods by the Chinese at Singapore I have the honor to inclose a translation of your cable, together with Mr. Reid's reply thereto of the same date, and also a copy of the memorandum left at the foreign office, and a copy of Lord Lansdowne's note of the 8th in reply.

From the latter it will be seen that Mr. Lyttelton, the secretary of state for the colonies, will forward a copy of the correspondence on the subject to Sir J. Anderson, the governor of the Straits Settlements, who, it is stated, will doubtless take such measures as may be practicable to deal with any unlawful acts or combinations on the part of those concerned in the proceedings complained of.

Mr. Lyttelton, however, points out that unless actual offenses against the colonial laws have been or are being committed it may be difficult for the colonial authorities to take any effective action in the matter.

I have, etc.,

JOHN RIDGELY CARTER.



[Inclosure 1.]

*The American Embassy to the Foreign Office.*

MEMORANDUM.

AMERICAN EMBASSY,  
*London, November 15, 1905.*

My government has been informed by the American consul-general at Singapore that the boycott against American interests there by the Chinese has taken a decidedly serious turn. That anonymous letters are in circulation and that the trade in general is at a standstill. It is feared that the trouble has only begun, and that circulars are posted on all Chinese shops.

My government has instructed the consul-general to notify the local authorities at Singapore of these anonymous threats and unlawful combinations, and I am instructed to invite the consideration of His Majesty's Government respecting the gravity of this unfriendly action by aliens in a friendly port and the adoption of whatever protective and repressive measures that may be practicable.

[Inclosure 2.]

*Lord Lansdowne to Ambassador Reid.*FOREIGN OFFICE, *December 8, 1905.*

YOUR EXCELLENCY: I have the honor to state that I have been in communication with His Majesty's secretary of state for the colonies with regard to the representation made by your excellency on the 15th ultimo, respecting the boycott of American goods by the Chinese at Singapore.

Mr. Secretary Lyttelton will forward a copy of the correspondence on the subject to Sir J. Anderson, the governor of the Straits Settlements, who will doubtless take such measures as may be practicable to deal with any unlawful acts or combinations on the part of those concerned in the proceedings complained of. Mr. Lyttelton, however, points out that unless actual offenses against the colonial laws have been or are being committed it may be difficult for the colonial authorities to take any effective action in the matter.

I have, etc.,

(In the absence of Lord Lansdowne.)

F. A. CAMPBELL.

**CONTROL OF THE CUSTOMS REVENUES OF THE DOMINICAN  
REPUBLIC BY THE UNITED STATES.**

[NOTE.—See under Dominican Republic, page 298.]

**SEIZURE OF THE CANADIAN SCHOONER AGNES G. DONAHOE BY  
URUGUAY—REQUEST FOR THE GOOD OFFICES OF THE UNITED  
STATES BY THE GOVERNMENT OF GREAT BRITAIN.**

[NOTE.—See under Uruguay and Paraguay, page 912.]

## GREECE.

### REVOLUTIONARY MOVEMENT IN CRETE.

*Minister Jackson to the Secretary of State.*

No. 257, Greek Series.]

AMERICAN LEGATION,  
*Athens, April 4, 1905.*

SIR: Referring to previous dispatches and as being of possible historical interest in view of the probable eventual union of Crete to Greece, I have the honor to submit the following short report in regard to recent events in that island.

Although Crete has frequently been held up as an example to be followed in regard to other parts of the Turkish Empire where Christians form a majority of the population, opposition of one kind or another to the government of Prince George of Greece, the Christian high commissioner appointed by the powers (Great Britain, France, Italy, and Russia) in 1898, has existed ever since his royal highness assumed office.

\* \* \* \* \*

This opposition claims that the government of Prince George is too absolute and that continental Greeks are too often appointed to influential and lucrative positions in Crete to the disadvantage of the native Cretans. Moreover, there is the strong national desire to be united with the continental kingdom and to be able to take part in its affairs. About a year ago a Greek named A. N. Jannaris, who has English connections, criticized the government of the prince and was confined in prison in consequence and since that time the opposition has become more and more evident.

About a fortnight ago certain leaders of the opposition (Papayanakis, Venisellos, Mano, and others) organized themselves into a so-called provisional national government, and they were joined by an inconsiderable number of insurgents. Arms had been prepared at Therisso, a village in the mountains not far from Canea, and the insurgents immediately took possession of this place. Union with Greece was proclaimed, the Cretan flag was pulled down and the Greek flag hoisted in its place, and a note was addressed to the representatives of the powers asking them not to interfere. The object of the insurgents was to prevent the taking place of the regular election for members of the Chamber of Deputies, to prove to the powers that the existing situation is impossible, and to bring about the desired union with Greece. One especial complaint is against the governor's right to appoint ten of the seventy-two members of the Chamber.

The prince conferred with the representatives of the powers at once, and on March 29 issued a proclamation saying that the international troops had been ordered to march against the insurgents and thirty-six hours were to be allowed to them to lay down their arms peaceably.

A conference took place between the commander of the troops and the insurgent leaders, and as yet there has been no armed encounter. On April 2 the prince issued a second proclamation, and on the same day the elections took place without serious disturbance throughout the island. The vote was a small one, and from some villages there were no returns. Supplementary elections are to be held next Sunday, April 9, and the Chamber is expected to meet in about two weeks. A majority has been obtained in favor of the existing government.

Apparently the "revolution" will be without material result, and the leaders are now, while still holding out at Therisso, negotiating for amnesty. They were evidently misled as to the extent of the dissatisfaction with the existing régime, and although various public meetings have expressed sympathy the expected general uprising did not take place. In the meantime, however, the powers have declared that they do not think it expedient to reduce the international force in the island, as had been planned. On the other hand, they have announced an intention to send commissioners to look into the financial situation and to endeavor to have the Sultan recognize Cretan passports and the Cretan flag.

Athens was considerably excited over the "revolution," but the greater part of the press thought the time inopportune, and the government expressed disapproval of the entire movement.

I have, etc.,

JOHN B. JACKSON.

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*Minister Jackson to the Secretary of State.*

No. 267, Greek Series.]

AMERICAN LEGATION,  
*Athens, April 21, 1905.*

SIR: Referring to my dispatch No. 257 of the 4th instant I have the honor to report that the Cretan Parliament was opened yesterday with the customary speech from the high commissioner, Prince George of Greece. In this speech the prince spoke of his visits last summer to various European capitals and of his efforts to bring about the union of Crete to the Kingdom of Greece. He said that the powers had not thought the moment opportune, and he expressed regret at the existing revolutionary movement, as being calculated in his opinion to still further defer the fulfillment of the general wish. After the delivery of this speech the parliament, in which were included the ten members appointed by the prince, passed a resolution declaring that the union of Crete with Greece has taken place and recognizing Prince George and his government as representing the King. The prince was asked to communicate this resolution to the powers. There was a movement toward taking the oath of allegiance to Greece, but apparently it was decided that no oath should be taken at all for the present.

While the international troops in Crete seem to have the active revolutionary movement well in hand, the armed insurgents being still shut up in Therisso, protests have come from and sympathetic meetings have been held in all parts of the island. The Cretan courts no longer are recognized, and Greek stamps, etc., are being used on legal papers. Cretan flags have been replaced by Greek, and custom duties are said to be exacted according to Greek rates. Although tourists who have visited the island recently in connection with the archæological congress were not aware that any revolution was going

on, it now seems possible that what might be called a passive revolution will be of more effect than an active revolt could have been. \* \* \*

I have, etc.,

JOHN B. JACKSON.

*Minister Jackson to the Secretary of State.*

No. 272, Greek Series.]

AMERICAN LEGATION,  
*Athens, May 12, 1905.*

SIR: In reply to an interpellation in the Greek Chamber of Deputies, on the 22d ultimo, Mr. Delyanni, the prime minister, stated that the Greek Government, while sharing in the desire for the union of Crete to Greece, had refused to participate in any action tending to abolish the régime established by the powers, and had disapproved of the existing revolutionary movement. The minister declared that he had recommended the union to the powers, and he expressed it as his opinion that the Cretan Chamber of Deputies might ask for and obtain certain modifications in the present constitution. The Cretan Chamber has not met since it declared that the union with Greece had taken place, and although an effort is to be made toward having the deputies come together again it does not seem probable that they will do so under existing conditions. As yet no armed encounter has taken place between the revolutionists and the international troops, but the general situation has not improved. Sympathetic meetings have been held at various places in the island and the revolutionary forces have been allowed to be increased by deserters from the Cretan gendarmes. The revolutionists are said to have taken possession of a number of small villages in the mountains and to threaten to seize one of the villages on the coast and to administer its custom-house in accordance with the Greek tariff and to their own profit. The international forces have, however, caused the Greek flags to be removed from the public buildings and the Cretan flags to be hoisted again, and generally the powers are maintaining a firm attitude. Prince George has urged the revolutionists to submit to the decision of the powers and to wait until they are willing to permit the desired union with Greece, but the opposition merely continues to increase. Men-of-war of various nationalities (especially British and Italian) are moving about the island.

I have, etc.,

JOHN B. JACKSON.

*Minister Jackson to the Secretary of State.*

No. 279, Greek Series.]

AMERICAN LEGATION,  
*Athens, June 15, 1905.*

SIR: Referring to my dispatch No. 272, of the 12th ultimo, and to previous correspondence in regard to Cretan affairs, I have the honor to report that the firm attitude of the powers has apparently produced the desired effect. Parliament met on May 15, and after a prolonged discussion its organization was completed, the government candidate, Mr. Michelidaki, being elected president. There have been a number of desertions from the gendarmerie to the insurgents, a good many people have left Canea, and many Mohammedans have left the island. The insurgents still hold out, and from time to time insignificant

skirmishes take place between them and the international troops, who have been slightly reenforced. The Chamber (Parliament) has, however, invited the insurgents to lay down their arms temporarily, giving as its reason for this action the fact that the protecting powers are unwilling to have union with Greece take place at the present moment. The Chamber (on May 28) declared that the desired union is the "only natural, definite, and just solution of the question;" that the Cretan question is a century old and should not be connected with the Balkan question, and that any attempt to effect the union at present by force of arms would be likely to be injurious. It implored the powers to complete their "noble and civilizing work." About a week earlier declarations had been made in the Greek Chamber of Deputies by Mr. Skousés, the minister of foreign affairs, as well as by Mr. Delyanni, disapproving the revolutionary movement as being inopportune, and claiming that eventual union must and could be the only possible solution of the question.

\*            \*            \*            \*            \*            \*            \*

I have, etc., JOHN B. JACKSON.

*Chargé Wilson to the Secretary of State.*

No. 304, Greek Series.]

AMERICAN LEGATION,  
*Athens, August 22, 1905.*

SIR:

\*            \*            \*            \*            \*            \*            \*

I have the honor to report that the state of affairs in Crete appears to be growing more serious, and the minister of foreign affairs told me the other day that the insurgents were increasing rapidly in numbers.

About ten days ago an engagement took place between the Russian troops and the insurgents, caused by the Russians attempting to take a custom-house held by the latter. The insurgents fired upon the landing party of Russians, whereupon the Russian cruiser bombarded and nearly destroyed the town. More recently two more collisions have taken place between the international troops and the insurgents. In one attack five Cretans were killed and eight wounded, and one Russian killed. In the other fight, between the English and Cretans, some were wounded on both sides.

\*            \*            \*            \*            \*            \*            \*

I have, etc., CHARLES S. WILSON.

*Chargé Wilson to the Secretary of State.*

No. 326, Greek Series.]

AMERICAN LEGATION,  
*Athens, September 27, 1905.*

SIR: Referring to my dispatch No. 304, of August 22, last, I have the honor to report that the conditions in Crete show some slight improvement, due to the fact that the insurgents seem to be getting rather discouraged on account of the firm attitude taken by the powers. The Cretans, as well as the Greeks, still insist that the only possible settlement of the question is annexation with Greece, and that until that takes place there is no chance of any lasting peace.

Small skirmishes still continue to take place between the insurgents

and the international troops, but they are less frequent and the bands are smaller than before. \* \* \*

The Cretan Parliament met for a few days, on September 11, and abolished the law giving Prince George, the high commissioner, the right to appoint ten members of Parliament and the mayors of the municipal boroughs. A bill and credit were also voted for the formation of a body of 1,200 municipal guards to preserve order.

As soon as the bad weather begins the insurrection will probably entirely die out for the time being, though it is almost certain to break out again in the spring unless in the meantime some steps are taken by the powers to satisfy the demand for annexation made by Greeks and Cretans. Up to the present time, however, the powers have refused the repeated Greek and Cretan demands, and have on the contrary recently increased their forces in the island.

I have, etc.,

CHARLES S. WILSON.

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*Chargé Wilson to the Secretary of State.*

No. 338, Greek Series.]

AMERICAN LEGATION,  
*Athens, November 24, 1905.*

SIR: \* \* \* I have the honor to report that the Cretan insurrection may be said to have come to an end on the 19th instant. On that date the number of arms demanded by the powers having been delivered to the consuls in Crete, a complete amnesty was declared, not including, however, those who have committed crimes or offenses against the common law or infractions of military law, especially desertions from the gendarmerie. Such offenders, as well as the principal leaders of the insurgents, will be allowed to escape to Greece.

Whether this settlement is permanent or will last only during the winter depends largely upon what measures of reform the protecting powers may introduce. The proposal on their part to appoint an administrative and financial commission to assist in governing the island called forth a protest from Prince George, the high commissioner, in which he threatened to resign, as he should consider the appointment of such a commission \* \* \* as depriving the Cretans of the autonomy promised and guaranteed by the powers after the insurrection of 1897.

I have, etc.,

CHARLES S. WILSON.

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*Minister Jackson to the Secretary of State.*

No. 347, Greek Series.]

AMERICAN LEGATION,  
*Athens, December 4, 1905.*

SIR: Referring to Mr. Wilson's dispatch No. 338, of the 24th ultimo, I have the honor to report that the expected amnesty was proclaimed by Prince George of Greece, the high commissioner in Crete, under date of November 11/24th. Its purport was known in advance, and time was allowed to those of the insurgents to whom it did not apply to escape to Greece. About 160 Cretans are said to have come to Athens and the Piræus, and one sees them in groups about the city.

\* \* \* The international troops are at present distributed about

the island more generally than was the case a year ago. Prince George is expected to come to Greece before the end of the year and to remain here for several weeks.

I have, etc.,

JOHN B. JACKSON.

**LIABILITY OF NATURALIZED CITIZENS OF THE UNITED STATES  
UNDER MILITARY AND EXPATRIATION LAWS OF THEIR  
NATIVE COUNTRY.**

*Chargé Wilson to the Secretary of State.*

No. 307, Greek Series.]

AMERICAN LEGATION,  
*Athens, August 30, 1905.*

SIR: I have the honor to request instructions in the case of one Panos Indares, who is held by the Greek authorities for military service and who claims American citizenship through the naturalization of his father.

The father, Lambros Indares, emigrated to America in 1860 and remained until 1872, being naturalized at San Francisco in August, 1870. He returned to Greece in 1872, and since then has been engaged in business here, although he has been to the United States several times on business and claims to be the owner of property in Chicago, now in litigation. He is holder of a passport issued by this legation in 1876. Before emigrating to America he did not obtain the permission of the King to change his nationality, which is obligatory, according to Greek law, and, moreover, I do not understand that Mr. Indares has any intention of returning to the United States to take up his permanent residence.

The son, Panos Indares, was born in Greece in 1884: went to America in September, 1904, as he claims, with the intention of taking up his residence. He returned to Greece in May, 1905, and states that he intends to return to the United States this November.

When the above-named Panos Indares was called upon to perform his military service a short time ago, he asked the assistance of the American consulate at Patras as an American citizen, Mr. Lontos, the acting vice-consul, supporting his claim to immunity from service, but the authorities refused to reverse their decision on the ground that he was a Greek citizen, as was also his father (through whom he claimed his American citizenship), as the latter had never ceased to be a Greek subject, in spite of his naturalization, as he had never obtained the King's permission to change his nationality.

Mr. Lontos therefore referred the case to the legation in order that it might be brought to the attention of the minister of foreign affairs. On account of the conditions of the case I have informed Mr. Lontos that I should refer the case to the Department of State and await instructions before bringing it to the attention of the Greek minister.

I have, etc.,

CHARLES S. WILSON.

*The Acting Secretary of State to Chargé Wilson.*

No. 91.]

DEPARTMENT OF STATE,  
*Washington, September 28, 1905.*

SIR: I have to acknowledge the receipt of your No. 307, Greek Series, of the 30th ultimo, requesting instructions in the case of one Panos Indares, who is held by the Greek authorities for military service and who claims American citizenship through the naturalization of his father.

In reply I have to advise you that under the construction placed by this Department upon Revised Statutes, 2172, by virtue of which a son born abroad to an alien acquires American citizenship through the naturalization of his father, provided he, the son, was dwelling in the United States at the time of the naturalization of the father or at any subsequent period during his minority, young Indares is entitled to claim American citizenship.

The Greek Government, however, does not recognize the right of Greek subjects to change their nationality without permission of the King and considers both Indares' father and himself to be still Greek subjects.

The United States has no naturalization treaty with Greece, but the Department has generally been able, by the exercise of its good offices, to bring about the release of the party in cases like the present.

You are therefore instructed to use your good offices in behalf of young Indares.

I am, etc.,

FRANCIS B. LOOMIS.

*Chargé Wilson to the Secretary of State.*

No. 331, Greek Series.]

AMERICAN LEGATION,  
*Athens, October 20, 1905.*

SIR: Referring to the legation's dispatch No. 307, and the Department's instruction No. 91, of the 28th ultimo, I have the honor to inclose herewith a copy of a letter received from the vice-consul at Patras informing me that the case of Mr. Panos Indares had been decided in his favor. The vice-consul further states "that the matter having been referred by the Monarch to the ministry of military affairs, counsel for the ministry decided that, inasmuch as there is no law compelling the King's approval in changing one's nationality, Lambros Indares's (the father's) citizenship could not be impugned on that ground; and that, having further regard to the fact that the son born under the circumstances is not in any way considered a Greek subject, the same is not liable to conscription, and accordingly instructions were given by the military ministry to strike his name off the rolls."

\* \* \* \* \*

Referring to your instruction No. 91, in the case of Panos Indares, you state that he is entitled to claim American citizenship provided that he was dwelling in America at the time of his father's naturalization or at any subsequent period during his minority. Young Indares was born at least twelve years after the permanent return of his father to Greece. He was born in Greece October 15, 1884, and arrived in America for the first time on December 9, 1904, being then 20 years



and 2 months; he spent about four months in the United States and returned to Greece in May of this year, where he has remained, although I understand that he returns to the United States next month.

Under these circumstances I have the honor to ask for instructions in case Mr. Indares applies to the legation for a passport as to whether the four months spent in the United States during his minority and the subsequent return to Greece entitles Mr. Indares to claim American citizenship.

I also have the honor to inquire whether Mr. Lambros Indares, through whose naturalization his son claims American citizenship, is also to be considered as an American citizen. He emigrated to America in 1860, where he remained until 1872, and was naturalized in August, 1870, at San Francisco. He returned to Greece in 1872 and has lived here ever since with the exception of one or two business trips to the United States. He is established in business in Greece and has no intention of returning permanently to the United States. He is the bearer of a passport issued by this legation in 1876, which he has never asked to have renewed until the question of the liability of his son to military service arose.

I have, etc.,

CHARLES S. WILSON.

[Inclosure.]

*Vice-Consul Lontos to Chargé Wilson.*

AMERICAN CONSULATE,  
*Patras, October 27, 1905.*

SIR: Replying to the legation's letter under date of the 13th instant, calling for information in regard to Mr. Panos Indares's case, I have the honor to inform you that Mr. Indares, as I have ascertained, was born in the year 1884, in the month of October, on the 15th day, new style. Mr. Indares started from here about the end of September last, new style, and arrived in America on the 9th December, spending a month and a half in Italy.

After the legation's letter, feeling warranted to dispense to a certain extent with the course in the matter advised in the legation's letter of the 30th August and with a view to securing authentic information, I have had an interview with the acting governor of Achaia, who informed me that the case of Mr. Indares has been decided in his favor. It was explained to me that the matter having been referred by the Monarch to the ministry of military affairs, counsel for the ministry decided that inasmuch as there is no law compelling the King's approval in changing one's nationality, Lambros Indares's (the father's) citizenship could not be impugned on that ground, and that, having further regard to the fact that the son born under the circumstances is not to be in any way considered a Greek subject, the same is not liable to conscription, and accordingly instructions were given by the military ministry to strike his name off the rolls.

Mr. P. Indares intends leaving for the United States in November next.

I remain, etc.,

E. S. LONTOS.

*The Secretary of State to Chargé Wilson.*

No. 95.]

DEPARTMENT OF STATE,  
*Washington, November 8, 1905.*

SIR: The Department has received your No. 331, Greek Series, of October 20, 1905, relative to the case of Panos Indares and his father, Lambros Indares. You ask whether you are to issue a passport to the son and recognize the father as an American citizen.

In reply you are informed that Panos Indares, as the Department understands, is the son of a citizen of the United States, although he

was born in Greece; that he came to the United States before he was 21 years of age, and that he is now about to return. Under these circumstances the Department sees no reason for refusing him a passport. (See Van Dyne on Citizenship, p. 109 et seq.)

As for Lambros Indares, the circumstances surrounding his residence in Greece not being fully in the possession of the Department, it is unable to issue definite instructions. It is suggested that the propriety of recognizing him as an American citizen might not be difficult to determine by applying to his case the principles laid down in the Department's circular of instruction of March 27, 1899,<sup>a</sup> on the subject of passports for persons sojourning abroad, a copy of which is herewith inclosed.

I am, etc.,

ELIHU ROOT.

#### COMMERCIAL ARRANGEMENT BETWEEN GREECE AND BELGIUM.

*Chargé Wilson to the Secretary of State.*

No. 289, Greek Series.]

AMERICAN LEGATION,  
Athens, July 24, 1905.

SIR: I have the honor to inclose herewith a copy of the Greek official paper of the 9/22 instant containing the text of the provisional commercial agreement between Greece and Belgium which was recently accepted by the Chamber of Deputies.

The commercial agreement between Great Britain and Greece, voted at the same time, has not yet been published, but will be forwarded as soon as a copy is procurable.

I have also to report that the extradition treaty between Austria-Hungary and Greece passed its third reading in the Chamber yesterday and that negotiations for an extradition treaty between Greece and Holland are begun.

I have, etc.,

CHARLES S. WILSON.

[Inclosure.—Translation.]

#### *Provisional commercial arrangement.*

The Government of His Majesty the King of the Hellenes and the Government of His Majesty the King of the Belgians, having recognized the expediency of regulating the commercial relations between Greece and Belgium by means of a provisional arrangement pending the conclusion of a final treaty on the basis of mutual tariff concessions, the undersigned, being duly authorized for this purpose by their respective governments, have agreed on the following:

#### ARTICLE 1.

The treaty of commerce and navigation between Greece and Belgium of May 13/25, 1895, is hereby renewed, except as regards article 6 of the said treaty. Of all the provisions contained in that article only the following are maintained:

Neither of the high contracting parties shall levy on merchandise the product of the soil or industry of the other party any other or higher import duties than those which are or may in future be levied on the same goods coming from any other foreign nation.

Each of the two parties pledges itself to grant to the other any favor, privilege, or reduction in the tariff of import or export duties which one of them may accord to a third power. They likewise engage not to establish against each other any import or export duty which shall not at the same time be applicable to other nations.

<sup>a</sup> Printed in Foreign Relations, 1902, p. 1.

## ARTICLE 2.

The present arrangement, which shall take effect the day of the exchange of ratifications, shall remain binding until the expiration of a year from the day on which one or the other of the contracting parties shall have denounced it. Such denunciation can not, however, take place until the end of the first year.

## ARTICLE 3.

The present arrangement shall be ratified and the ratifications exchanged at Athens as soon as possible.

In witness whereof the respective plenipotentiaries have signed it and affixed thereto their seals.

Done at Athens in duplicate October 19 (November 1), 1904.

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

A. ROMANOS.  
P. DE GROOTE.

**COMMERCIAL DECLARATION BETWEEN GREECE AND GREAT  
BRITAIN.**

*Chargé Wilson to the Secretary of State.*

No. 290, Greek Series.]

AMERICAN LEGATION,  
*Athens, July 25, 1905.*

SIR: I have the honor to inclose herewith a copy of the Greek official paper of the 12/25 July, containing the commercial "Declaration" between Greece and Great Britain, which was signed by the King on the 8/21 instant.

In accordance with this declaration, the English Government withdraws its protest in regard to "The land tax and export duty on currants" in return for certain tariff reductions on English goods which are specified in the inclosed "Declaration."

I have, etc.,

CHARLES S. WILSON.

[Inclosure.]

DECLARATION.

The Government of His Majesty the King of the Hellenes and the Government of His Britannic Majesty being desirous of making certain modifications in the agreements at present existing between them, have authorized the undersigned to conclude the following arrangement:

1. The Government of His Britannic Majesty being of opinion that the Greek current retention law and land tax and export duty on currants law are inconsistent with the stipulation contained in article 2, paragraph 2, of the commercial agreement between the Governments of the United Kingdom and Greece of 1890 are ready to withdraw their protest against these measures in return for the concessions hereinafter indicated.

2. The Government of His Hellenic Majesty being desirous of arriving at a satisfactory settlement on this point with the Government of His Britannic Majesty, engage to recommend to the legislature in favor of goods of British origin or manufacture the reductions of the duties laid down in the customs tariff, as specified in the annexed document.

3. The government of Newfoundland agree to recommend to the parliament of Newfoundland the admission, duty free, of currants and sultanas, the produce of the Hellenic Kingdom imported into Newfoundland in return for the reduction by the Greek Government of the duty on Newfoundland codfish imported into Greece to 5 francs per hundred okes.

4. It is understood that the colonies, possessions, and protectorates of His Britannic Majesty which are at present parties to the commercial treaty of November 10, 1886, shall each of them separately have the power of withdrawing at any time from that convention on giving twelve months' previous notice of their intention so to do.

5. In addition to the foregoing stipulations the two governments agree that during the existence of the commercial treaty of 1886 and the commercial agreement of 1890, as modified by the declaration of June 16, 1890, and the present declaration, the goods produced or

manufactured in any part of the British Empire shall enjoy in the dominions of His Hellenic Majesty complete and unconditional most-favored-nation treatment so long as such possession, colony, or protectorate shall accord to goods of Greek origin and manufacture treatment as favorable as it gives to the goods, the produce, or manufacture of any other foreign country.

6. As soon as notice is given by His Hellenic Majesty's Government that this declaration has obtained legislative sanction in Greece, His Britannic Majesty's Government will withdraw their protest against the measures mentioned in article 1.

7. The commercial treaty of 1886, the commercial agreement of 1890 as modified by the declaration of June 16, 1890, and by the present declaration, and the present declaration itself shall remain in force for five years from the date on which the Hellenic Government shall have notified that this declaration has obtained legislative sanction in Greece and thereafter until the expiration of a year from the day on which one or other of the contracting parties shall have repudiated them.

Each of the contracting parties reserves, however, the right of causing them to terminate at the end of the fifth year upon twelve months' notice being given previously.

Signed at Athens in duplicate the 10/23 of November, 1904.

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

A. ROMANOS.  
FRANCIS E. H. ELLIOT.

## ANNEX.

*Modifications in the Greek customs tariff in favor of British goods imported into Greece.*

Class in tariff.	Description of articles.	Duty in metallic drachmas reduced—	
		From—	To—
11b	Herrings, 100 okes . . . . .	20.00	7.68
13	Cod and stockfish, 100 okes . . . . .	11.36½	5.00
139	Confectionery of all kinds, of honey or of sugar, 100 okes . . . . .	300.00	38.40
	NOTE.—From the above class of the tariff are excepted Halva and Rahat-Lakoum, as well as similar articles specially mentioned in the tariff in force at the date of the signature of the Anglo-Greek declaration of 1904.		
142	Biscuits (galettes) "gimblettes," etc., with sugar or butter or both; and crackers with or without sugar or butter, and all similar goods, including "pâte à Katali," 100 okes . . . . .	80.00	40.00
156	Cotton threads for sewing, wound on cards or bobbins or in skeins, white, unbleached, or dyed, twisted or corded or not, without tare allowance as regard cards, 100 okes . . . . .	150.00	100.00
159c	Dyed cotton tissues for linings, 100 okes . . . . .	120.00	100.00
168c	Carpets of hemp or jute, 100 okes . . . . .	80.00	40.00
185	Tissues of wool or other animal hair ("poil") not specially mentioned, of any color or make, having the warp or woof entirely or in great part of cotton, and weighing more than 450 grams per square meter; and satin of wool and cotton, 100 okes . . . . .	130.00	100.00
203	Coarse hempen tissues, 100 okes . . . . .	30.00	15.00
	NOTE.—Coarse tissues of jute for making sacks are included in the above class of the tariff.		

## SUPPLEMENTARY DECLARATION.

The undersigned, duly authorized thereto by their respective governments, have agreed to the following alteration in and addition to the annex to the declaration of the 10/23 November, 1904.

*Alteration.*

The note to class 139 to read as follows:

NOTE.—From the above class of the tariff are excepted Halva and Bahat-Lakoum, as well as similar articles specially mentioned in the tariff in force at the date of the signature of the Greco-English declaration of 1904, and chocolate, chocolate and other creams, candied fruits, and all kinds of fondants.

*Addition.*

Class 143. Fruit preserved in vessels hermetically sealed; fruit preserved in wine or spirits or solution of sugar, as well as marmalades and jams, jellies, and other articles not specially mentioned.

	Duty in metal d r a c h m a s reduced—	
	From—	To—
1 oke.....	2.00	1.00

Done in duplicate at Athens the 4/17 May, 1905.

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

A. SKOUSÉS.  
FRANCIS E. H. ELLIOT.

## GUATEMALA AND HONDURAS.

### RIGHTS OF CONSULAR OFFICERS IN JUDICIAL PROCEEDINGS.

*Minister Combs to the Secretary of State.*

No. 241.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, February 8, 1905.*

SIR: I have the honor to inclose copies of the correspondence between the American consul-general and myself respecting a recent unpleasant experience of his in one of the local courts.

As he justly remarks, the question is an important one.

In my reply I sought to advise the most useful attitude on his part that international law and the precedents I could find would justify.

\* \* \* \* \*

The minister of foreign affairs, referring to my note of the 6th instant, told me yesterday afternoon his government greatly regretted the occurrence and I could rest assured the judge would be severely reprimanded. I suggested that of course he would inform me officially of so commendable an attitude, and he replied, certainly.

\* \* \* \* \*

I have, etc.,

LESLIE COMBS.

[Inclosure 1.]

*Consul-General Winslow to Minister Combs.*

AMERICAN CONSULATE-GENERAL,  
*Guatemala City, February 4, 1905.*

SIR: I have the honor to report that on Tuesday, January 31, 1905, I called upon Mr. Eliseo Solís, fourth judge of the first instance, in the interest of Mr. Joseph Darling and Mr. Juan Fisher, who had been arrested the day before and who were being examined at the time of my visit.

I first asked the judge if I might be present at the examination, and he replied that I could not, as it was contrary to law. Then I asked him if he would be kind enough to send me a report of the result of the examination, and he said that they were secret documents. I then asked him how long they would be kept secret, and he replied, as long as necessary. He further stated that he was not under obligations to confer with me in these matters, because consuls were only commercial agents. I told him that I was very sorry that he took that stand, for I was obliged to take exception to it, and that I should be compelled to carry the matter up if he insisted, for the citizens of the United States must be protected. His reply was that he insisted upon his position.

I feel this is a very important matter and one that should be definitely settled. I am very much surprised that I should be so very abruptly dismissed when the regulations of the Guatemalan Government to its consular officers require them to take exactly the position I contended for in this case.

Further, in support of my position, I call attention to a somewhat similar case in Foreign Relations of the United States for 1897, pages 395 to 398, where the Department of State held that consular officers were entitled to courteous treatment by the courts and that they

should be given such information regarding American citizens before said courts not forbidden by law, since it was the duty of United States consular officers to protect the persons and interests of American citizens.

I also call attention, in support of my position, to paragraphs 170 and 171 of United States Consular Regulations of 1896, which are certainly very plain and forceful.

Also to Department circular of August 25, 1898, addressed to consular officers of the United States in Mexico, Central America, and South America.

I am, etc.,

ALFRED A. WINSLOW.

[Inclosure 2.]

*Consul-General Winslow to Minister Combs.*

AMERICAN CONSULATE-GENERAL,  
*Guatemala City, February 4, 1905.*

SIR: I have the honor to report further in regard to my No. 105, of even date with this, in the matter of the position taken by Mr. Eliseo Solis, fourth judge of first instance, that I have no right to appear before the courts or to communicate with the court in behalf of American citizens.

I just sent him two communications by my clerk, who presented them to him, requested him to receipt for them, which he refused, with the remark that they might contain United States gold and he would be responsible for it. At this my clerk requested him to open the envelopes before receipting, but he refused.

I take this as an insinuation, which I most assuredly resent, and I trust you will make a strong representation of the matter to the government, for I have always been very courteous to the judges of all the courts with whom I have had business.

Then, if I am to be turned down by every petty local official, I can be of very little use to American citizens who are in trouble, and there is an outlook for more of it in the future than in the past, from the number of Americans coming to this country.

I am, etc.,

ALFRED A. WINSLOW.

[Inclosure 3.]

*Minister Combs to Consul-General Winslow.*

AMERICAN LEGATION, GUATEMALA AND HONDURAS,  
*Guatemala, February 6, 1905.*

SIR: I am in receipt of your notes numbered 105 and 107, recounting some experiences you have had with the fourth judge of first instance in this city.

\* \* \* \* \*

The Department of State, Mr. Sherman, Secretary, in the correspondence growing out of the Doane arrest, to which you refer in support of your position, used the following language:

"The Department is perfectly aware that the proceedings of first instance under the general code of the countries deriving their procedure from the Roman law are analogous in their nature to the inquest of a grand jury under the common law of Saxon nations and that precise information in respect to and formulation of charges against a prisoner are not communicable in the preliminary stages; but this does not preclude a respectful inquiry from a consul as to the general nature of the offense charged or as to the status of a pending case. To make such an inquiry is deemed by this government to be one of the 'regular good offices which the legitimate interests of their compatriots may demand.'"

In instruction No. 146, dated November 24, 1904, addressed to me, after commending the treatment of a number of typical cases of American citizens imprisoned in Guatemala, the Department goes on to state: "With reference to any action of this kind that might be taken by you, you should of course make no demand inconsistent with the requirements of the constitution and laws of Guatemala regulating the subject of arrest and trial and admission to bail." And again: "In taking action along the lines suggested in your dispatch, you will of course carefully study the constitution and laws of Guatemala in that behalf and make no demand inconsistent with those laws or inconsistent with the actual interests of retributive justice."

These expressions from the State Department seem to me to clearly state the limits of action on your part which can, under international law, be maintained.

I do not think it wise to bring this question to an issue with the Guatemalan Government.

I advise you to continue the efficient course you have heretofore followed and which is marked by the consular instructions you quote, feeling sure that with tact and courtesy you

can accomplish more for American interests in these cases than would result from a strict demarcation of your rights under international law applied to the laws and constitution of Guatemala. From your oral communication respecting the same facts I understood that the judge used polite language in stating his position. In your No. 107, however, you recite an incident which to my mind can be taken up in its concrete form for representation to this government.

\* \* \* \* \*

In the conduct complained of Mr. Eliseo Solis seemed to be lacking alike in official duty and social courtesy. You I have, I take it, an unquestionable right, and it is your unquestionable obligation, to investigate any arrest of an American citizen, to information as to the general cause of arrest, and to courteous treatment and replies in the discharge of such duties.

I am, etc.,

LESLIE COMBS.

[Inclosure 4.]

*Minister Combs to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, February 6, 1905.*

MR. MINISTER: I have the honor to forward a complaint of the American consul-general against the conduct of Mr. Eliseo Solis, the fourth judge of the first instance of the city of Guatemala.

In the course of an investigation, conducted by the American consul-general at my request, he had occasion to address two communications to this judge. The treatment they received is described by the American consul-general as follows: "I just sent him two communications by my clerk, who presented them to him, requesting him to receipt for them, which he refused, with the remark that they might contain United States gold and he would be responsible for it. At this my clerk requested him to open the envelopes before receiving, but he refused."

I submit to your excellency that such conduct was in violation of official duty and social courtesy and requires prompt and efficacious treatment at the hands of your excellency's government.

I avail, etc.,

LESLIE COMBS.

*Minister Combs to the Secretary of State.*

No. 245.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, February 15, 1905.*

SIR: I have the honor to submit the remainder of the correspondence between the American consul-general and myself regarding a difference between him and a local judge as to the extent of the rights and duties of his official position.

\* \* \* \* \*

I have, etc.,

LESLIE COMBS.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Combs.*

DEPARTMENT OF STATE,  
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,  
*Guatemala, February 10, 1905.*

MR. MINISTER: I have the honor to reply to your excellency's esteemed note of the 6th instant, in which you were pleased to make known to me that the fourth judge of the first instance had violated official and social courtesy in the course of an investigation that at the request of your excellency the American consul-general was making before that functionary.



In reply, I make known to your excellency that I have the satisfaction of considering this incident terminated with the apology given by Judge Solis—an explanation that repairs the infraction of the courtesy referred to by the consul.

Taking the liberty of believing that your excellency will think likewise,  
I renew, etc.,

JUAN BARRIOS M.

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[Inclosure 2.]

*Minister Combs to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
Guatemala, February 13, 1905.

MR. MINISTER: I acknowledge the receipt of your excellency's note of the 10th instant expressing your excellency's pleasure that a satisfactory conclusion of the complaint preferred by this legation against Mr. Eliseo Solis, fourth judge of the first instance, for discourtesy shown by him to the American consul-general had been reached.

I regret I can not regard either the note sent by Judge Solis to the American consul-general or the one I now acknowledge as satisfactory, conclusive, or in accord with what I understood to be the purpose of your excellency's government when we parted Friday afternoon, the 10th instant, after a full discussion of the points involved, in which no material difference of opinion appeared.

I avail, etc.,

LESLIE COMBS.

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[Inclosure 3.—Translation.]

*The Fourth Judge of the First Instance to the American Consul-General.*

FOURTH COURT OF FIRST INSTANCE,  
Guatemala, February 9, 1905.

MR. CONSUL-GENERAL OF THE UNITED STATES OF THE NORTH: I had the honor to receive your two dispatches and two extracts of the regulations issued by the Government of North America, regarding both the duties of the consuls of that country toward North American citizens when these are under the jurisdiction of the local authorities on account of criminal matters.

I feel very sorry to be unable to satisfy your wishes—that is to say, to give you the details you ask in one of your dispatches—regarding the suit against Messrs. Joseph F. Darling and Juan Fisher. This is not possible, because, as I told you verbally and courteously, the summary proceedings are always secret and because the regulations already mentioned bind the consuls of North America but have nothing to do with the duties of the authorities of other countries; and as the laws of Guatemala do not authorize the intervention of consuls in judicial proceedings on criminal matters my court must consider your action in the case of Darling and Fisher as that of a private individual, chiefly because it is notorious that there is in this capital a minister of North America to the Government of Guatemala, and, finally, because if you have any special commission either from the minister of North America or from the Government of Washington, my court is not informed of it, and your action has not been taken through the corresponding way.

I have also the pleasure to explain to you that the closed envelopes you sent with your clerk, requesting a receipt, were not received because at that time the clerk of the court, who is appointed by law to receive written petitions, was not present in his office and the undersigned was attending other urgent business, which circumstance I regret deeply, because it could interfere with the friendly wishes of Mr. Consul.

I am, etc.,

ELISEO SOLIS.

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*The Secretary of State to Minister Combs.*

No. 171.]

DEPARTMENT OF STATE,  
Washington, March 3, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 241, of the 8th ultimo, inclosing a copy of correspondence between you and Consul-General Winslow regarding the refusal of Mr. Eliseo Solis,

fourth judge of the first instance, of Guatemala City, to permit Mr. Winslow to be present at the examination of Messrs. Joseph Darling and Juan Fisher or to give him certain information regarding the proceedings against those gentlemen.

In reply, I have to inform you that your course in the matter appears to have been prudent and is approved by the Department.

I am, etc.,

JOHN HAY.

*The Acting Secretary of State to Minister Combs.*

No. 179.]

DEPARTMENT OF STATE,  
Washington, March 24, 1905.

\* \* \* \* \*

I inclose herewith copy of a dispatch from Consul-General Winslow,<sup>a</sup> in which he complains that his requests to the local judge have been ignored and his right to intervene for the protection of American citizens denied. The Department can not think that the Guatemalan Government will uphold the judge in this attitude. A consul-general, in the exercise of his consular functions, has the right to approach the court for the purpose of obtaining information and for the purpose of preferring courteous requests in behalf of American citizens, and you will request the Guatemalan Government to take such action as it may find necessary to secure to the representative of the United States Government the treatment which is due from one government to a representative of another.

\* \* \* \* \*

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to Minister Combs.*

No. 190.]

DEPARTMENT OF STATE,  
Washington, May 11, 1905.

SIR: Answering your No. 266, of April 18 last,<sup>a</sup> with reference to the case of Mr. Darling, I have to say that the Department did not contemplate any change in your attitude, which appears to have been correct throughout.

While a consul-general or consul in the exercise of his consular functions has a right to approach a local court for the purpose of obtaining information or of preferring courteous requests in behalf of American citizens, the Department is decidedly of the opinion that where an American minister and consul are accredited to the same place the functions of the latter should be subordinated to the judgment of the minister; and the Department is further of the opinion that after the minister has taken in hand the interests of American citizens before the local courts he should have the exclusive right of representation and that the consul-general or consul should submit himself to the direction of the minister with respect to any representations or action which may be taken by him, unless the Department

<sup>a</sup> Not printed.

should give express instructions to the consul-general or consul to the contrary. This has not been contemplated in this case by the Department, which has accordingly instructed Consul-General Winslow in this sense.

You are aware, of course, that frequently the Department is compelled to deal directly with consuls residing at places remote from the capital of the country to which a minister is accredited in order to obtain information and sometimes to direct their action; but whenever it is convenient and practicable for the American minister to deal with the cases of American citizens the Department usually communicates directly to the minister its instructions, who, in turn, will give such directions to the consul as he finds useful and necessary to accomplish the desired proper results.

I am, etc.,

FRANCIS B. LOOMIS.

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*Chargé Brown to the Secretary of State.*

No. 285.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, June 27, 1905.*

SIR: Referring to Mr. Combs's Nos. 241 and 245 of February 8 and 15 last concerning the rights of Consul-General Winslow before the courts of Guatemala, as involved in his complaint against Judge Solis, I have the honor to submit herewith copies of further correspondence on the same subject.

This second discourtesy of Judge Solis in ignoring Mr. Winslow's inquiry concerning the imprisonment of the American citizen Raymond I interpret as deliberate and intended.

\* \* \* \* \*

While I have therefore felt obliged to regard the attitude of Judge Solis as purely individual, I considered the dignity and rights of our consular representatives required an assurance from this government that his attitude is discountenanced and that American officials shall receive the recognition due them from the judicial authorities.

Though no definite statement has as yet been received from this government I desire to inform the Department of what has taken place in case a different line of action should be thought advisable.

I have, etc.,

PHILIP BROWN.

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[Inclosure 1.]

*Chargé Brown to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, June 7, 1905.*

MR. MINISTER: I have the honor to transmit herewith a copy of a note addressed by the United States consul-general to the fourth judge of the first instance, requesting information concerning an American named Joseph M. Raymond, who is under arrest in the penitentiary. This note, as your excellency will observe, was sent May 27 last and as yet, after the lapse of ten days, no reply has been received by the consul-general.

As the case would seem to be one of the instances recognized by your excellency in your interview with Minister Combs on February 10 last as proper ones for courteous inquiry on

the part of the United States consul-general and for a courteous reply from the judge concerned, I feel confident that upon investigation by your excellency the desired reply will be furnished in due form with an adequate explanation of the incident.

With renewed assurances, etc.,

PHILIP BROWN.

[Subinclosure.—Translation.]

*Consul-General Winslow to the Fourth Judge of First Instance.*

AMERICAN CONSULATE-GENERAL,  
Guatemala City, May 27, 1905.

SIR: I am informed that an American, by name Joseph M. Raymond, has been taken to the penitentiary and is under your jurisdiction.

Please have the kindness to inform me, as soon as possible, what is the charge made against said prisoner and when he will be tried.

I am, etc.,

ALFRED A. WINSLOW.

[Inclosure 2.—Translation.]

*The Minister for Foreign Affairs to Chargé Brown.*

GUATEMALA, June 9, 1905.

HONORABLE SIR: I have the honor of making known to you that I have communicated to the minister of government, soliciting that he obtain from the proper authority the information about the imprisonment of the American Joseph M. Raymond, which you asked for in your esteemed note of the 7th instant.

Renewing, etc.,

JUAN BARRIOS M.

[Inclosure 3.]

*Chargé Brown to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
Guatemala, June 22, 1905.

MR. MINISTER: Referring to my note of the 7th instant, concerning the failure of Judge Solis to reply to the inquiry of Consul-General Winslow in regard to the imprisonment of an American citizen, J. M. Raymond, I beg to express my sincere regrets that no reply in satisfaction of the incident has as yet been received. Neither has Mr. Winslow, after a lapse of nearly four weeks, received even an acknowledgement from Judge Solis.

The question here involved seems to me too important to admit of delay. At any moment the consul-general in the performance of his duties may be called upon to make inquiries concerning Americans in prison.

I do not understand that Judge Solis is authorized to define or modify the attitude of your excellency's government in such matters. In view of the satisfactory understanding reached between yourself and Minister Combs in the conferences of February 10 and 18 last over a similar incident with Judge Solis it is difficult to understand his failure to reply to Mr. Winslow's courteous inquiry in any other light than as an intended discourtesy, to express it mildly. The question, therefore, of obtaining the information desired, though of vital importance, is overshadowed at present by the nonrecognition by Judge Solis of the right claimed by my government for its representatives to make courteous inquiries of the courts and to receive replies in a similar spirit.

I earnestly request of your excellency's government the early assurance that the attitude of Judge Solis is discountenanced and that in the future consular representatives of the United States shall not fail to receive the recognition due them from the judicial authorities.

With renewed assurances, etc.,

PHILIP BROWN.

*Chargé Brown to the Secretary of State.*

No. 290.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, July 10, 1905.*

SIR: Referring to my No. 285 of June 22 ultimo, in regard to the discourtesy of Judge Solis toward Consul-General Winslow, I have the honor to transmit herewith a copy with translation of the reply received from Minister Barrios expressing profound regret for the incident.

As the government has in no way denied the right of consuls to make inquiries of the courts it appears to me that this reply, taken in connection with the verbal assurance mentioned in my note above referred to, may be accepted as satisfactory and I trust the Department will regard it in the same light.

I should perhaps add here that the American citizen, J. M. Raymond, concerning whom Mr. Winslow originally made inquiry, has been granted bail by order of the appellate court.

I have, etc.,

PHILIP BROWN.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Brown.*

DEPARTMENT OF STATE,  
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,  
*Guatemala, June 29, 1905.*

HONORABLE SIR: Replying to your esteemed communication of the 22d instant, concerning information relative to the imprisonment of the American citizen J. M. Raymond, I have the honor to inform you that my government is profoundly sorry for what has happened, and your esteemed note has been transmitted to the minister for government and justice, requesting a prompt reply upon an investigation of the facts, which I shall have the honor to transcribe to your honor as soon as the reports are received by this department under my charge.

I renew, etc.,

JUAN BARRIOS M.

*The Acting Secretary of State to Chargé Brown.*

DEPARTMENT OF STATE,  
*Washington, August 2, 1905.*

SIR: I have to acknowledge the receipt of your dispatch No. 290 of the 12th ultimo, transmitting a copy of a note of the Guatemalan foreign office expressing regret for the conduct of Judge Solis towards Consul-General Winslow.

The Department desires to express its satisfaction with your management of the case and results secured.

I am, etc.,

ALVEY A. ADELE.

**ILL TREATMENT OF AL STEBBINS AND WIFE BY GUATEMALAN SOLDIERS.**

*Minister Combs to the Secretary of State.*

No. 270.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, April 26, 1905.*

SIR: I have the honor to forward to the Department copies of the various communications received and transmitted in connection with the complaint filed with the legation by Mr. Al Stebbins, an American citizen, in behalf of himself and his wife, on August 4, 1904.

In the complaint which Mr. Brown submitted under the same date to the minister of foreign affairs of Guatemala, Mr. Stebbins alleged:

(1) Willful and continued trespass on the rubber lands of himself and partners.

(2) Forcibly entering his domicile.

(3) Seizing and carrying off rubber belonging to Mr. Stebbins.

(4) Menacing his wife with a rifle.

No reply having been made to this note, I again, on December 16, 1904, called the attention of the government to the subject, and again, on January 10, 1905, I pressed the government for a reply to the complaint.

Under date of February 3, 1905, the government forwarded their statement of the case and requested that I advise Mr. Stebbins to present himself and his witnesses to the court at Escuintla for a further investigation. I thereupon wrote Mr. and Mrs. Stebbins to come to the legation. Mr. Stebbins had left the country, but Mrs. Stebbins came and made an affidavit. After a conversation with Mrs. Stebbins and replying to the note of the minister of foreign affairs under date of February 21, 1905, inclosing Mrs. Stebbins's affidavit, I stated I regarded that the incidents alleged removed the question from one for local adjudication to one for our respective governments to consider; declined to ask Stebbins to present himself to the court at Escuintla and requested an oral discussion of the facts at issue. In the interview which followed Mr. Barrios renewed his request that I would have the Stebbins submit themselves to the local authorities in the matter, saying it was not a diplomatic question. I replied I could not follow such a course; its effect would be the local officials would try themselves. The testimony substantiating the complaint had been submitted to his government; that I was free to say the statements of Stebbins and his wife carried conviction to my mind; that the question, *so far*, was not a diplomatic one, and I trusted his government would not allow it to become so; that I hoped they would make a careful examination for their part into the truth of the charges and, if they reached the conclusion I had, would themselves furnish a satisfactory remedy without any demand upon our part. That from conversation with Mrs. Stebbins I was sure she would accept 5,000 pesos as a full settlement, but if the matter progressed to the diplomatic field and my views were sustained it would cost their government much more financially and would create that unwholesome friction always aroused in the settlement of such claims in spite of the best purposes to the contrary.

Mr. Barrios declared they desired to treat the question upon its merits and, if warranted, make proper reparation.

After a further delay I informed the minister last week that Mrs. Stebbins desired to go to the United States and had written asking if it would interfere with the conduct of her case. That in reply I would advise her to go, unless he wished her to remain for a settlement, and again advised they make an immediate and direct adjustment with her. Mr. Barrios said he would like her to remain as there was no doubt of an agreement on the lines I had suggested, and asked in case the rubber was returned if its value would be credited on the 5,000 pesos. I replied it would be.

In consequence of this interview I wrote Mrs. Stebbins informing her of its purport and advising she remain for a few weeks, and sent a copy of my letter to Mr. Barrios to notify him of my course and to confirm our conversation.

Though the Stebbins did not originally claim *damages*, I considered a small amount due Mrs. Stebbins under the circumstances and I also felt the requirement of a sum, the payment of which would probably fall upon the local and responsible authorities, would have a salutary effect. A prompt payment in such cases, obtained from those committing the offense, is much more efficacious in curing such evils than many times the amount exacted after years of delay from the national government.

I desire to acknowledge the purpose displayed by this government to maintain, by deserving, our good will.

I have, etc.,

LESLIE COMBS.

[Inclosure 1.]

*Mr. Stebbins to Chargé Brown.*

GUATEMALA, August 4, 1904.

SIR: I, Al Stebbins, an American citizen, temporarily residing with my wife in the Republic of Guatemala, finca "Los Angeles," department of Escuintla, beg to respectfully depose the following: That I, in company with several other Americans, own the above-mentioned finca, consisting of about 24 caballerias of land, with valuable timber and rubber growing thereon, aside from its value as pasture land; that on Saturday last, July 30, 1904, I found a number of men taking rubber from the trees on our land at a place called "Las Garsis," which men were under a caporal named Pedro Ariza, employed by Meleton Agreda, commandante of La Gomera. I ordered the men off our land and took possession of the rubber they had extracted, about 75 pounds, offering to pay the men for their work. The men refused pay for their work, alleging fear of Agreda, to whom they went to tell of the occurrence. I took the rubber to my house at "La Polonia" with the intention of taking it to the commandante at La Democracia the next day and asking his protection against further aggressions in the way of rubber hunting on our lands without permission. On Sunday morning, the 31st ultimo, at about 11 o'clock, Capt. Meleton Agreda, of La Gomera, with a squad of 12 men, 10 of whom were armed, came to my house, forced an entrance, ill-treated my wife, and carried away not only the rubber taken from the thieves the previous day, but a pair of spurs and a shotgun as well. They attempted to capture me, but I escaped to the upper part of the house and refused to go to La Gomera, as I was in the jurisdiction of La Democracia. I protested all this time against the violent invasion of my domicile without authority, the ill treatment of my wife, who was struck with a rifle by one of the invaders, and requested to be shown Agreda's authority for his violent and outrageous conduct toward a law-abiding foreigner. Agreda replied by asserting his authority to do what he pleased without further approval than his own caprice; that he was in command and would not receive orders or instructions from anywhere nor from anyone, he alone being responsible to himself. I refrained, though sorely tempted, when my wife was struck, from taking summary action, with the assurance that Agreda's acts would receive the approval of his superior. After making various and general threats against us, he finally left and forcibly carried off my rubber, spurs, and shotgun.

I went before the jefe politico of Escuintla with my complaint written out, recounting the above outrageous abuse, who told me simply that he would take note of the occurrence.

I respectfully request you to bring this matter to the attention of the proper authority, asking for a correction of the abuse, the return of the stolen articles, the punishment of the offending official, and some assurance that there will not be a repetition of this abuse and that proper protection will be given us in our property rights against rubber stealing with official connivance.

Our purpose is to be peaceable, industrious, law-abiding residents, avoiding all difficulties with officials and neighbors by means of the law. We know our rights and only ask to be protected therein.

I have, etc.,

AL STEBBINS.

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[Inclosure 2.]

*Chargé Brown to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, August 4, 1904.*

EXCELLENCY: I have the honor to transmit herewith the complaint of one Al Stebbins, an American citizen, against Señor Meleton Agreda, commandante of La Gomera, in the department of Escuintla.

- (1) Willful and continued trespass on the rubber lands of Mr. Stebbins.
- (2) Forcibly entering house of same.
- (3) For seizing and carrying off rubber belonging to Mr. Stebbins.
- (4) For menacing his wife with a rifle.

I would earnestly recommend the statement of charges to the consideration of your excellency in the confidence that if the allegations are maintained your excellency will be pleased to take the necessary steps for the punishment of the offender and the guaranteeing of security to the property and persons of Mr. and Mrs. Stebbins.

With renewed assurances, etc.,

PHILIP M. BROWN.

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[Inclosure 3.]

*Minister Combs to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, December 16, 1904.*

MR. MINISTER: I have the honor to call your excellency's attention to the fact that no response has been received by this legation to the complaints submitted in behalf of Benjamin Dillingham, of Livingston, nor Al Stebbins, of La Democracia, the former having been submitted on September 23 last and the latter on August 4 last.

Availing myself, etc.,

LESLIE COMBS.

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[Inclosure 4.]

*Memorandum.*

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, January 10, 1905.*

The American minister has the honor to again call the attention of his excellency the minister for foreign affairs to the legation's note of August 4, 1904, transmitting the complaint of the American citizen Al Stebbins for the violation of his domicile, the confiscation of his property, and the menaces to his wife on the part of the comandante of La Gomera.

This request was renewed December 16, 1904, and in view of the fact that daily communication exists between the capital and Escuintla the American minister trusts that he may expect the reply of the Government of Guatemala to the complaint at an early date.

Mr. Combs embraces, etc.,



[Inclosure 5.—Translation.]

*The Minister for Foreign Affairs to Minister Combs.*

DEPARTMENT OF STATE,  
 REPUBLIC OF GUATEMALA, CENTRAL AMERICA,  
 February 3, 1905.

MR. MINISTER: I have the honor to transcribe to your excellency the note I have received from the department of government and justice. It says as follows: "Mr. Minister: From the supreme court of justice a note has been received saying: 'Guatemala, January 28, 1905. Sir: In view of your esteemed note of the 14th instant, I have the honor to transcribe to you the report that the judge of the first instance of Escuintla issued, which literally says: "Honorable Supreme Court of Justice: Complying with the orders of that superiority, I have the high honor of submitting a report concerning the complaint of the citizen Al Stebbins. On August 3, 1904, Mr. Stebbins appeared for himself and in the name of his companions at the office of the political chief of this department, making known, among other things, that some persons, whose names he did not know, had gone on his lands to gather rubber; that he, Stebbins, had kept the rubber to the amount of 75 pounds and taken it to his habitation; that an escort, headed by Meleton Agreda, first prevented the construction of a country house and afterwards took from his house the aforementioned rubber, after which said Stebbins with his wife were threatened by said Agreda. Stebbins wound up by asking for a correction of these abuses and that the rubber be returned. These proceedings were turned over to this court from the office of the political chief of this department for the corresponding investigation. Mr. Stebbins offered no proof in support of his complaint and this court followed up the investigation by gathering all the data that it could collect, and as the evidence obtained from witnesses was to the contrary of what Stebbins alleged, an order was issued, of a temporary character, declaring that there was no motive for issuing a warrant for the arrest of Agreda. From this report that honorable superiority will observe that the court under me has proceeded with the strictest impartiality, everything being in accordance with the law and in obedience to the dictates of justice. I have the pleasure of renewing to that superiority the expression of my respect. Escuintla, January 20, 1905. Leon de Leon Flores.'" With assurances of high esteem and consideration, etc., J. Pinto.' Upon transcribing this to you I have the pleasure, etc., Juan J. Argueta."

Upon having the honor to transcribe the foregoing to your excellency, I have the pleasure of making known that the authorities of Escuintla have received new instructions to continue the investigation.

I trust, Mr. Minister, that you will kindly indicate to Mr. Stebbins that he should present to the court of Escuintla the witnesses he may have for the defense of his rights and to facilitate the termination of the case.

Renewing, etc.,

JUAN BARRIOS M.

[Inclosure 6.]

*Minister Combs to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
 GUATEMALA AND HONDURAS,  
 Guatemala, February 21, 1905.

MR. MINISTER: I have the honor to acknowledge your excellency's note of February 3, 1905, in answer to this legation's note of August 4, 1904, respecting the alleged forcible entry into the domicile of Stebbins, the threatening and abusive treatment of him and his wife, and the theft of several articles by a body of soldiers under command of Meleton Agreda the latter part of July last.

The facts alleged by Mr. Stebbins and his wife remove this question from one for local adjudication to one for our respective governments to consider. I therefore can not ask him to present himself to the judge at Escuintla.

In this legation's note of August 4 last a statement was inclosed from Stebbins respecting the circumstances complained of and I now have the honor of inclosing a copy of the affidavit of his wife.

Stebbins has an honorable discharge as a noncommissioned officer in the American Army, which is a substantial certificate of good character and intelligence. His statement and that of his wife are consistent, simple, and to my mind convincing, and I hoped when the complaint was transmitted your excellency's government would be pleased to make such reasonable reparation as the facts would seem to warrant.

Whenever it would suit your excellency's convenience I would like to discuss orally the questions involved, that we may adjust them, if possible, unofficially.

With renewed, etc.,

LESLIE COMBS.

[Subinclosure.]

*Mrs. Stebbins's affidavit.*

I, Mrs. Al Stebbins, hereby certify that on Saturday, July 30, 1904, while sitting in company with my husband, Mr. Stebbins, in our shanty, situated on our place called La Polonia, in the department of Escuintla, I saw a number of men approaching under command of Meleton Agreda, captain of the soldiers at La Gomera, and as my husband suspected their intentions were not friendly he told me to go upstairs, which I did. Said Agreda approached my husband and asked him to return the rubber my husband had taken from Agreda's men the day before, which rubber my husband refused to return, at the same time asking for Agreda's authority to come and recover it. Agreda pulled a paper, with writing on it, from his pocket and held it aloft, but refused to allow either my husband or myself to read it; neither would he himself read it to us. Agreda then forced his way into our house and my husband came into the loft to get his gun. All this time the soldiers accompanying Agreda were there with cocked rifles and Agreda had his revolver in his hand, also cocked. When my husband came into the loft I entreated him not to shoot, and I myself descended to the floor of the shanty where Agreda and his men were, at the same time getting between his men and the rubber that was on the same floor. The soldiers were ordered to seize the rubber, but were apparently afraid to do so while I was in front of them, though repeatedly ordered to do so by Agreda. At last one of the soldiers, while his rifle was still cocked, placed the end of his rifle barrel against my body and pushed me to one side, upon which my husband ordered me to offer no further resistance, but let them take it, as they were too many for us. Before leaving, in addition to the rubber the men took possession of almost everything they could lay their hands on, including a saddle, spurs, shotgun, and other articles. While we still lived there some of the same men returned and partly burned our house down. Since leaving there it has been completely reduced to ashes.

MRS. AL STEBBINS.

*The Acting Secretary of State to Chargé Brown.*

DEPARTMENT OF STATE,  
Washington, May 13, 1905.

SIR: I have to acknowledge the receipt of Mr. Combs's dispatch No. 270, of the 26th ultimo, inclosing a copy of correspondence relating to the complaint of Mr. Al. Stebbins and his wife that a squad of soldiers, by the orders of Meleton Agreda, commandante of La Gomera, forcibly entered his premises on July 30 and 31, 1904, took therefrom certain property, and assaulted Mrs. Stebbins.

In reply I have to say that Mr. Combs's efforts to bring about an unofficial adjustment of the matter by the payment to the injured parties of a small sum is approved by the Department.

I am, etc.,

F. B. LOOMIS.

*Chargé Brown to the Secretary of State.*

No. 274.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
Guatemala, May 20, 1905.

SIR: Referring to Mr. Combs's dispatch No. 270, dated the 26th ultimo, concerning the adjustment of a complaint lodged against the Government of Guatemala for abuses by government officials, I now have the honor of transmitting herewith a copy of a communication, dated the 3d instant, from Mrs. Al. Stebbins, informing the legation that the matter had been adjusted to her entire satisfaction.

Mrs. Stebbins received five promissory notes from one of the leading commercial houses of this city, Fed. Koper & Co., for 1,000 pesos each.

One note is payable each month from May to September of the current year. In the notes it is stated that Fed. Koper & Co. pay Mrs. Al. Stebbins the amount stipulated for account of Meleton Agreda, the offending official.

I have, etc.,

PHILIP BROWN.

[Inclosure.]

*Mrs. Stebbins to Minister Combs.*

GUATEMALA, *May 3, 1905.*

SIR: Referring to the complaint of my husband, Mr. Al. Stebbins, against ill-treatment and robbery at the hands of one Meleton Agreda, commandante of La Gomera, and my affidavit of February 20 last, confirming same, I beg to inform you that the matter has just been adjusted to my entire satisfaction. As indicated to me in your letter to me of the 18th ultimo, I was called to the office of the minister for foreign affairs yesterday, where I received five promissory notes, each for 1,000 pesos, one payable the 20th instant and one each succeeding month for four months. The notes are signed by Federico Koper & Co., of this city.

Embracing this opportunity to thank you for your good offices in my behalf,

I beg, etc.,

MRS. AL. STEBBINS.

**ARREST OF CHARLEY MACMORLEY.**

*Minister Combs to the Secretary of State.*

No. 305.]

AMERICAN LEGATION,  
GUATEMALA AND HONDURAS,  
*Guatemala, September 21, 1905.*

SIR: I have the honor to report the recent arrest of an American negro, Charley Macmorley, by mistake for a Jamaican fugitive wanted for extradition.

Prompt measures were taken in his behalf, but he was already on his way to this city under guard before I had the information upon which action could be taken. Immediately upon his arrival here he was released and presented with 100 pesos by the British chargé in behalf of the Jamaican authorities and with a small sum by himself.

I waived the reimbursement suggested in my note of the 19th instant to the Guatemalan Government, a copy of which, with other inclosures, is hereto attached, since the British authorities desired to assume the expense mentioned.

I have, etc.,

LESLIE COMBS.

[Inclosure.]

*Minister Combs to the Minister for Foreign Affairs.*

AMERICAN LEGATION, GUATEMALA AND HONDURAS,  
*Guatemala, September 21, 1905.*

MR. MINISTER: I have the honor to inform your excellency that I am in receipt of a telegram stating that the negro, Charley Macmorley, arrested at Chichicastenango under the supposition that he was a Jamaican defaulter, is an American negro from Alabama, brought here by Mr. Fred. Prescott, the contractor, years ago as a cook, and that he has been sent forward to this capital.

I request that I may be informed of his arrival and where he may be seen. If the facts are as represented to me I am sure your excellency's government will recognize the propriety of treating this man with consideration and supplying him with the means of a comfortable return to the place of his arrest.

With renewed assurance, etc.,

LESLIE COMBS.

[Inclosure 2.]

*The Minister for Foreign Affairs to Minister Combs.*

DEPARTMENT OF STATE,  
 REPUBLIC OF GUATEMALA, CENTRAL AMERICA,  
*Guatemala, September 19, 1905.*

MR. MINISTER: In reply to the kind note your excellency was pleased to address me to-day concerning the detention in Chichicastenango of an American citizen, Charley Macmorley, in the supposition that he was a criminal from Jamaica, I have the honor to make known the following: His Britannic Majesty's legation having asked, by means of a petition for extradition from the government of Jamaica, for the capture of a criminal, and unfortunately the facial description of that individual coincided in some points with that of Macmorley, hence the mistake. But as soon as the mistake was discovered Macmorley was put at liberty, as I had the honor to make known to your excellency by telephone, and even before the conclusion of the translation of the note I have the honor to reply to.

Your excellency will be pleased to see the lively desire that animates my government to avoid every difficulty that may arise with the citizens of the Republic you so worthily represent out of consideration for the cordial frank harmony that unites Guatemala with the United States of America.

I renew, etc.,

JUAN BARRIOS M.

[Inclosure 3.]

*Minister Combs to the British Chargé.*

AMERICAN LEGATION, GUATEMALA AND HONDURAS,  
*Guatemala, September 21, 1905.*

DEAR MR. HARRISON: The bearer of this is the American who was arrested by mistake for the Jamaican fugitive you are seeking. As the proper procedure would have been for the Jamaican officers to go to Chichicastenango instead of having him brought here, I think it quite right that they should bear the expense of his maintenance coming and going. I am therefore pleased to accept for him your kind offer of 100 pesos for that purpose, with the distinct understanding, however, that it is a governmental and not a personal contribution.

Yours, sincerely,

LESLIE COMBS.

*The Secretary of State to Minister Combs.*

DEPARTMENT OF STATE,  
*Washington, October 18, 1905.*

SIR: I have to acknowledge the receipt of your dispatch No. 305, of the 21st ultimo, reporting the arrest of an American negro, Charley Macmorley, by mistake for a criminal fugitive from Jamaica.

The Department approves your action which resulted in the speedy release of Macmorley and his indemnification for the expense to which he was put.

I am, etc.,

ELIHU ROOT.

## HAITI.

### EXCLUSION OF SYRIANS FROM HAITI.

NOTE.—For previous correspondence see Foreign Relations 1904, p. 393.

*Minister Powell to the Secretary of State.*

No. 1657.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, February 21, 1905.*

SIR: I have the honor to state that the government has served a notice for those Syrians who held false naturalization papers to leave the country by the next steamer after they had received the notice from the Interior Department, and if they did not leave at the time stated, the authorities would embark them.

Many of these people received their notices within three days of the departure of the next steamer to New York. It was impossible for them to dispose of their goods in the time named for them to leave. Many of them carried a line of goods valued at from \$10,000 to \$15,000, for all of which they were indebted to American firms. They appealed to me to intercede in their behalf and to request the government to allow them a sufficient time to dispose of their goods.

This request I deemed a just one and sought an interview with the minister of foreign relations, requesting that his government grant to these people a longer time; that it was impossible for them to liquidate their business within the time granted to them by the government; that they had committed no crime against the laws of the Republic, were peaceable, and if compelled to leave at the time stated by the government, their creditors would no doubt make a demand on the government for the value of the goods that remained unsold, which would possibly give rise to more claims for the government to pay; while if the government would extend the time, this difficulty would be obviated and no claims could be made against the government. The delay asked for would do the government no harm.

I also called the attention of the minister to several articles that had appeared recently in one of the papers, the purpose of the writers to stir the passions of the lower class of people against all this people, to have them pillage their houses, and possibly the loss of many lives might result before the government could control the situation.

I therefore requested the minister to take this matter under consideration and request the editors not to publish these incendiary articles.

Mr. Férère, discussing the matter, said that in the United States and in Europe the government expelled persons who they thought were enemies and that these people were not Americans and they should leave the country.

In reply to this argument I asked him to do this, not referring to their nationality, but simply as a matter of justice and right: that in granting this delay they were only giving these people time to close out.

He then asked: "If we grant this time will they not request a longer time?"

I informed him that I thought not.

He at last informed me that he would use his influence with the President to extend the time three months, and that he would see that these articles did not appear in the paper against these people.

Our interview was pleasant.

I have, etc.,

W. F. POWELL.

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*The Acting Secretary of State to Minister Powell.*

No. 677.]

DEPARTMENT OF STATE,  
Washington, March 17, 1905.

SIR: I have to acknowledge the receipt of your No. 1657, of the 21st ultimo, reporting the use of your unofficial good offices on behalf of certain Syrians whose expulsion was ordered from Haiti without a sufficient time being granted them to enable them to dispose of their stocks of goods.

The use of your unofficial good offices in their behalf is approved.

I am, etc.,

ALVEY A. ADEE.

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*Minister Powell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Port au Prince, March 18, 1905.

(Mr. Powell reports that a proclamation has been issued to-day by the Haitian Government that the Syrians must leave this Republic on April 1.)

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*The Acting Secretary of State to Minister Powell.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, March 21, 1905.

(Mr. Adee asks whether the order expelling the Syrians affects merely those fraudulently naturalized or whether it is general. Instructs him in the latter case to remonstrate against the application of the order to lawfully naturalized citizens of the United States of Syrian origin.)

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*Minister Powell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Port au Prince, March 21, 1905.

(Mr. Powell reports that Syrians, naturalized citizens of the United States, are not included in the order of expulsion; that he has instructed American citizens to close their stores on April 1 in order to prevent danger from the populace, who may pillage and set fire to the houses of our citizens. All quiet at the present moment.)

*Minister Powell to the Secretary of State.*

No. 1691.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, March 21, 1905.*

SIR: I have the honor to state that the government on March 18 published a proclamation in the streets of the city that on March 31 all Syrians must close their stores and leave the Republic April 1. On that date a steamer will leave here.

The official promulgation of the proclamation has caused considerable alarm in the Syrian colony and uneasiness on the part of others who are engaged in business who are not Syrians, especially those who are by naturalization citizens of other countries. The great danger lies in this: If these people refuse to go (some of them have stated that they will not, and will resist if the government attempts to use force) a conflict will surely take place in which not the government alone but the lower class will take an active part, as their passions have been inflamed by many incendiary articles that have recently appeared in all the papers. \* \* \*

These articles have done and are doing a vast amount of harm and causing an intense feeling against these people. I have called the attention of the minister and also the President to these articles and the grave danger in which it placed all foreigners, not the Syrians alone, and have requested of the President to be informed what steps the government proposed to take if an outbreak should occur. Both have assured me that all foreigners, even those to be expelled, would be fully protected.

The government may feel safe in making this statement and may virtually believe that it will control the situation. I fear, though, that it is overconfident. All foreigners are looking forward with considerable feeling of alarm to next week, from March 29 to April 2, especially those in business.

\* \* \* \* \*

When this proclamation was read in the streets it excited great enthusiasm and cheers from the people, while the Syrians are correspondingly depressed.

I have informed those who have become American citizens at the first sign of danger to close their stores and keep them closed until such danger is passed and not go in the streets about this time any more than is necessary, and if fire should occur to endeavor to save their books and bring them here, and if they felt that their lives were in danger to come to the legation. \* \* \*

As to the government's side of the case: They charge the Syrians (1) with favoring the overthrow of the present government and being in communication with its enemies to that end; (2) with being responsible for the present scarcity of the small divisionary metallic currency, securing a large amount of it and endeavoring to send it from the country whenever opportunity offers; (3) with being largely engaged in smuggling goods in and out of the country and causing the government to lose large sums of money by these acts; (4) that some of these people have been engaged in an effort to counterfeit the present paper circulation; (5) that those who have become Haitians through naturalization have, on leaving the country, given or sold their certificates to others not naturalized, who had claimed to be citizens of the Republic through such papers; (6) that these people are of

no benefit to the country—they spend but little in it and as soon as they secure a certain sum they leave the country and others come in to take their places; (7) that the great numbers of these people coming into the country is a serious menace to it and that it is the duty of the government in safeguarding its future to arrest or stop such immigration, as other countries have done. \* \* \*

Since they have become strong enough to import their own goods they have to that extent become the commercial rivals of the larger houses, and for this reason caused their commercial enmity, and they have been one of the factors in urging the government to compel them to leave. The habits of these people are such that for the small houses they will pay a higher rent than will be paid by others, and from four to five families, averaging four persons to a family, will be found in the same house. They eat in common and by this means are able to accumulate large sums of money, which they send from the country until such time as they leave themselves. It is also true that up to a year ago there was a constant increase of this class of people.

In an interview with the President he informed me that he was at first opposed to the law compelling them to leave and had refused to sign it; but when evidence was produced of the injury they were doing to the country, to those in business, and that they were opposed to his government and in favor of his enemies he signed the present law ordering their expulsion. Even after this he was about to relent, when the smuggling and later the counterfeiting matters were called to his attention. He decided to enforce the law.

There is no doubt that some of these people have been guilty of some of these things, but I do not believe all have. It is a case where the innocent will suffer with the guilty.

In an interview with the minister in regard to this people I called to his attention an order of the government that refused to allow these people to take their goods from the custom-house, nor would they allow them to be returned. As many of these goods were from American firms, I stated that the action of the government was rather arbitrary and amounted to a virtual confiscation; that if the government refused to allow these goods to be returned the American creditors of these people would hold the government responsible, and cited to him the claim of Messrs. Scheel & Matlage, and suggested to him to allow these people to return these goods.

One, whose papers we have arrested, called at the legation to request of us to secure for him an extension of time from the government to sell his goods. (I had already on a personal request to the President secured an extension until May 18 for him to close his business.) I informed him that it was impossible for me to secure an extension of this time. He then informed me that what goods remained unsold he would send to our legation. I informed him that we could not receive them, and suggested to him that if he could not sell them within this time to place the same in the hands of some responsible merchant to sell for him.

Sixty of these people left by last steamer, and I learn about the same number will leave on the steamer March 31.

I have in this dispatch endeavored to give to the Department full information on all phases of this subject. I do not wish the Department to think that I am an alarmist, but I believe it is my duty to have the Department fully acquainted with the present situation, so



that it may know how to grasp this condition of affairs. All the present rumors may amount to nothing as to an uprising in the event of trouble, yet they may be true. No two persons aside from the Syrians seem to agree as to what will occur.

I have, etc.,

W. F. POWELL.

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*Minister Powell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Port au Prince, March 22, 1905.*

(Mr. Powell reports that he has requested the Haitian Government for an extension of time until May 18 for those Syrians who held false certificates of naturalization, which request has been granted.)

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*The Acting Secretary of State to Minister Powell.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, March 22, 1905.*

(Mr. Adee instructs Mr. Powell that the Department can not interfere with the contemplated expulsion of Syrians from Haiti except in cases of naturalized American citizens in whose behalf he would intercede to prevent expulsion upon proof of naturalization. If fraudulent naturalization is alleged the Department will have to judge the case, and if proof of fraud is shown by the Haitian Government or otherwise the Department will examine the matter, and upon establishment of fraudulent naturalization protection will be withheld.)

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*Minister Powell to the Secretary of State.*

No. 1699.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, March 27, 1905.*

SIR: I have the honor to inclose the copy of a letter received too late to be sent by last mail from the minister of foreign relations, informing me that the Haitian Government would permit the Syrians who are to be expelled April 1 to return the American goods that they were not permitted to take from the customs house, of which I informed the Department in my No. 1679, March 13.

I have also informed these merchants of the government's action and suggested to them to return these goods at once.

I have, etc.,

W. F. POWELL.

[Inclosure.—Translation.]

*The Minister for Foreign Relations to Minister Powell.*DEPARTMENT OF STATE FOR FOREIGN RELATIONS,  
*Port au Prince, March 25, 1905.*

MR. MINISTER: You have been pleased by your dispatch of March 23 instant to request me to obtain of the government the authorization for the Syrians who came under the effects of the law of August 13, 1903, to reship the American merchandise arrived to their address and of which the department of commerce has forbidden to be handed over to them.

In acknowledging the receipt of that communication I have the honor to bring to your cognizance that the government, taking into consideration the reasons contained in your dispatch, has given the order that the request be granted.

Please accept, etc.,

M. FÉRÈRE.

*Minister Powell to the Secretary of State.*

No. 1708.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, March 31, 1905.*

SIR: I have the honor to inform the Department that the government appears to have taken due precautions to prevent any disturbances that might occur to-morrow by closing the business places of Syrians.

The orders issued by the government are that the military governor of the city, the mayor, and the judge of the peace will visit the Syrian section, and all Syrian stores not closed will be closed by them, not to be opened again. The military governor, General Carrié, has assured the members of the diplomatic corps that there will be no disturbance to-morrow, and that both Syrians and other foreigners will be fully protected.

A telegram was received stating that an American naval vessel would be here in the morning. This news has had a tendency to restore confidence, assist passively the government, on the one hand, and will keep the turbulent element within bounds. Nearly all of the stores of the Syrians are closed, and many will leave on the steamer to-day which carries this dispatch.

A slight excitement occurred yesterday, but the government immediately suppressed it. A strong police force has been placed in this section under the direct charge of the military governor and the chief of the police force. No crowds are allowed to gather in the streets; no soldiers allowed in this section.

I have, etc.,

W. F. POWELL.

*Minister Powell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Port au Prince, April 2, 1905.*

(Mr. Powell reports that everything is quiet, that the Syrian shops are closed, and that the government is master of the situation.)

*Minister Powell to the Secretary of State.*

No. 1712.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, April 5, 1905.*

SIR: I have the honor to state to the Department that since the closing of the small Syrian stores the Haitians have opened theirs.

Since the closing of these stores prices have advanced on all classes of merchandise and provisions from 15 per cent to 20 per cent, which is bearing very hard on the poorer classes in the Republic, who even before the closing of these stores, found it a hard matter to secure food and clothing for their families, now that the prices have increased on all classes of provisions and goods, it is almost an impossibility for them to feed their families, which is causing great discontent. There are many families here among the middle class that are in a state of almost semistarvation. Many of these people have not eaten meat for weeks on account of its high price. Bread is almost as dear as meat, and vegetables and fruit, while plentiful, are hard to obtain on account of the price demanded for them. Many families are parting with their jewelry and articles of wearing apparel to obtain money to buy food. The cost of living is nearly double what it was this time last year and bids fair in the near future to double the present figures.

I have, etc.,

W. F. POWELL.

*Minister Powell to the Secretary of State.*

No. 1713.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, April 5, 1905.*

SIR: I have the honor to state that a delegation of Syrians called upon us to extend an invitation to the officers of the *Brooklyn* to a reception that they desired to give them.

I informed them that I greatly regretted to state to them that it was impossible for either captain or officers to accept the invitation, as their stay was brief and that the vessel would possibly leave at any moment. They expressed great regret on being so informed.

They then desired to know if I would accept one. I informed them that I could not and suggested that it would be better in the present state of public feeling toward them to live quietly and not call public attention toward them, as any action on their part would be misconstrued by the government, and subject those that the government consented to allow to remain, to more aggressive action.

They left the legation expressing their regret at our declining their invitation.

I have, etc.,

W. F. POWELL.

*The Acting Secretary of State to Minister Powell.*

No. 689.]

DEPARTMENT OF STATE,  
*Washington, April 20, 1905.*

SIR: I have to acknowledge the receipt of your No. 1713, of the 5th instant, reporting that as an evidence of their appreciation of the good offices exercised by you in their behalf a delegation of Syrians

had extended to you and to the officers of the *Brooklyn* an invitation to attend a reception, which invitation was declined both by you and by the officers of the *Brooklyn*.

The Department approves your action in declining to attend such a reception.

I am, etc.,

F. B. LOOMIS.

*The Haitian Minister to Acting Secretary of State Loomis.*

[Translation.]

No. 1261.]

LEGATION OF HAITI,  
Washington, June 9, 1905.

MR. SECRETARY OF STATE: In continuation of the conversation I had the honor to have with you on the 8th instant, I beg leave to quote herein below an extract of article 1 of the law of August 10, 1903, relative to Syrians:

From the date of the promulgation of this law any person styled a Syrian, or so called in popular language, shall not be admitted into the territory of the Republic. Any Syrian who, with a view to evading the law, should leave the country and return with a certificate of naturalization shall likewise be excluded from the territory of the Republic.

The situation of the Syrians in Haiti may be likened to that of the Chinese in the United States.

In order to avoid, as far as possible, any occasion for the slightest misunderstanding, my government would be glad to know what attitude the United States would take toward Syrians, who, after becoming naturalized American citizens, would attempt to establish a residence in Haiti. Chinese persons might also, by becoming naturalized Haitians, attempt to violate the law which excludes them from the territory of the United States.

Confident that an exchange of views on this point will, by insuring mutual observance of the laws of both countries, contribute to strengthen the cordial relations they maintain.

I am glad, etc.,

J. N. LÉGER.

*The Acting Secretary of State to the Haitian Minister.*

No. 88.]

DEPARTMENT OF STATE,  
Washington, June 16, 1905.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, in which you state that your government would be glad to know what attitude this government would take toward Syrians, who after becoming naturalized American citizens, should attempt to establish a residence in Haiti.

In reply, I have the honor to say that your note does not present a case calling for action by this Department, and the Department must refrain from announcing its attitude until the question arises in a case actually presented to it and requiring its action.

Accept, etc.,

F. B. LOOMIS.

*The Haitian Minister to Acting Secretary of State Loomis.*

[Translation.]

No. 1306.]

LEGATION OF HAITI,  
*Deer Park, Md., August 11, 1905.*

MR. SECRETARY OF STATE: I have had the honor to receive your note of the 5th instant,<sup>a</sup> by which you advise me that Mr. Mansour Assaff has written you that the consul-general of Haiti at New York refused to visé his passport. You ask me to state the grounds for the refusal.

In reply, I can not fail to say that a law of August 10, 1903, excludes persons of Syrian origin from admission into the Haitian territory. In this connection I will take the liberty of inclosing herewith a copy of a letter I addressed on June 9, last, to the Department of State, and a copy of the reply that Mr. Loomis was good enough to send me under date of the 16th of the same month.

I am convinced in advance that the Government of the United States will not countenance violations of a law of the Republic of Haiti, for, on our part, we have never allowed Chinese persons to avail themselves of our nationality for the infringement of the measures which bar them out of your country.

By way of information I may add that Mr. Mansour Assaff had already resided in Haiti, and I can not refrain from recalling the many irregularities brought to light in the naturalization of Syrians in the United States.

I embrace, etc.,

J. N. LÉGER.

*The Acting Secretary of State to the Haitian Minister.*

No. 90.]

DEPARTMENT OF STATE,  
*Washington, August 29, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, in which you state that the refusal of the consul-general of Haiti at New York to visé the American passport of Mr. Mansour Assaff is based upon the Haitian law prohibiting the admission of Syrians into the territory of the Republic.

In reply, I have to say that the text of this law quoted in your note of June 9, last, reads:

From the date of the promulgation of this law any person styled a Syrian, or so called in popular language, shall not be admitted into the territory of the Republic. Any Syrian who, with a view to evading the law, should leave the country and return with a certificate of naturalization shall likewise be excluded from the territory of the Republic.

The first sentence is somewhat ambiguous. It does not in express terms exclude persons of Syrian origin who have become naturalized in a foreign country. And the second sentence, in barring from admission Syrians who, *with a view to evade the law*, leave Haiti and return with certificates of foreign naturalization, indicates the intention to permit the entrance of Syrians who, without an intention to evade the law, leave Haiti, become naturalized, and return. It appears even more distinctly not to contemplate the exclusion of Syrians naturalized in foreign countries who have not resided in Haiti previous to their naturalization.

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<sup>a</sup> Not printed.

In view of these ambiguities, and in the absence of any express adjudications of the Haitian courts declaring that persons of Syrian origin who have, in good faith and not in fraud of the Haitian law, obtained naturalization in the United States are excluded by the terms of the law, this government does not feel that it can acquiesce in the construction placed upon the law in your note.

Accept, etc.,

F. B. LOOMIS.

*The Haitian Minister to the Secretary of State.*

[Translation.]

LEGATION OF HAITI,

*Deer Park, Md., September 4, 1905.*

MR. SECRETARY OF STATE: I have had the honor to receive your letter of the 29th of August last, in which you informed me that you did not think you could adhere to the interpretation of the law of August 10, 1905, set forth in my letter of the 11th of August, 1905, because the text of article 1 appeared to be ambiguous, and also because the Haitian tribunals had not yet declared that the measure was applicable to Syrians who might have been naturalized in the United States in good faith and without intention to violate the law.

In reply, and in order to enable you better to appreciate the intent of the Haitian legislator, I can not lay too much stress on the identical situation of the Syrians in Haiti and the Chinese in the United States. The purpose of the law of August 10, 1903, is to save the Haitians from the effects of a competition deemed injurious. To that end it excludes from the territory of the Republic *every person styled Syrian*, or so called in popular language. There is no ambiguity in the wording. The law contemplates the origin of the person and not his adopted nationality. This, if I mistake not, is the very principle you apply to Chinese when you deny them admission into the United States; you consider their origin, not their actual nationality.

Else would it be difficult to carry out the legislator's will. In order to continue the immigration into Haiti which the law's very object was to bring to an end, the Syrians would have nothing more to do than to have themselves naturalized French, American, or English.

After laying down in the first section of article 1 the general principle of exclusion for every person styled Syrian, the law saw fit to give special attention in section 2 to the case of Syrians who, having already resided in Haiti, might go elsewhere and be naturalized for the sole purpose of returning. It was intended thus, on the one hand, to give them to understand that no privilege was conferred by previous residence in Haiti and that it was useless to seek a naturalization with a view to residing again in the country, and, on the other hand, it was advisable to endeavor to prevent abuses and the conflicts that might arise from naturalization irregularly secured.

As for the Haitian tribunals, I would beg your leave to say that they can not test a law of their own accord. In order to examine a legislative measure to render a decision in the matter they must wait until the parties who claim to be injured thereby shall lay their grievances before them. No Syrian, as far as I know, at least, has yet applied to them; which fact leads me to believe that the interpretation of the law of August 10, 1903, has raised no question or difficulty.

Hoping that you will not find it amiss that the Haitians, after the example of the Americans, who are endeavoring to protect themselves against the Chinese, may likewise endeavor to protect themselves against the Syrians,

I embrace, etc.,

J. N. LÉGER.

**CITIZENSHIP OF PORTO RICANS.**

*Minister Powell to the Secretary of State.*

No. 1652.]

AMERICAN LEGATION,  
*Port au Prince, February 20, 1905.*

SIR: I have the honor to inclose a copy of a claim that has been handed to us to present to this government, requesting that we use our good offices to insure its payment.

The claim is presented to us by Mr. J. R. Paradis, a native of Porto Rico and now a resident of Port de Paix, in the drug business in that city.

The claim represents a bond of \$5,000 issued by the government to a Mr. Massimi for a debt due him by this government, and became due January 30, 1896. This party gave the above-named bond to Mr. Paradis for money owed by the former to the latter.

When the bond was presented by Mr. Paradis to the National Bank of Haiti for payment, a Mr. Altieri, another creditor of Massimi, served a notice upon the bank not to pay the bond, claiming that the same represented money that was due to him (Altieri). Upon receiving this notice the bank refused payment.

The government was appealed to, but refused to act. The matter was carried to the courts. In two the decision was against Mr. Paradis. It was taken to the highest court, and the latter delivered a decision stating that Mr. Paradis was the rightful holder of the bond and that the government was responsible for its payment. Still the bank refuses, and the government, it is stated, will not give the necessary instructions to the bank in order that the amount stated on the face of the bond shall be paid.

Mr. Paradis, unable to secure payment, appeals to our government to aid him in securing the money due to him. \* \* \*

I have, etc.,

W. F. POWELL.

*The Acting Secretary of State to Minister Powell.*

No. 673.]

DEPARTMENT OF STATE,  
*Washington, March 15, 1905.*

SIR: I have to acknowledge the receipt of your No. 1652, of the 20th ultimo, presenting the claim of Mr. J. R. Paradis, a native of Porto Rico, against Haiti.

The Department wishes to be informed when Mr. Paradis last left Porto Rico and how long he has resided in Haiti.

I am, etc.,

ALVEY A. ADEE.

*Minister Powell to the Secretary of State.*

No. 1706.]

AMERICAN LEGATION,  
*Port au Prince, March 29, 1905.*

SIR: I have the honor to acknowledge the receipt of Department's No. 673, of March 15, 1905, requesting to be informed when Mr. Paradis left Porto Rico and how long he has resided in Haiti.

In reply, Mr. Paradis does not reside in this city, but at Port de Paix, where he is engaged in the drug business. I will write to him and secure the requested information.

I find in our register of citizens the following: "José A. Paradis, citizen of Porto Rico, owing allegiance to the United States. Passport No. 2, Department of State, August 4, 1903." Registered Oct. 10, 1903.

I learn from Mr. Siordet, director of the Compagnie Haitienne, that he has been in business at Port de Paix for a number of years. He is quite an old man. I will endeavor to send fuller information by next mail.

I have, etc.,

W. F. POWELL.

*Minister Powell to the Secretary of State.*

No. 1721.]

AMERICAN LEGATION,  
*Port au Prince, April 9, 1905.*

SIR: I have the honor to state, in accordance with instructions from Department's No. 673, March 15, 1905, in regard to the claim of Dr. J. R. Paradis, that from a letter received from Mr. C. Abegg, our consular agent, in reply to one from this office, I am informed that Doctor Paradis left Porto Rico about thirty-five years ago. Since then he resided in Curaçao three years, in Santo Domingo four years, and in this Republic twenty-seven years.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

*Minister Powell to Consular Agent Abegg.*

AMERICAN LEGATION,  
*Port au Prince, March 29, 1905.*

SIR: Please send me at your earliest convenience the date that Mr. Paradis left Porto Rico and how long he has resided in Haiti.

W. F. POWELL.

[Inclosure 2.]

*Consular Agent Abegg to Minister Powell.*

AMERICAN CONSULAR SERVICE,  
*Port de Paix, April 5, 1905.*

SIR: In reply to your inquiry dated March 29, I beg to inform you that Dr. R. Paradis left Porto Rico about thirty-five years ago and resided three years in Curaçao, four years in Santo Domingo, and twenty-seven years in Haiti.

Doctor Paradis is unable for the moment to furnish exact dates, but if it is absolutely necessary he will try to get them for you.

Always at your orders, etc.,

C. ABEGG.



*The Acting Secretary of State to Minister Powell.*

No. 693.]

DEPARTMENT OF STATE,  
Washington, April 26, 1905.

SIR: I have to acknowledge the receipt of your No. 1721, of the 9th instant, in regard to the claim of Dr. J. R. Paradis against Haiti.

In reply, I have to say that it is clear that Doctor Paradis, who left Porto Rico about thirty-five years ago, and has been residing in Curaçao, Santo Domingo, and Haiti ever since, is not, within the meaning of the act of Congress of April 12, 1900, a citizen of Porto Rico, and as such entitled to the protection of the United States. To bring one within the meaning and intent of that act he must have been an inhabitant of Porto Rico residing there April 11, 1899, and must have continued to reside therein up to the date of the passage of the act. Doctor Paradis left Porto Rico about 1870, resided three years in Curaçao, four years in Santo Domingo, and for the last twenty-seven years he has been residing in Haiti.

The passport was inadvertently granted to him.

The original inclosures of your dispatch No. 1652, of February 20 last, are returned herewith, for transmission to Doctor Paradis.

I am, etc.,

ALVEY A. ADEE.

*Minister Powell to the Secretary of State.*

No. 1759.]

AMERICAN LEGATION,  
Port au Prince, May 11, 1905.

SIR: I request instructions in regard to the following passage, for my guidance, in registering and granting passports to Porto Ricans:

\* \* \* is not, within the meaning of the act of Congress of April 12, 1900, a citizen of Porto Rico and as such entitled to the protection of the United States. To bring one within the meaning and intent of that act, he must have been an inhabitant of Porto Rico, residing there April 11, 1899, and must continue to reside therein up to the date of the passage of the act.

This extract is from Department's No. 693 of April 26.

Am I to understand that a native of Porto Rico, in order to be registered in our legation or to secure a passport, must have resided in Porto Rico on April 11, 1899, and continued his residence up to April 12, 1900? Residence before that time, or from birth, does not entitle him to our protection?

I have, etc.,

W. F. POWELL.

*The Acting Secretary of State to Minister Powell.*

No. 701.]

DEPARTMENT OF STATE,  
Washington, May 25, 1905.

SIR: I have to acknowledge the receipt of your No. 1759, of the 11th instant, referring to the Department's No. 693 of the 26th ultimo, and asking further instructions as to the definition of Porto Rican citizenship.

In reply, I have to say that the act of April 12, 1900, which, in pursuance of the provisions of Article IX of the Treaty of Paris of Decem-

ber 10, 1898, determines the political status of the native inhabitants of Porto Rico, provides that—

all inhabitants continuing to reside therein [in Porto Rico] who were Spanish subjects on the 11th day of April, 1899, and then resided in Porto Rico and their children born subsequent thereto shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States.

While natives of Porto Rico not coming within the above description are not entitled to protection by this government, the word "reside" should be construed in its general legal sense, in which continuous personal presence is not necessary. A native of Porto Rico, *temporarily* absent from the island on the dates mentioned might still have a legal residence there. The facts in Paradis's case, however, to which instruction 693 relates, preclude any claim to legal residence in Porto Rico on his behalf.

I am, etc.,

F. B. LOOMIS.

*Chargé Terres to the Secretary of State.*

No. 1823.]

AMERICAN LEGATION,  
*Port au Prince, June 28, 1905.*

SIR: I have the honor to transmit herewith the passport of Mr. Jose R. Paradis, who, on being informed of the decision of the Department relative to his claim, handed same to our consular agent, and which he has forwarded to this legation.

I am, etc.,

JOHN B. TERRES.

**DENIAL OF LICENSE TO DO BUSINESS TO AMERICAN CITIZENS OF SYRIAN ORIGIN.**

NOTE.—For previous correspondence, see Foreign Relations 1904, p. 385.

*Minister Powell to the Secretary of State.*

No. 1742.]

AMERICAN LEGATION,  
*Port au Prince, April 29, 1905.*

SIR: I have the honor to state that the feeling against the Syrians still continues acute. Many are still leaving by every steamer sailing from these ports. \* \* \*

The papers, especially the "Anti-Syrien," which have been publishing bitter articles against these people, have been suppressed. This was brought about, I think, from an interview that I had with the President and the minister of foreign relations. The suppression of this paper and the forbidding articles of a like character from appearing in some of the other papers is about the only bright feature in this matter.

One of our citizens of Syrian origin, Elie A. Mansour, has been refused a license. He applied at the regular time, October 1, 1904. He has been in business for some years. The government will give no reason for its refusal. I have requested to be informed why this refusal, what the reasons are, and what complaint they have against him. My letters remain unanswered. I have seen the minister of foreign relations, and he states to me that it is a matter in the hands of the President. Finding that there was more ill-feeling about to occur, I have not pressed further for an answer. \* \* \*

I have, etc.,

W. F. POWELL.

*The Acting Secretary of State to Minister Powell.*

No. 697.]

DEPARTMENT OF STATE,  
Washington, May 11, 1905.

SIR: I inclose copy of a letter from Mr. Elie A. Mansour,<sup>a</sup> who alleges that he is an American citizen and that he is suffering damages from the Haitian Government because of their refusal to issue a license to carry on his business.

You will examine the case and report to the Department.

I am, etc.,

F. B. LOOMIS.

*Minister Powell to the Secretary of State.*

No. 1774.]

AMERICAN LEGATION,  
Port au Prince, May 23, 1905.

SIR: I have the honor to acknowledge the receipt of Department's No. 697, of May 11, 1905, inclosing a copy of a memorial of grievances to the Department of Elie A. Mansour, an American naturalized citizen of Syrian origin, stating that the Haitian authorities have refused to give him a license.

All that Mr. Mansour states in his memorial is correct. The date to secure a license is October 1 of each year, the rule being that all applications must be filed with the communal magistrate (mayor of the city), who sends them to the minister of finance, who forwards them to the President, who examines them and issues orders that a patent be given, which is presented to the communal magistrate. A license is then issued to the petitioner to open and conduct business.

Owing to the number of fraudulent naturalization certificates, licenses were refused to all American naturalized citizens of Syrian origin until these applications were accompanied by a letter from this legation to the communal magistrate. At the time to procure these licenses Mansour and his brother Isaac, both American naturalized citizens, applied for licenses, each conducting a separate business. The brother secured his license, while Elie A. Mansour did not. The matter was brought to our attention, and we had several interviews with the minister of finance as to what was needed in order to secure him the license. I was informed that the whole matter rested with the President. I have had several interviews with the minister of foreign relations in regard to this case and have received the same reply. Nor can I secure from either of the two ministers any reason why the license should not be given.

I have taken a particular interest in this case. \* \* \* I have exhausted all efforts to have the President grant him this paper and have failed. \* \* \*

I understand that the government has made a new rule prohibiting these people from doing a retail business and that the present Chambers are to pass a more stringent law regarding them, which will eventually compel all to close their stores and leave the Republic.

I have, etc.,

W. F. POWELL.

*The Acting Secretary of State to Minister Powell.*

No. 705.]

DEPARTMENT OF STATE,  
Washington, June 10, 1905.

SIR: I have to acknowledge the receipt of your No. 1774, of the 23d ultimo, reporting concerning the refusal of the Haitian Government to grant Elie A. Mansour a license to do business.

In reply, I have to say that you will inform that government that it is the view of the Government of the United States that a license should be granted to Mr. Mansour or a satisfactory reason be assigned for refusing to grant him the license.

I am, etc.,

F. B. LOOMIS.

*Minister Powell to the Secretary of State.*

No. 1848.]

AMERICAN LEGATION,  
Port au Prince, October 20, 1905.

SIR; I have the honor to state to the Department that our Syrian citizens (naturalized Americans) are in trouble again.

A number waited on me yesterday, requesting that I would intervene in their behalf and prevent the government from closing their stores, which, they informed me, would take place to-day, and whether they should resist the government by force.

I have replied to them that the wisest course for them to follow would be to obey the laws of the country in which they lived; if these laws bore heavily upon them, then to close their stores and leave the country. If the officers of the government served notice upon them to close, they should do so; they could at the time protest in writing to the government against its action, and to send to our legation a copy of this protest, and they could also send to the honorable Secretary of State a statement of the action of the government and request our government to intervene in their behalf in regard to such features of the law which they deemed unjust, but under the present circumstances it was impossible for me to intervene.

They then informed me that they had applied for patents from the government, on the possession of which a license is issued by the communal authorities to conduct business as stated in the patent within the time stated and had deposited the money for the same, but up to the present time the government had not granted to them the patents requested, while others, not Syrians by birth, and who had applied since they had, had secured theirs. They further requested that if I could not prevent their stores from being closed, that I would secure from the government a limited time (six months) for them to liquidate their businesses.

I have informed them that since there was no existing treaty between the two governments it was impossible for me to do anything in this direction in their behalf without instruction from the Department; that they must submit to the law, and again counseled them not to resist the officers of the government if they were ordered to close their stores. If they did resist and their stores were pillaged and some of them were injured, I was not in a position to help them, and their best course would be to close until such time as they could secure a license. Later I was informed that the officers had visited each of these people

and closed their places of business and ordered that they should not sell any merchandise in the future.

The facts are briefly these: Under Article V of the late treaty, Americans in business enjoyed the same rights as Haitians in like businesses. Since this treaty was denounced, our citizens are treated like all others not Haitians. Under the constitution and laws of the country, no foreigner is allowed to do business in the interior of the country (Compagnie Haitienne excepted) or at any of the closed ports, and at no place in the country are they allowed to do a retail business. Under our treaty this was not so; our citizens for this reason enjoyed exceptional advantages over those of other countries.

A recent law \* \* \* foretells the action of the government in regard to this matter, and the government reserves to itself the right to grant or refuse an applicant a patent, and in case of refusal that it can not be called upon to give its reasons for such refusal, etc. \* \* \*

This government, for some reason I know not, has a bitter dislike for these people, though some of them have become Haitian citizens by naturalization. Many of them are Turkish citizens, under the protection in this country of the French legation; others are Dominicans, English, and Italians, and, as I have stated, a number are Americans by naturalization. All do a retail business and are thriving. Under the terms of the law they can only do a wholesale business. The unfortunate feature of this matter is that nearly all of them are carrying a large stock of goods, and if they are not allowed to sell or dispose of them in some way they will be subject to a considerable loss, and not only they, but many of our citizens, especially in New York, from whom they have bought goods, must in consequence suffer with them, as it will be impossible for them to pay.

\* \* \* \* \*

I have, etc.,

W. F. PCWELL.

*The Secretary of State to Minister Powell.*

No. 722.]

DEPARTMENT OF STATE,  
Washington, November 9, 1905.

SIR: I inclose herewith a copy of a letter<sup>a</sup> from Mr. A. Lagojannis, of Port au Prince, transmitting to the Department a copy of a letter which is addressed to your legation on the 10th ultimo, in regard to the Haitian Government's refusal to permit foreigners to engage in retail business in Haiti.

You are requested to report to the Department whether Mr. Lagojannis is an American citizen.

I am, etc.,

ELIHU ROOT.

*Minister Powell to the Secretary of State.*

No. 1872.]

AMERICAN LEGATION,  
Port au Prince, November 18, 1905.

SIR: I have the honor to call Department's attention to inclosed letter from our consul at the Cape, Dr. L. W. Livingston, in which he states that certain naturalized American citizens (Syrian origin)

who, having conformed to the laws of the Republic, have not received their licenses for the present year. Without such a license it is impossible for them to secure their merchandise from the custom house. I have called the attention of the minister of foreign affairs to this matter, and have requested to be informed as to the intention of the government in regard to granting licenses to them.

I have learned from sources not official that it is the intention of the government not to grant licenses to anyone who is a foreigner, and of Syrian origin. If such is the intention of the government, not to grant these licenses, it has erred in receiving the amounts for such licenses in money, giving them (Syrians) the right to suppose that they would receive licenses in due time, and leading them to purchase large stocks which they can not secure from the custom-house. Some of these goods are liable to shrinkage, or spoil, subjecting these people as well as our merchants in New York, to serious loss; and for which this government claims it is not responsible.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

*Consul Livingston to Minister Powell.*

AMERICAN CONSULAR SERVICE,  
*Cape Haitien, Haiti, November 15, 1905.*

SIR: The following-named naturalized American citizens, M. N. Ajamie, Antoine H. Ashkar, and John Stambouly, complain that notwithstanding they have complied with all the requirements of the law they have not yet received their licenses for the present year, and that, as the collector of customs here refuses to allow a verification of their merchandise without the licenses they are subject to considerable annoyance and loss. They therefore beg that you intercede for them with a view to ascertaining the cause of the delay.

I am, etc.,

LEMUEL W. LIVINGSTON.

[Inclosure 2.]

*Minister Powell to the Secretary of State for Foreign Relations.*

AMERICAN LEGATION,  
*Port au Prince, Haiti, November 17, 1905.*

SIR: I have the honor to state to your excellency that our consul at Cape Haitien has informed me that certain naturalized American citizens have complained to him that they have fully complied with all the requirements of the law and that they have not received their licenses for the present year. Without such licenses the customs authorities refuse to verify their merchandise, which remains in the custom-house, and they are therefore subject to a considerable loss as well as annoyance.

May I request your excellency to inform me as to the intention of your government regarding licenses to naturalized American citizens where they have conformed to all the laws of the Republic?

Accept, etc.,

W. F. POWELL.

*Minister Powell to the Secretary of State.*

No. 1874.]

AMERICAN LEGATION,  
*Port au Prince, Haiti, November 20, 1905.*

SIR: I have the honor to acknowledge the receipt of Department's No. 722, November 9, 1905, inclosing a letter from Mr. A. Lagojannis, in regard to the Haitian Government's refusal to permit foreigners

to engage in retail business in Haiti and to report whether Mr. Lagojannis is an American citizen.

I have the honor to reply that Mr. A. Lagojannis is a naturalized American citizen (Greek origin) and conducts a large retail business in fancy articles. Under the terms of the law now being enforced no foreigners (except in special cases) are allowed to conduct retail business; this is left exclusively to Haitians. No objection is made to their conducting wholesale business.

Mr. Lagojannis has two stores, one which he conducts himself, as stated above, the other by his wife, who is a Haitian. The latter conducts a millinery business and articles for female use, etc. Both have been in business for many years.

I have, etc.,

W. F. POWELL.

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*The Secretary of State to Chargé Furniss.*

No. 3.]

DEPARTMENT OF STATE,  
Washington, December 1, 1905.

SIR: I have to acknowledge the receipt of Mr. Powell's No. 1872, of the 18th ultimo, in which he lays before the Department the cases of certain naturalized American citizens of Syrian origin, who, he states, having conformed to the laws of the Republic, have not received their licenses for the present year.

He adds that he has learned from sources not official that it is the intention of the government not to grant licenses to do business to any foreigner of Syrian origin.

The Department is of opinion that if the licenses are withheld the applicants are entitled to the return of any deposit which they may have made therefor.

I am, etc.,

ELIHU ROOT.

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*The Acting Secretary of State to Chargé Terres.*

No. 726.]

DEPARTMENT OF STATE,  
Washington, December 9, 1905.

SIR: I have to acknowledge the receipt of Mr. Powell's No. 1874, of the 20th ultimo, in which he states that Mr. A. Lagojannis is an American citizen, of Greek origin, and that he conducts a large retail business in fancy articles. He adds that, under the terms of the law now being enforced, no foreigners, "except in special cases," are allowed to conduct retail business.

If Mr. Lagojannis's case is one of the special cases excepted from the terms of the law he may press his claim of right to do business.

I am, etc.,

ROBERT BACON.

ASYLUM GRANTED TO GOVERNMENT OFFICIALS OF HAITI BY  
THE AMERICAN LEGATION.

*Minister Powell to the Secretary of State.*

No. 1811.]

AMERICAN LEGATION,  
*Port au Prince, June 6, 1905.*

SIR: I have the honor to inform the Department that Mr. Charles Cameau and Mr. Auguste Elie, members of the auditing committee, came to our legation and requested asylum. They informed me that according to law they rendered their yearly report to the legislative corps, in which they stated that in the expenditures of the government for 1903-1904, they could not find any vouchers for \$5,334,099.53 (national money) and \$748,499.65 American gold.

When the report was brought to the attention of the President he declared that it was false, and desired them to withdraw it and substitute another. This they refused to do, declaring their report to be correct. The President declared that it was an effort on the part of the committee to bring reproach upon his government; that they were in league with his enemies and conspirators, and were about to be shot.

I have given them asylum until the government gives them permission to leave the country.

I have, etc.,

W. F. POWELL.

N. B.—Since the above was written these gentlemen have been permitted by the President to return to their homes, under his personal guarantee.

I am, etc.,

W. F. POWELL.

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*Minister Powell to the Secretary of State.*

No. 1814.]

AMERICAN LEGATION,  
*Port au Prince, June 14, 1905.*

SIR: I had the honor to state that Mr. Charles Cameau, chairman of the "Chambre des Comptes" (auditing board) has again come to our legation for asylum. I stated that he was here in my No. 1811, June 6, and later upon the guarantee of the President returned to his home. After being there a few days he found, or was informed, that as he refused to admit that his report was wrong and refused to alter the figures, or, in a word, change it according as the President wished, he was to be placed in prison.

Learning this fact from his friends, who advised him to secure shelter without delay, he returned here and at this writing is still here.

The officers of the government have informed him that he might return home, that he has nothing to fear. His friends, on the other hand, advise him not to return, but to leave the country, if he can, as it is not safe for him here.

I have, etc.,

W. F. POWELL.



[Inclosure 1.]

*Minister Powell to the Minister of Foreign Relations.*AMERICAN LEGATION,  
*Port au Prince, June 10, 1905.*

SIR: I have the honor to inform your excellency that Mr. Charles Comeau, a resident of this city and one of your citizens, has received asylum at our legation.

Accept, etc.,

W. F. POWELL.

[Inclosure 2.—Translation.]

*The Minister of Foreign Relations to Minister Powell.*REPUBLIC OF HAITI,  
*Port au Prince, June 13, 1905.*

MR. MINISTER: I had the honor to receive your dispatch of the 10th, No. 850, announcing to me that Mr. Charles Comeau, Haitian citizen, had received asylum at your legation.

I thank you for this communication, of which my department has taken good note.

I will be in the meanwhile infinitely happy to hear from your legation, if possible, the reason that has caused Mr. Charles Comeau to seek your hospitality, because this department is able to inform you on its part that the Government of the Republic has not against Mr. Comeau any grief that will cause this determination.

Hoping that your legation will kindly do me the honor to answer on this subject,

I beg you to accept, Mr. Minister, etc.,

M. FÉRÈRE.

[Inclosure 3.]

*Minister Powell to the Minister of Foreign Relations.*AMERICAN LEGATION,  
*Port au Prince, June 13, 1905.*

SIR: I have the honor to acknowledge receipt of your excellency's favor of to-day's date, in which you request information as to the reason which led Mr. Charles Comeau to seek asylum at our legation.

In reply to your excellency's request, I am unable to forward to you the information asked. On coming to our legation he informed me that his personal liberty was in danger and requested asylum from us.

Since Mr. Comeau has been here several persons connected with your excellency's government have had interviews with him. Among this number were: The President's private secretary, Mr. Gabrielle; your excellency's colleague, Hon. F. Marcelin, and the president of the chamber of deputies. Possibly one of the above can give you the required information that you request of me.

Accept, etc.,

W. F. POWELL.

*The Acting Secretary of State to Minister Powell.*

No. 711.]

DEPARTMENT OF STATE,  
*Washington, June 24, 1905.*

SIR: I have to acknowledge the receipt of your No. 1811, of the 6th instant.

It is reported in your dispatch that Mr. Charles Comeau and Mr. Auguste Elie, members of the auditing committee, came to the American legation and requested asylum. It is stated that they informed you that according to law they rendered a yearly report to the legislative corps in which they stated that in the expenditures of the government for 1903-4 they could not find any vouchers for \$5,334,099.53, Haitian money. You further state that when the re-

port was brought to the attention of the President he declared that it was false and desired that they withdraw it and substitute another; that they refused to do so, declaring their report to be correct; that the President declared that it was an effort on the part of the committee to bring reproach upon the government; that they were in league with his enemies and conspirators and were about to be shot. You report that you gave them asylum until the government granted them permission to leave the country. You add that they were permitted by the President to return to their homes under his personal guaranty.

The Department regrets its inability to approve of your giving them asylum until the government should grant them permission to leave the country. The effect of this would be to shield them from whatever legal liability they were under, if any, to the Haitian laws and to the due process of the laws. The grant of shelter under the circumstances stated might easily lead to abuse of the privilege of shelter through the simple representation on the part of the fugitives that they were threatened with death, and in the absence of any material evidences to indicate such imminent peril of lawlessness or mob violence as would warrant the granting of shelter. In this connection you are referred to the Department's instruction No. 528, August 6, 1902, to you, and to the Department's No. 89, of June 5, 1899, to Mr. Sampson, Foreign Relations, 1899, page 257. While there may be circumstances not fully disclosed in your dispatch which would justify the grant of the privilege of asylum in the legation, it is a privilege which should only be accorded upon a most careful investigation of the circumstances in order that the legation may not become the refuge for persons whose real object is to evade their ordinary liabilities under the laws.

I am, etc.,

HERBERT H. D. PEIRCE.

*The Acting Secretary of State to Minister Powell.*

No. 715.]

DEPARTMENT OF STATE,  
Washington, June 29, 1905.

SIR: The Department acknowledges the receipt of your No. 1814, of the 14th instant, saying that, as you had previously advised the Department, you had granted asylum to Mr. Charles Comeau in the legation. The ground upon which asylum was sought in your legation was stated in your previous dispatch and in the inclosures contained in your No. 1814. These inclosures contained a copy of a communication to you from Mr. Charles Comeau<sup>a</sup> and a note to you from the minister for foreign affairs and your reply thereto.

\* \* \* \* \*

The Department has already, in a previous instruction, been constrained to express its disapproval of the grant of shelter to Mr. Comeau. It appears that there was a controversy between the President and the auditing committee growing out of the report which the latter had made as Haitian officials to the Haitian Congress. There is not the slightest evidence that Mr. Comeau was in danger of mob violence or that he was even in imminent peril of his life. It appears

<sup>a</sup>Not printed.

that after the violent language used toward him by the President and after the latter had given him personal assurances of security Mr. Cameau returned that night to his family, and it does not appear that there was, therefore, any danger whatever to his person or to his liberty when asylum was granted. The ground assigned in your note of June 13 to the minister for foreign affairs that Mr. "Cameau had informed you that 'his personal liberty was in danger'" could not possibly have justified the interference of the legation in a controversy which appears on the whole to be of a purely political character, and the grant of shelter under those circumstances might be considered as an interference in the internal politics of Haiti. The greatest circumspection should be used to prevent any appearance of any interference on the part of the legation in political controversies by granting shelter to either one of contending factions simply because the other may have been threatened with the loss of personal liberty. If unfortunate political conditions exist in a country, they can only be remedied by the people and government of that country, to whom the responsibility belongs.

The Department again calls your attention to previous instructions in which you have been fully advised as to the circumstances in which the grant of asylum would be given by the legation, and it is expected that those instructions will be carefully considered and observed in the future.

I am, etc.,

HERBERT H. D. PEIRCE.

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**TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF HAITI FOR THE MUTUAL EXTRADITION OF CRIMINALS.**

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*Signed at Washington, August 9, 1904.*  
*Ratification advised by the Senate, December 15, 1904.*  
*Ratified by the President, June 17, 1905.*  
*Ratified by Haiti, August 25, 1904.*  
*Ratifications exchanged at Washington, June 28, 1905.*  
*Proclaimed, June 28, 1905.*

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Republic of Haiti providing for the mutual extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Washington, on the ninth day of August, one thousand nine hundred and four, the original of which Convention, being in the English and French languages is word for word as follows:

The United States of America and the Republic of Haiti, wishing to insure the proper administration of justice, have resolved to conclude a treaty for the purpose of mutually surrendering persons who, being charged with one of the crimes hereinafter specified, or having been sentenced for one of these crimes, shall, by flight, have escaped judicial prosecution or the consequences of their sentence.

To this end they have appointed their Plenipotentiaries, to wit:  
 The President of the United States of America, John Hay, Secretary of State of the United States of America; and,  
 The President of the Republic of Haiti, Mr. J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary of Haiti at Washington;  
 Who, after having communicated their respective full powers, found in good and due form, have agreed on the following articles:

## ARTICLE I.

The High Contracting Parties agree to deliver up to their respective justice, persons who, being accused or convicted of any of the crimes hereinafter enumerated, committed within the limits of jurisdiction of the demanding party, shall have afterwards taken refuge or shall be found in the territory of the other; provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

## ARTICLE II.

The crimes for which extradition shall be granted are the following:

1. Murder (including assassination, parricide, infanticide, poisoning, and voluntary manslaughter.)
2. Counterfeiting of money, either coin or paper; utterance or circulation of counterfeit or altered money; introduction of counterfeit or altered money into the territory of one of the Contracting Parties.
3. Counterfeiting of any securities issued by one of the Contracting Parties, of bonds or coupons of the public debt, of bank notes or other instruments of credit authorized by law; utterance, use, or introduction, in the territory of one of the Parties, of the aforementioned counterfeit or falsified securities or notes.
4. Forging of the public or private documents; use of forged documents.
5. Larceny; robbery, or that which corresponds to the crime provided for and punished by the laws of Haiti as theft committed with arms in hand or by violence or threats, or on the public highways; burglary, or that which corresponds to the crime provided for and punished by the laws of Haiti as theft committed by breaking or climbing into, or using false keys, or at night in a place inhabited or used as a dwelling.
6. Embezzlement by public officers or by persons hired or salaried, to the detriment of their employers; provided, that the amount of money or value of the property embezzled is not less than two hundred dollars.
7. Arson; destruction of railways, bridges, tramways, vessels, public edifices or other buildings, endangering human life.
8. Perjury; subornation of perjury; bribery, defined to be the giving, offering or receiving of a reward to influence one in the discharge of a legal duty.
9. Rape.
10. Bigamy.
11. Kidnapping of minors.
12. Piracy, as defined by statute or international law.

## ARTICLE III.

Extradition shall also be granted for the attempt to commit one of the crimes above enumerated, and against any accomplice of these crimes or attempts at crimes, when such complicity and attempt are punishable by the laws of the Party demanding the extradition.

## ARTICLE IV.

Neither of the Contracting Parties shall be obliged to deliver up its own citizens.

## ARTICLE V.

If the person claimed is under prosecution, either in the United States or Haiti, for any other crime than that upon which the demand for extradition is based, the extradition shall be postponed until the judgment is pronounced, and, if the person is convicted, until the sentence imposed is fully served or remitted.

The extradition may also be postponed when the person claimed is being prosecuted for a civil offense in the country of which the demand is made. In this case it will not take place until after the execution of the judgment or the remission of the penalty.

## ARTICLE VI.

A fugitive who shall have been claimed at the same time by two or more States, shall be delivered up to the State which has first presented its demand; provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

## ARTICLE VII.

The provisions of the present treaty shall not apply to offenses of a political character. The assassination or poisoning of the head of a government, or any other attempt against the life of the head of a government, shall not be considered as a crime of a political character.

A person whose extradition shall have been granted on account of one of the crimes mentioned in Article II of this Convention shall not, in any case, be tried for a political offense or for an act connected with a political offense committed prior to the demand for extradition, unless such person has had abundant opportunity to quit the country during the month following that in which he was set at liberty either as a result of acquittal, expiration of his sentence, or pardon.

## ARTICLE VIII.

A person surrendered cannot, without the consent of the State which has granted the extradition, be detained or tried in the State which has obtained his extradition, for any other crime or causes than those which have given rise to the extradition. This stipulation does not apply to crimes committed subsequently to the extradition.

However, a person who has had ample opportunity to quit the country which has obtained his extradition, and who shall be found there a month after his release by acquittal, the expiration of his sentence, or

pardon, may be arrested and tried, without the consent of the State which has granted the extradition, for other crimes than those which have given rise to the demand for extradition.

#### ARTICLE IX.

Where the arrest and detention of a fugitive in the United States are desired on telegraphic or other information in advance of the presentation of the formal proofs, complaint on oath, as provided by the statutes of the United States, shall be made by an agent of the Haitian Government, before a judge or other magistrate authorized to issue warrants of arrest in extradition cases.

In Haiti the diplomatic or consular agent of the United States shall address, through the Ministry of Foreign Relations, a complaint to the government commissioner or any other magistrate authorized to issue warrants of commitment. The provisional arrest and detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of criminality, has not been produced under the stipulations of this Convention within sixty days from the date of his arrest.

#### ARTICLE X

Every demand for extradition shall be made through the diplomatic agents of the High Contracting Parties. In case of absence or impediment of these agents, the demand may be presented by the consuls. This demand shall be acted on in conformity with the laws of each of the Parties. Nevertheless, if the person demanded has already been sentenced for one of the crimes hereinbefore enumerated, the requisition shall be merely accompanied by the sentence, duly certified by the competent authority of the State demanding the extradition.

#### ARTICLE XI.

In the investigation which they may have to make, according to their own laws, the authorities of the State of which the demand is made who are qualified to decide on the demand for extradition, shall admit as entirely valid evidence all depositions or declarations of witnesses coming from the other State, or copies thereof, and warrants issued, provided these documents are signed or certified by a competent magistrate or officer of the State making the demand.

#### ARTICLE XII.

The objects found in the possession of the fugitive and which were obtained by the perpetration of the crime with which he is charged, or which may serve to prove his crime, shall be seized at the time of his arrest and delivered together with his person to the party demanding the extradition. Nevertheless, the rights of third persons to the articles so found shall be respected.

## ARTICLE XIII.

The expenses of detention, procedure, and delivery, incurred in virtue of the preceding articles, shall be borne by the demanding Party. It is agreed, however, that the State making the demand shall have nothing to pay to the officers of the State to which the demand is addressed who receive fixed salaries; officers who, having no fixed salary, receive fees, shall not demand any other fees than those generally charged in ordinary criminal procedures.

## ARTICLE XIV.

The stipulations of the present treaty are applicable to the insular possessions of the United States. In this case the demand shall be addressed to the Governor or principal authority of the possession by the consul of Haiti.

## ARTICLE XV.

The present treaty shall remain in force until it is denounced; it shall cease to bind the Parties six months after one of them shall have notified its intention to terminate it.

## ARTICLE XVI.

The present treaty shall be approved and ratified by the competent authority of each of the High Contracting Parties, and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the foregoing articles, and have affixed their seals.

Done in duplicate at Washington, in English and French, this ninth day of August, nineteen hundred and four.

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-eighth day of June, one thousand nine hundred and five;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

Done at the City of Washington, this twenty-eighth day of June, in the year of our Lord one thousand nine hundred and five,  
[SEAL] and of the Independence of the United States of America the one hundred and twenty-ninth.

THEODORE ROOSEVELT

By the President:

HERBERT H. D. PEIRCE

*Acting Secretary of State.*

## ITALY.

### ESTABLISHMENT OF AN INTERNATIONAL AGRICULTURAL INSTITUTE.

*The Italian Ambassador to the Secretary of State.*

[Translation.]

No. 554.]

ROYAL ITALIAN EMBASSY,  
*Washington, D. C., February 26, 1905.*

MR. SECRETARY OF STATE: By order of my government, I have the honor to inform your excellency that His Majesty the King, my august sovereign, has taken the initiative in the formation of an international institute of agriculture to be composed of representatives of the great agricultural societies of the various countries and of delegates from the several governments. This institute, being devoid of any political intent, should tend to bring about a community of interests among agriculturists and to protect these interests in the markets of the world. It will study agricultural conditions in the different countries, periodically indicating the supply and the quality of products with accuracy and care, so as to proportion production to demand, increase and distribute the various crops according to the rate of consumption, render the commerce of agricultural products less costly and more expeditious, and suitably determine the prices thereof. Acting in unison with the various national bureaus already existing, it will furnish accurate information on conditions regarding agricultural labor in various localities, and will regulate and direct the currents of emigration. It will favor the institution of agricultural exchanges and labor bureaus. It will protect both producers and consumers against the excesses of transportation and forestalling syndicates, keeping a watch on middlemen, pointing out their abuses, and acquainting the public with the true conditions of the market. It will foster agreements for common defense against the diseases of plants and live stock, against which individual defense is less effectual. It will help to develop rural cooperation, agricultural insurance, and agrarian credit. It will study and propose measures of general interest, preparing international agreements for the benefit of agriculture and the agricultural classes.

Carrying out the intention of His Majesty, the Italian Government appeals to all friendly nations, each of which ought to have its own representatives in the institute, appointed to act as the exponents of their respective governments, as organs of mutual relations, and as mediums of reciprocal influence and information. It accordingly now invites them to participate through their delegates in the first convention, which is to be held at Rome next May for the purpose of preparing rules for the new institute.



The King's Government trusts that the United States will be willing to cooperate in the enterprise, the first inspiration of which is due to an American citizen, and that, accepting the invitation to the conference at Rome, it will send thither a delegation commensurate with its importance as the foremost agricultural nation in the world.

Please accept, etc.,

MAYOR.

*The Acting Secretary of State to the Italian Ambassador.*

No. 255.]

DEPARTMENT OF STATE,  
Washington, March 27, 1905.

EXCELLENCY: By your note of the 26th ultimo you were so good as to inform the Secretary of State that His Majesty the King of Italy has taken the initiative in the formation of an international institute of agriculture, and that in carrying out the intention of His Majesty the Italian Government had invited the friendly nations to participate through delegates in the first conference, which is to be held at Rome next May for the purpose of preparing rules for the new institute.

In communicating this invitation you make known the wish of the King's Government that that of the United States will be willing to cooperate in the enterprise, and that, accepting the invitation to the conference at Rome, it will send thither a delegate commensurate with its importance as the foremost agricultural nation of the world.

As you were informed by the Department's note of the 6th instant,<sup>a</sup> the subject-matter of your note was communicated to the President and to the Secretary of Agriculture.

The President, appreciating the interest which His Majesty has taken in this matter, has directed Mr. Henry White, the newly appointed American ambassador to Italy, to represent the United States at the conference in question, and to this end Mr. White's departure for his post at Rome will be hastened. The question of the selection of a technical agricultural associate or associates is having consideration.

Accept, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to the Italian Ambassador.*

No. 257.]

DEPARTMENT OF STATE,  
Washington, March 31, 1905.

EXCELLENCY: Referring to this Department's note No. 255, of the 27th instant, I have the honor to inform you that, by the President's direction, Mr. Albert F. Woods, vegetable pathologist of the Department of Agriculture, has been designated as the technical agricultural associate of Ambassador White at the conference for the formulation of rules to govern the international institute of agriculture, to be held at Rome in May, 1905.

Accept, etc.,

ALVEY A. ADEE.

<sup>a</sup>Not printed.

*The Acting Secretary of State to the Italian Ambassador.*

No. 277.]

DEPARTMENT OF STATE,  
*Washington, May 26, 1905.*

EXCELLENCY: Referring to previous correspondence with regard to representation by the United States at the agricultural conference to be held at Rome this month, I have the honor to inform you that Mr. W. P. Hill, master of the Pennsylvania State Grange, who is at present in Rome, has been appointed an additional delegate on the part of the United States to the conference in question.

Accept, etc.,

HERBERT H. D. PEIRCE.

*The Italian Ambassador to the Secretary of State.*

[Translation.]

No. 2101.]

ROYAL ITALIAN EMBASSY,  
*Washington, D. C., August 9, 1905.*

MR. SECRETARY OF STATE: The conference called together by the King's Government in order to provide with the consent of the adhering nations, for the creation of an international institute of agriculture, concluded its sessions on June 7 by signing a final act which embodies in the form of a convention the resolutions unanimously adopted by the delegates of the powers. In a series of meetings, after doubts had been cleared up, differences of opinion removed, and any possible difficulties evaded, the several delegates unanimously expressed themselves in favor of insuring an easy and early realization of the initiative so nobly taken by the King, my august sovereign. As appears from the final act, of which I inclose a copy, and from the text of the convention embodied therein, the resolutions adopted form, in their aggregate, a complete outline of the organization and functions of the new institute, which is to be established and operate in Rome.

The final act of the conference was signed by the delegates under reservation of the approval of their respective governments, nor could it be otherwise. After this approval the convention, which constitutes the essential part of the act, shall, if approved (as the King's Government does not doubt it will be), assume the character of an obligation on the part of the nations which shall have adhered to it through the signature of plenipotentiaries appointed for the purpose.

It is important that the announcements of adherence shall reach my government as early as possible, in order that the initiative taken by the King may suffer no delay in being put into actual and effectual execution. I am accordingly directed to remind the Federal Government of the impotence and appreciation which the Italian Government would attach to the prompt appointment of a plenipotentiary to affix his signature to the convention and thus sanction the work of the conference as far as the United States are concerned.

As is seen from the final act, the prearranged convention bears the fixed date of June 7, 1905. The original, which is alone intended for signature, is preserved in the ministry of foreign affairs.

Please accept, etc.,

MAYOR.

[Inclosure.—Translation.]

## FINAL ACT OF THE INTERNATIONAL CONFERENCE.

In a series of meetings held from May 29 to June 6, 1905, in which the aforementioned delegates were constantly animated by the desire to realize to the greatest possible extent the idea which inspired the initiative taken by His Majesty the King of Italy, the conference agreed on the following text of a convention which shall have the fixed date of to-day, June 7, 1905, and which shall be submitted to the approval of the respective governments to be signed, in case of acceptance, by plenipotentiaries appointed for this purpose:

## ARTICLE 1.

There is hereby created a permanent international institute of agriculture, having its seat at Rome.

## ARTICLE 2.

The international institute of agriculture is to be a government institution, in which each adhering power shall be represented by delegates of its choice.

The institute shall be composed of a general assembly and a permanent committee, the composition and duties of which are defined in the ensuing articles.

## ARTICLE 3.

The general assembly of the institute shall be composed of the representatives of the adhering governments. Each nation, whatever be the number of its delegates, shall be entitled to a number of votes in the assembly which shall be determined according to the group to which it belongs, and to which reference will be made in article 10.

## ARTICLE 4.

The general assembly shall elect for each session from among its members a president and two vice-presidents.

The sessions shall take place on dates fixed by the last general assembly and according to a programme proposed by the permanent committee and adopted by the adhering governments.

## ARTICLE 5.

The general assembly shall exercise supreme control over the international institute of agriculture.

It shall approve the projects prepared by the permanent committee regarding the organization and internal workings of the institute. It shall fix the total amount of expenditures and audit and approve the accounts.

It shall submit to the approval of the adhering governments modifications of any nature involving an increase in expenditure or an enlargement of the functions of the institute. It shall set the date for holding the sessions. It shall prepare its regulations.

The presence at the general assemblies of delegates representing two-thirds of the adhering nations shall be required in order to render the deliberations valid.

## ARTICLE 6.

The executive power of the institute is intrusted to the permanent committee, which, under the direction and control of the general assembly, shall carry out the decisions of the latter and prepare propositions to submit to it.

## ARTICLE 7.

The permanent committee shall be composed of members designated by the respective governments. Each adhering nation shall be represented in the permanent committee by one member. However, the representation of one nation may be intrusted to a delegate of another adhering nation, provided that the actual number of members shall not be less than fifteen.

The conditions of voting in the permanent committee shall be the same as those indicated in article 3 for the general assemblies.

## ARTICLE 8.

The permanent committee shall elect from among its members for a period of three years a president and a vice-president, who may be reelected. It shall prepare its internal regulations, vote the budget of the institute within the limits of the funds placed at its disposal by the general assembly, and appoint and remove the officials and employees of its office.

The general secretary of the permanent committee shall act as secretary of the assembly.

## ARTICLE 9.

The institute, confining its operations within an international sphere, shall—

(a) Collect, study, and publish as promptly as possible statistical, technical, or economic information concerning farming, both vegetable and animal products, the commerce in agricultural products, and the prices prevailing in the various markets;

(b) Communicate to parties interested, also as promptly as possible, all the information just referred to;

(c) Indicate the wages paid for farm work;

(d) Make known the new diseases of vegetables which may appear in any part of the world, showing the territories infected, the progress of the disease, and, if possible, the remedies which are effective in combating them;

(e) Study questions concerning agricultural cooperation, insurance, and credit in all their aspects; collect and publish information which might be useful in the various countries in the organization of works connected with agricultural cooperation, insurance, and credit;

(f) Submit to the approval of the governments, if there is occasion for it, measures for the protection of the common interests of farmers and for the improvement of their condition, after having utilized all the necessary sources of information, such as the wishes expressed by international or other agricultural congresses or congresses of sciences applied to agriculture, agricultural societies, academies, learned bodies, etc.

All questions concerning the economic interests, the legislation, and the administration of a particular nation shall be excluded from the consideration of the institute.

## ARTICLE 10.

The nations adhering to the institute shall be classed in five groups, according to the place which each of them thinks it ought to occupy.

The number of votes which each nation shall have and the number of units of assessment shall be established according to the following gradations:

Groups of nations.	Numbers of votes.	Units of assessment.
I.....	5	16
II.....	4	8
III.....	3	4
IV.....	2	2
V.....	1	1

In any event the contribution due per unit of assessment shall never exceed a maximum of 2,500 francs.

As a temporary provision the assessment for the first two years shall not exceed 1,500 francs per unit.

Colonies may, at the request of the nations to which they belong, be admitted to form part of the institute on the same conditions as the independent nations.

## ARTICLE 11.

The present convention shall be ratified and the ratifications shall be exchanged as soon as possible by depositing them with the Italian Government.

In witness whereof the delegates who were present at the final session held to-day have signed the present document.

Done at Rome, June 7, 1905, in a single original which shall be deposited in the ministry of foreign affairs of Italy and of which certified copies shall be delivered to all the nations represented at the conference.

[Signatures of the delegates follow.]

**FRAUDULENT NATURALIZATION OF ITALIAN SUBJECTS IN THE UNITED STATES.**

*Chargé Iddings to the Secretary of State.*

No. 478.]

AMERICAN EMBASSY,  
Rome, Italy, April 5, 1905.

SIR: I have the honor to inclose herewith passport No. 2816, issued by this embassy on July 5, 1904, to one Ralph Gironda.<sup>a</sup> It appears that this passport was presented at the inspection for the steamship *Canopic* March 15, 1905, by an individual who was palpably not the owner thereof. A copy of a letter from the consul at Naples to the consul-general at Rome in regard to this matter is also sent under this cover.

I am, etc.,

LEWIS MORRIS IDDINGS.

[Inclosure.]

*Consul-General de Castro to Ambassador Meyer.*

AMERICAN CONSULATE-GENERAL,  
Rome, March 21, 1905.

SIR: I have the honor to transmit herewith the following letter from the American consul at Naples, accompanying the passport herein inclosed:

“HON. DE CASTRO, *American Consul-General, Rome.*

“SIR: I have the honor to forward, inclosed, for transmission to the embassy, passport No. 2816, which was presented at the inspection for steamship *Canopic* March 15, 1905, by an individual who was palpably not the owner thereof. He was also provided with an Italian passport, which described him correctly, whereas there was a most noticeable difference in the age and height given in the American passport. Evidently the owner having arrived in the United States had mailed this passport to some relatives here of the same name, who thus became in fraudulent possession.

“I am, sir, etc.,

A. H. BYINGTON.”

Your obedient servant,

HECTOR DE CASTRO.

*The Acting Secretary of State to Ambassador White.*

No. 11.]

DEPARTMENT OF STATE,  
Washington, April 27, 1905.

SIR: I have to acknowledge the receipt of Mr. Iddings's No. 478, of the 5th instant, inclosing the passport of Ralph Gironda, presented at Naples for purposes of emigration by a person other than the owner. Note has been made on Gironda's application.

It would probably be useless to attempt to trace him, as he gives his occupation, “laborer,” domicile, “Chicago.”

I am, etc.,

ALVEY A. ADEE.

*Ambassador White to the Secretary of State.*

No. 12.]

AMERICAN EMBASSY,  
*Rome, Italy, May 4, 1905.*

SIR: I beg leave to inclose herewith an application for a passport from Rocco Gioffri, who claims to be an American citizen, resident at Port Chester, N. Y., together with his alleged naturalization paper and a passport issued in his name on December 21, 1904. Gioffri had apparently not been five years in America when he obtained his naturalization certificate, but the consul at Palermo, Mr. Caughy, reports that, being carefully questioned several times, Gioffri insisted that he was sure of his dates. It is also to be noted that if the man himself obtained his passport on December 21, 1904, he would probably know that he did not need another one within six months.

I am, etc.,

HENRY WHITE.

*The Acting Secretary of State to Ambassador White.*

No. 22.]

DEPARTMENT OF STATE,  
*Washington, June 12, 1905.*

SIR: The Department has received your No. 12 of May 4 last, relative to the application for a passport of Rocco Gioffri.

The application upon which passport No. 96327 was issued December 21, 1904, states that he was born in 1872 and emigrated to this country in March, 1894, on board the *Prince Albert*, whereas the application made May 1, 1905, before the consul at Messina states that he emigrated on board the *Trojan Prince* in April, 1895, and was born August 16, 1873. That the signature to the application made to this Department is identical with the signature on the application made before the consul is not beyond suspicion. Rocco Gioffri has not signed his passport, as he was instructed to do when it was issued.

I inclose a certified copy of the application made to this Department<sup>a</sup> and return the application made before the consul at Messina, as well as the certificate of naturalization issued October 28, 1899, by the supreme court, Westchester County, N. Y., and the passport.

You are instructed to cause a searching examination to be made of Rocco Gioffri, if he can be found, in connection with these documents, with a view to ascertaining whether he is the same person who received the passport from this Department. If he is not, information may be elicited, upon which criminal proceedings might be instituted.

I am, etc.,

F. B. LOOMIS.

<sup>a</sup> Not printed.

*Ambassador White to the Secretary of State.*

No. 64.]

AMERICAN EMBASSY,  
*Rome, Italy, September 28, 1905.*

SIR: I have the honor to transmit herewith for your information correspondence between the minister for foreign affairs and myself regarding the enforced service in the Italian army of one Giuseppe Formica, a naturalized American citizen of Italian origin.

Formica wrote to the embassy in July last that he was being compelled to serve in the Fourth Company of the Fifty-ninth Infantry Regiment at Exilles, province of Turin, and furnished the following material information: That he was born in Italy in 1882; emigrated to the United States when 8 years of age, and returned to Italy some time after December last, being then more than 20 years old. In proof of his American citizenship he produced his passport, No. 95840, issued by the Department on December 1, 1904, and the certificate of his naturalization before the United States district court for the western district of Pennsylvania on May 1, 1903.

As the principle laid down by the foreign office corresponds with the Department's "Notice to citizens formerly subjects of Italy who contemplate returning to that country," dated March 18, 1901,<sup>a</sup> I see no reason to take any further steps in the matter.

I have, etc.,

HENRY WHITE.

[Inclosure 1.]

*Ambassador White to the Minister for Foreign Affairs.*AMERICAN EMBASSY,  
*Rome, July 31, 1905.*

MR. MINISTER: I beg leave to call the attention of the royal ministry of foreign affairs and through its kind intermission the attention of the ministry of war to the following case of hardship in which an American citizen of Italian birth is involved.

Giuseppe Formica was born in Gizzeria, province of Catanzaro, in 1882 and was taken to America by his father in 1891. Upon arriving at his majority he became a citizen of the United States, married, and has a wife and two children whose home is at No. 81 Spencer street, Brooklyn, N. Y. In January last his health not being strong, Formica came to make a visit to Italy, and was pressed into the Italian army as a renitente of the class of 1882 March 1, 1905. He is now a member of the Twenty-ninth Regiment of Infantry, stationed at Exilles, province of Turin. Meanwhile the man's wife and children are at Gizzeria, the money which they have is about exhausted, and unless the husband is allowed to return to America to follow his business the wife and children will soon be in want.

If the military authorities of His Majesty's Government, therefore, can arrange to release Formica from his present distressing position, the man will be most grateful and the Government at Washington much obliged.

I avail, etc.,

HENRY WHITE.

[Inclosure 2.—Translation.]

*The Under Secretary of State to Ambassador White.*ROME, *September 25, 1905.*

MR. AMBASSADOR: In reply to the esteemed note which your excellency was pleased to address to me July 31 last, I have the honor to inform you that Giuseppe Formica was, by the fact of his enrollment, allowed provisional exemption from the call to arms according to article 33 of the laws in regard to immigration, because he had expatriated himself before he

was 16 years of age. In order to continue to profit by such an exemption, he should have continued to reside abroad, or else, had he wished to return to the country of his birth and to remain there for a period not exceeding two months, he should have had a special permit from the royal consular authorities.

It appears, however, that on March 1 last Formica presented himself in person to the commander of the military district of Catanzaro in order to enter upon his service, and to discharge his obligations as a conscript, from which he was not exempt because of his loss of Italian citizenship.

The ministry of war regrets, therefore, that it is unable to absolve Formica from military service which he entered upon voluntarily.

Please accept, etc.,

G. FUSTINATE,  
*The Under Secretary of State.*

*The Secretary of State to Ambassador White.*

No. 51.]

DEPARTMENT OF STATE,  
*Washington, November 9, 1905.*

SIR: The Department has received your No. 64 of September 28, 1905, reporting that one Giuseppe Formica applied to your embassy last July for assistance to secure his discharge from the Italian army. He stated to you that he was born in Italy in 1882, emigrated to the United States when 8 years of age, and was naturalized as a citizen of the United States by the United States district court for the western district of Pennsylvania on May 1, 1903.

Your correspondence with the Italian Government tended to corroborate his statement concerning his birth in Italy, and, furthermore, showed that he had presented himself for military service. Formica presented to you passport No. 95840, issued by this Department on December 1, 1904. Reference to the application upon which the passport was issued shows that he then swore that he was born in Brooklyn, N. Y., September 24, 1882, and this Department supposed, when it issued the passport, that he was a native citizen of the United States. I inclose a copy, duly certified under the seal of this Department, of his application for a passport.<sup>a</sup>

This discrepancy raises a presumption that in his application to the Department Formica committed perjury. \* \* \*

I am, etc.,

ELIHU ROOT.

**ADMISSION OF ITALIAN IMMIGRANTS TO THE UNITED STATES.**

*The Italian Ambassador to the Secretary of State.*

[Translation.]

No. 1525.]

ROYAL ITALIAN EMBASSY,  
*Washington, D. C., June 21, 1905.*

MR. SECRETARY OF STATE: I appeal to your excellency's well-known courtesy in order to obtain through you a reply from the Department of Commerce and Labor to the two questions propounded in the inclosed memorandum.

In neither of the two cases contemplated would the imigrant enter as a wage worker. In the first case he is a purchaser of land and is about to become a proprietor; in the second he is an "active partner."

Please accept, etc.,

MAYOR.

<sup>a</sup> Not printed.



[Inclosure.]

## MEMORANDUM.

ITALIAN EMBASSY,  
Washington, D. C., June, 1905.

Do the officers of the immigration admit in the United States:

An immigrant or a family of immigrants which comes with the intention to settle in a determined place and to buy land there on long payment and without paying any sum on account of price of sale?

An immigrant or a family of immigrants which comes to work lands on shares; i. e., the net profit derived from the crop raised to be divided between the laborer and the owner?

---

*The Acting Secretary of State to the Italian Ambassador.*

No. 289.]

DEPARTMENT OF STATE,  
Washington, July 7, 1905.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st ultimo, in which you submit certain questions, answers to which you requested from the Department of Commerce and Labor.

I have the honor to say in reply that the Secretary of that Department states that it is the invariable rule of his Department to decline to render decisions under the immigration laws until questions for determination have been raised in cases actually occurring. Mr. Metcalf regrets, therefore, that replies could not consistently be made to the hypothetical questions contained in your memorandum.

Accept, etc.,

HERBERT H. D. PEIRCE.

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*Ambassador White to the Secretary of State.*

No. 55.]

AMERICAN EMBASSY,  
Rome, August 31, 1905.

SIR: I have the honor to inform you that I recently had a conversation with the parliamentary under secretary for foreign affairs on the subject of Italian emigration from this country to the United States.

He said that the Italian Government is very anxious to do what it can to further our views as to the desirability and advantages of turning the tide of emigrants from the large cities to the rural districts of our country, and, in order to see what is possible toward the attainment of that end, the Italian consul at New Orleans, who is now at home on leave of absence, has been instructed upon returning to his post to proceed to Texas, which seems to this government on the whole the most favorable part of the United States in which to make a beginning, to investigate labor conditions in that state and to report whether Italian emigrants, if advised to go there, can be sure of finding employment, and, in fact, whether any arrangements can be made for furnishing them with work upon their arrival.

The under secretary added, however, that he fears very little can be done in the matter, in view of our statute prohibiting the entrance into the United States of foreign laborers under an engagement to do work upon their arrival, known as the "contract labor law,"

unless our government can see their way to interpreting it favorably in respect to Italian emigrants bound to our rural districts.

I said to him in reply that as far as I remembered the act of Congress in question, of which I have no copy here, but I frequently had occasion to read it when at the London embassy, I thought its terms were very precise and that no such interpretation by our government as he suggested would be possible; but that I should not fail to report to you what he had said and I felt sure in any case that the President and you would be gratified to know that this government is giving the question of turning Italian emigration from our cities to the rural districts its serious attention.

I have, etc.,

HENRY WHITE.

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*The Italian Ambassador to the Secretary of State.*

[Translation.]

ROYAL EMBASSY OF ITALY,  
*Washington, D. C., September 3, 1905.*

MR. SECRETARY OF STATE: By note of July 7, No. 289, your Department, in reply to two questions submitted in a promemoria appended to my note of June 21, informed me that it was the invariable rule of the Department of Commerce and Labor to decline to render decisions touching the interpretation of the immigration laws unless such questions be practically raised in cases actually occurring. It added that Mr. Metcalf was therefore sorry that replies could not be consistently made to "hypothetical questions."

I fear from that answer that the Department of Commerce and Labor may have considered the questions as bearing on some specific isolated case; but they had, in the mind of the propounder, a much wider scope. In fact, they bear relation to the general question of diverting Italian immigration from the North, where it is considered "undesirable," to the South, where it is considered "desirable."

The Italians coming to the North find large cities, where they find a large number of their fellow-countrymen already established and opportunities for work in various lines, public buildings, roads, railways, mining, as well as farming. On their going South hardly any other prospect would be opened to them than a country life.

To this they may take in the capacity of "laborers," "servants," or "owners." Of these the capacity of "laborers" is the least expedient for themselves and for the country that extends its hospitality to them, because it binds them to the soil by no tie of love or interest. Hence the advisability of knowing in advance and before they sell their property in Italy whether on their coming with the intent of settling in the South they will be admitted or rejected.

The two cases under consideration are assuredly hypothetical, if you will, but every general rule contemplates cases that may be so styled, and the cases provided for in some of the "rules" of the "Immigration Regulations" are likewise "hypothetical" by the same reasoning.

On the strength of these explanations the Department of Commerce and Labor will perhaps admit that the questions put in the memoran-

dum submitted at the proper time deserve some reconsideration in view of the great number of cases that may come under them and of the weighty consequences that their solution in either sense may involve.

Accept, etc.,

MAYOR.

*The Acting Secretary of State to the Italian Ambassador.*

No. 302.]

DEPARTMENT OF STATE,  
Washington, September 18, 1905.

EXCELLENCY: Referring to your note of the 3d instant in further relation to your request for answers to certain inquiries propounded by you in your note of June 21 last in regard to the admission of aliens into the United States, I have the honor to inclose for your information a copy of a letter on the subject from the Acting Secretary of Commerce and Labor.

Accept, etc.,

F. B. LOOMIS.

[Inclosure.]

*The Acting Secretary of Commerce and Labor to the Secretary of State.*

DEPARTMENT OF COMMERCE AND LABOR,  
OFFICE OF THE SECRETARY,  
Washington, September 14, 1905.

SIR: I have the honor to acknowledge receipt of your letter of the 12th instant, inclosing a translation of a note from the Italian ambassador in further relation to his request under cover of your letter of the 24th of June last, for an answer to certain queries propounded by him in regard to the admission of aliens.

Replying categorically to the said interrogatories, the Department has to state that officers of the immigration service do admit "an immigrant or a family of immigrants which comes with the intention to settle in a determined place and to buy land there on long payment and without paying any sum on account of the price of sale," unless such immigrants are inadmissible for any of the various reasons stated in section 2 of the act of March 3, 1903.

In answer to the second query the same reply may be made—namely, that the immigration officers would admit "an immigrant or a family of immigrants which comes to work land on shares, i. e., the net profit derived from the crop raised to be divided between the laborer and the owner" unless inadmissible, as above stated, or unless it appears to the inspectors at the port or ports of arrival that the coming of such aliens was induced by promises of employment given before the departure of said aliens from their own country.

The Department is aware that these replies are probably not so explicit as the Italian ambassador desires, but it is impossible to make them more so. In the Department's letter of the 30th of June upon this subject it endeavored to show that such cases as those cited by the Italian ambassador were hypothetical and that therefore no positive and satisfactory reply could be made. The law imposes upon the officers at the ports primarily the duty of deciding whether an alien is admissible or not. The Department has no jurisdiction except upon appeal from the decision of such officers. The latter would, of course, be governed by the evidence presented in each particular case irrespective of any general expression of opinion upon hypothetical cases made by the Department. This explanation, it is hoped, will suffice to make it clear to the Italian ambassador that the object of the Department's letter of June 30 last was rather to show the futility of attempting a reply to the queries propounded and not indicative of any unwillingness to furnish any information which would be of practical service.

Respectfully,

LAWRENCE O. MURRAY.

*The Acting Secretary of State to Ambassador White.*

No. 40.]

DEPARTMENT OF STATE,  
*Washington, September 26, 1905.*

SIR: Referring to your No. 55 of August 31 last on the subject of Italian immigration into the United States, and especially to the agricultural regions of this country, I have to say that a copy of your dispatch was transmitted to the Secretary of Commerce and Labor, and in reply Mr. Metcalf suggests that a copy of his Department's letter of the 14th instant, answering certain inquiries of the Italian ambassador at this capital, be communicated to you.

A copy is inclosed. [Printed ante.]

I am, etc.,

F. B. LOOMIS.

**VISIT OF THE U. S. S. MINNEAPOLIS TO GENOA.***Ambassador White to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*Rome, October 22, 1905.*

(Mr. White reports that the King and Queen of Italy will make an official visit to Genoa on the 27th or 28th instant to lay the corner stone of the new harbor. Naval squadrons have been ordered to Genoa by the French and British Governments to salute their Majesties. Suggests that Admiral Chester with the flagship *Minneapolis* be directed to do likewise.)

*The Secretary of State to Ambassador White.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, October 26, 1905.**Minneapolis* ordered Genoa. Due to-morrow, 27th.

ROOT.

*The King of Italy to President Roosevelt.*

Telegram.—Translation.

GENOVAREGGIA, *October 30, 1905.*

Delighted to have the visit of the beautiful vessel to which you have been pleased to confide the mission of assisting at the fêtes at Genoa. I desire to thank you cordially for this friendly manifestation of good will.

VICTOR EMANUEL.

*President Roosevelt to the King of Italy.*

WHITE HOUSE,  
Washington, November 16, 1905.

YOUR MAJESTY: I was gratified to receive your telegram of the 30th ultimo, expressive of your appreciation of the presence of the United States naval vessel *Minneapolis* at the Genoa fêtes.

It gave me great pleasure to manifest the cordial good will which this government and people hold toward Your Majesty and the Italian people, by directing the *Minneapolis* to represent the United States on an occasion to which Your Majesty's presence gave national interest and importance.

Your good friend,

THEODORE ROOSEVELT.

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**CONTROL OF THE CUSTOMS REVENUES OF THE DOMINICAN  
REPUBLIC BY THE UNITED STATES.**

[NOTE.—See under Dominican Republic, page 298.]

# JAPAN.

## JAPANESE TEA SUBSIDY.

*Minister Griscom to the Secretary of State.*

No. 32.]

AMERICAN LEGATION,  
*Tokyo, December 30, 1903.*

SIR: \* \* \* The legation has investigated the complaint made by American firms exporting Japanese teas that the government tea subsidy was, in effect, a bounty to native dealers and therefore a discrimination against foreigners.

While no positive proof has been obtainable, yet the facts appear to bear out, in general, the complaint of the Americans interested. The department of agriculture and commerce turns over for expenditures the subsidy to the Tea Traders' Guild, an exclusively Japanese organization including all the native competitors of the foreign firms, and this fact in itself warrants a strong presumption that the advantages of the subsidy are not shared by the foreign firms.

By way of taking up the matter with the Japanese Government I handed in a memorandum on October 27, touching upon the objections made to the manner of expenditure of the subsidy and requesting the government's assistance in furnishing some detailed information on the subject. I am now in receipt of a memorandum from the department of foreign affairs, which, however, fails to throw any light on the subject. I have the honor to inclose copies of these memoranda. It will be noted that the statement is made that the appropriation for this subsidy ceases at the end of this fiscal year. It should, however, be remarked that no assurance is given that the proposition will not be renewed in the next Diet as a government measure and a new appropriation made. \* \* \*

I have, etc.,

LLOYD GRISCOM.

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[Inclosure 1.]

*Minister Griscom to the Minister of Foreign Affairs.*

MEMORANDUM.

AMERICAN LEGATION,  
*Tokyo, October 27, 1903.*

The Government of the United States has directed its legation in Tokyo to investigate certain statements made by American citizens engaged in tea trade with Japan in relation to the manner in which is expended the appropriation made by the Imperial Government for the promotion of the export of manufactured teas.

In the statements in question is contained the allegation that the money so appropriated, instead of being expended by responsible officials of the Imperial Government and publicly accounted for, is turned over to an exclusively Japanese organization of interested parties,

namely, the Tea Traders' Guild, and by it expended in such a way that the exact details thereof are not made public.

It is hoped that the imperial ministry of foreign affairs will courteously assist the legation in its inquiry by furnishing some detailed information as to the manner in which the appropriation referred to is expended.

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[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Minister Griscom.*

MEMORANDUM.

DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, December 21, 1903.*

His Imperial Majesty's department of foreign affairs is in receipt from the legation of the United States of America in Tokyo of a memorandum dated the 27th October last relative to the manner of expenditure of the appropriation for the encouragement of the export of tea.

It is assumed that the appropriation referred to means the subsidy to the amount of seventy thousand (70,000) yen per annum granted for a period of seven years from the thirtieth fiscal year of Meiji (1897-98) by the Imperial Government in accordance with their decision made prior to 1897 and given to the central association formed by the different Tea Traders' Guilds in the whole country.

Concerning the said subsidy, its working, estimate, and accounts are placed by the Imperial Government under the supervision of the minister of agriculture and commerce, but no detailed account thereof has hitherto been made public, as such a course was deemed unnecessary.

The Central Association has caused the various guilds to contribute tens of thousands of yen as funds for introducing improvements in the manufacture of teas, so that the field of their sale may be extended, while the inhabitants of the United States and Canada, the greatest customers of Japanese tea, are supplied with good and pure tea.

The association has, moreover, expended its own funds for examining teas destined for exportation, and has established agencies at the principal markets in the United States and Canada for the purpose of gathering information at all times with a view to encourage the manufacture of such qualities as would be satisfactory to customers in various countries.

The association has also from time to time dispatched persons to Europe with instructions to make inquiries and report on the actual condition of the tea markets there.

The association has thus endeavored, on the one hand, to see the products improved at home, and to promote, on the other hand, the interests of all exporters of tea, irrespective of their nationality.

And the subsidy in question has been used to defray in part the expenses required in such undertakings.

It may be observed in this connection that the appropriation is to cease at the close of the present fiscal year.

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*The Acting Secretary of State to Minister Griscom.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, May 10, 1905.*

(Mr. Loomis informs Mr. Griscom that the New York Tea Association complains that the Japanese Government is granting an annual tea subsidy of 70,000 yen for seven years. Instructs him to investigate, and if report is true to renew earnest representations.)

*Minister Griscom to the Secretary of State.*

No. 257.]

AMERICAN LEGATION,  
*Tokyo, May 15, 1905.*

SIR: I have the honor to acknowledge the receipt, on May 11, of the Department's telegram.

Immediately upon the receipt of the above message I called upon the minister of foreign affairs and made representations to him along the lines set forth in my No. 32 of December 30, 1903. I stated to him that the fact that the Japanese Government, instead of expending the subsidy through its own responsible agents, handed it over to a private association of tea firms whose membership was exclusively Japanese would seem on the face of it to constitute a bounty. I added that there is no public accounting of the expenditure of this money, and foreign firms, being denied membership in the guild, are unable to participate in or have any knowledge of the expenditure. Under the circumstances I stated that the Government of the United States asks that either the subsidy be differently administered or else a public and detailed account of the expenditures be published, so as at once to put an end to any suspicion which may exist in the minds of the foreign tea merchants that the Japanese Government is granting a bounty.

Baron Komura replied that a subsidy of 35,000 yen a year had been granted for the purpose of improving the whole tea trade of Japan, and particularly to help Japanese tea to meet the competition with Ceylon tea in the United States and Canada. The subsidy, he stated, was expended by the tea guild under the supervision of the imperial department of agriculture and commerce, and the Japanese Government were entirely satisfied that the money was properly expended for the general and beneficent purpose for which it was appropriated. He said they were unwilling to make a public accounting of the method of expenditure. Being satisfied with the present method of expenditure, the Japanese Government saw no reason to alter the arrangements unless I could produce conclusive proof that the money was, as alleged, improperly expended for the benefit of individual Japanese tea firms.

I pressed the matter as earnestly as possible and suggested that under the present arrangement the subsidy to all intents and purposes constituted a bounty, and that the burden of proof was on the Japanese Government to show that it did not. Baron Komura remained firm in his position and replied by simply asking me for proof that the subsidy was improperly expended.

The same day I learned that the British minister had a day or two previously made similar representations and received a similar reply. \* \* \*

I have, etc.,

LLOYD GRISCOM.



**DESTRUCTION OF SEA FOWL ON MIDWAY AND OTHER NORTH PACIFIC ISLANDS.**

*The Acting Secretary of State to Minister Griscom.*

No. 84.]

DEPARTMENT OF STATE,  
*Washington, November 4, 1904.*

SIR: I inclose herewith for your information copies of a letter and its accompanying inclosure from the Department of the Interior, also of the Department's reply thereto, in relation to the destruction of sea fowl on Midway and other islands of the Hawaiian group by Japanese subjects.

I am, etc.,

F. B. LOOMIS.

[Inclosure 1.]

*The Secretary of the Interior to the Secretary of State.*

DEPARTMENT OF THE INTERIOR,  
*Washington, November 1, 1904.*

SIR: Referring to Department letter of July 23, 1903,<sup>a</sup> in relation to the destruction of sea fowl on Midway and other islands of the Hawaiian group by Japanese subjects and your reply thereto dated August 15, 1903,<sup>a</sup> I have the honor to transmit herewith a copy of a paper prepared by W. A. Bryan, special inspector of birds and animals at Honolulu, Hawaii, received by reference from the President, calling attention to the continued destruction of birds on the islands belonging to the Hawaiian group, etc.

You stated, among other things, that it seemed especially desirable that the nuisance arising from slaughtering birds should be suppressed on hygienic grounds and that the officers of the Navy Department might be enlisted to that end; furthermore, that if it should be found that the objectionable practices of the Japanese could not be stopped by any means short of deportation this government would approach the Japanese Government with a view to effecting such deportation with as little hardship as possible.

I have to request, therefore, to be advised as to what further steps, if any, the State Department has taken in this matter.

Very respectfully,

E. A. HITCHCOCK.

[Subinclosure 1.]

*Mr. Bryan, special inspector of birds and animals, to the President.*

BISHOP MUSEUM,  
*Honolulu, Hawaii, October 3, 1904.*

SIR: While in New York and Washington during the latter part of July, Mr. William Dutcher, president of the national committee of Audubon societies for the protection of birds, made an attempt to arrange a meeting with you at which I might have the honor to bring before you in person the urgent need of our government taking active steps to prevent the extermination of the bird colonies on the outlying islands in the North Pacific Ocean, knowing it to be a matter in which you take an active interest.

It was impossible to arrange an audience at that time, and in accordance with the suggestion of your secretary I submit herewith a sketch of the wanton destruction of bird life on these islands, in the belief that it can and will be stopped in the near future.

During the past few years I have visited practically all of the low coral islands in the North Pacific, and have been appalled at the destruction of the birds on these islands by Japanese "plume hunters," who make a business of visiting not only the bird islands of their own possessions, but those of the United States as well, and killing birds by the hundreds of thousands.

On Marcus Island a colony had been at work for six years. In that short time they had wiped out of existence one of the largest albatross colonies in these waters. So complete was their work of destruction that during the year of my visit (1902) they had only secured 13

specimens of the albatross. While there I estimated that they had 40,000 tern skins ready for shipment, which was the second boat load to be shipped that year.

Most of the sea birds rear but a single young, a fact which makes their extermination certain if this slaughter is allowed to continue.

Midway Island at the time of my visit in 1902 was covered with great heaps of albatross carcasses which a crew of poachers had left to rot on the ground after the quill feathers had been pulled out of each bird. This mischief was done notwithstanding the fact that the previous year a similar party had been warned off by the United States steamer *Iroquois*, which visited the island by chance.

Layson Island, which fortunately is at present worked for guano, is inhabited by a company of laborers. So far this large and interesting colony has not been molested, although "bird-skin pirates" have more than once called there in the hope of finding the island uninhabited.

The inclosed clipping gives a reliable account of recent depredations on the neighboring island of Lisiansky, which is not 50 miles from Layson.

I am informed that the other low islands in the chain are similarly scourged.

The necessity of visiting these islands from time to time has been brought to the attention of various departments of the government by Mr. E. R. Stackable, collector of customs for the port, in the hope that a much-needed revenue cutter might be permanently stationed in these waters. I would not presume here to go over the ground which he has so ably covered in his reports further than to summarize and say that such a vessel is needed here—

First. To enforce the immigration laws—to prevent aliens from visiting these uninhabited and unvisited islands as temporary landing places on the way to the larger islands.

Second. To enforce the customs laws—prevent smuggling, etc.

Third. To assist distressed vessels (see clipping), as life-saving stations—the value of this chain of islands, stretching as they do for hundreds of miles along the track of trans-Pacific travel, can not be overestimated when it is known that they will be regularly visited by a relief vessel.

Fourth. For the protection of property. Such a vessel would effectually break up the wholesale slaughter of sea birds which inhabit these islands, a step which must be taken now if it is to be at all effective.

In conclusion I would therefore again respectfully urge upon your attention the importance of the Federal Government maintaining in these waters a revenue cutter which would be regularly stationed at Honolulu under the direction of the Treasury Department and the local collector of customs in the usual manner, with its duties so arranged that the vessel would make at least two trips a year to the outlying islands of the region to enforce the immigration and customs laws, to relieve shipwrecked and marooned seamen, and prevent the destruction of bird life on the several islands and in various other ways make it possible to protect and utilize our possessions in these waters.

Trusting the subject may receive your favorable consideration, I remain, etc,

WM. ALANSON BRYAN.

[Subinclosure 2.]

[Excerpts from the Boston Sunday Herald, September 11, 1904.]

#### BIRD SLAUGHTER BY JAPANESE.

[Honolulu letter in San Francisco Chronicle.]

Captain Hamlet, of the *Thetis*, states that the destruction wrought by the party of Japanese poachers on Lisiansky Island to bird life was something appalling. He estimates that they killed at least 300,000 birds, to judge from the number of cases of plumage and the amount of meat they secured. All of their spoil had to be abandoned; but it is properly preserved and will keep for a long time. There are 335 of these cases, the plumage in them being of the highest quality.

The Japanese who were brought here by the *Thetis* are the remains of a party of bird poachers whose presence on an American island was reported by Captain Niblack of the United States steamer *Iroquois* some weeks ago and the *Thetis* was sent to stop their operations, but she arrived to find them only too anxious to leave their hunting ground and to abandon spoil which is worth at least \$20,000.

The Japanese were employed by a Tokyo firm and they fitted out in the schooner *Yeiju Maru* in Yokohama last December. Their destination was Lisiansky Island, a wonderful center of ocean-bird life in mid-Pacific not far from Midway Island. The island is the property of the United States.

According to their story, they arrived at Lisiansky Island on January 8 and commenced at once to kill birds. They had a staff not only of hunters but also of skilled taxidermists and skimmers, for the birds' plumage was intended for the millinery markets of Paris. The men collected skins and wings by the thousand, the birds being very tame.

On January 18 a fierce gale struck the island and the *Yeiyu Maru*, dragging her anchor, struck a coral reef and was totally lost, ten of the men who happened to be aboard being drowned. Seventy-seven men were left helpless on the island.

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[Inclosure 2.]

*The Acting Secretary of State to the Secretary of the Interior.*

DEPARTMENT OF STATE,  
Washington, November 3, 1904.

SIR: I have the honor to acknowledge the receipt of your letter of the 1st instant in further relation to the destruction of sea fowl on Midway and other islands of the Hawaiian group by Japanese subjects.

You refer to the Department's letter of August 15, 1903, in which, among other things, it was stated that if it should be found that the objectionable practices of the Japanese could not be stopped by any means short of deportation, this government would approach that of Japan with a view to effecting such deportation with as little hardship as possible; and you ask to be advised what further steps, if any, the Department of State has taken in the matter.

In reply I have the honor to inform you that the Japanese Government has made no response to our overtures in regard to the deportation of Japanese bird poachers. So far as appears, no exception was taken to the deportation of the Lisiansky poachers last year, and the action of the Japanese consul at Honolulu in caring for the deported Japanese seems to have had the approval of his government. It seems desirable that other poachers should be removed in the same way as occasion offers, and it is presumed that arrangements to that end could be made in consultation with the Japanese consul at Honolulu.

I have, etc.,

F. B. LOOMIS.

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*The Secretary of State to Minister Griscom.*

No. 86.]

DEPARTMENT OF STATE,  
Washington, November 11, 1904.

SIR: Referring to instruction No. 84, of the 4th ultimo, on the subject of the destruction of sea birds on Midway Island and other islands of the Hawaiian group, by Japanese subjects, I inclose herewith a copy of a letter from the Acting Secretary of Agriculture, calling attention to the destruction wrought by Japanese bird hunters on those islands, especially Lisiansky Island, and requesting that the matter be laid before the Japanese Government as fully as possible, and that special attention be called to the operations of the firm of Kametoki & Mijutane, of Yokohama.

The Acting Secretary of Agriculture adds that it would be gratifying if, in addition to aiding in suppressing these depredations, the Government of Japan would cooperate with that of the United States in preventing, as far as possible, further destruction of sea birds on the islands of the north Pacific.

You will ascertain if the Japanese Government is disposed or able to cooperate, within its own jurisdiction; and, if so, how, with the Government of the United States in preventing the destruction complained of.

I am, etc.,

JOHN HAY.

[Inclosure.]

*The Acting Secretary of Agriculture to the Secretary of State.*

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, November 8, 1904.

SIR: The Department is in receipt of a letter from the honorable the Secretary of the Interior, under date of November 1, transmitting a copy of a letter submitted to you on the same date from William A. Bryan, of Honolulu, H. I., in regard to the destruction of sea birds on certain islands in the north Pacific.

This Department has been in correspondence with Mr. Bryan for some time with a view to obtaining definite information on this subject. Under date of August 30 Mr. Bryan wrote that the *Lavinia*, a small vessel commanded by Captain Weisbarth, left Honolulu June 28 for Laysan and Lisiansky islands and had returned with the report that the bird skins collected by the Japanese on Lisiansky, and left on that island after the wreck of their vessel and the rescue of the members of the expedition by the revenue cutter *Thetis*, had been removed shortly before the visit of the *Lavinia* to the island on July 20. The Honolulu Evening Bulletin of August 29, in an account of the voyage of the *Lavinia*, published the following paragraph in regard to the visit to Lisiansky:

"Finally, on July 20, the *Lavinia* arrived at Lisiansky Island only to meet with bitter disappointment. Not a bird skin was to be found. The huts built by the bird catchers were still standing, but they were absolutely empty. The *Lavinia* people found evident marks to show that they were only a few days late. The Japanese schooner which was known to have left Japan for the island at the time Weisbarth left had beaten him by only a few days. On the sand beach were found many footprints. Mats had also been laid across the beach to enable the men to carry the heavy cases without sinking into the sand. The fact that the footprints had not been obliterated showed that the Japanese had been on the island only a few days previous to Weisbarth's arrival. There was nothing for the small expedition to do but to return to Honolulu."

Under date of October 13 Mr. Bryan reported that these plume-hunting expeditions are sent out by a Japanese firm, Kametoki & Mijutane, whose address is Fugi me cho yo, Yokohama.

He also reported on the same date that another and larger expedition, comprising some fifty men under a manager named Yamamota, had recently been fitted out by this same firm. It is apparent that these expeditions are likely to continue and that further depredations may be expected on other outlying islands unless some means of prevention can be devised.

I have the honor to request that this matter be laid before the Japanese Government as fully as possible and special attention called to the operations of the firm at Yokohama. It would be gratifying if, in addition to aiding in suppressing these depredations, the Government of Japan would cooperate with the United States in preventing as far as possible further destruction of sea birds on the islands of the north Pacific.

A copy of this letter has been forwarded to-day to the honorable the Secretary of the Interior.

Very respectfully,

WILLIS L. MOORE.

*Minister Griscom to the Secretary of State.*

No. 167.]

AMERICAN LEGATION,  
Tokyo, January 12, 1905.

SIR: I have the honor to report that, acting in compliance with your instruction No. 86 of November 11, I have this day had an interview with Baron Komura, the minister of foreign affairs, in which I asked him if he would take some measures to prevent the dispatch of expeditions from Japanese ports to destroy sea fowl on the Midway and other American islands, and also if the Government of Japan would cooperate with that of the United States in preventing, as far as possible, further destruction of sea birds on the islands of the north Pacific.

Baron Komura stated in response to my remarks that he would at once cause instructions to be issued to have Japanese ship captains warned not to engage in the business of destroying sea birds on any of the American islands. If, he said, after this warning they continue to

engage in the business, they do so at their own risk. At the same time he could not guarantee that they would obey the prohibition, as this class of men was largely composed of lawless adventurers. A special prohibition would be issued to the firm of Kametoki & Mijutane, Fujimi-cho yo, Yokohama, who are known to have been responsible for several of the ventures.

In regard to the general question of joining with the United States to protect the sea fowl, the baron stated that there were ships of other nations engaged in the business and consequently nothing could be accomplished except by international agreement. He was decidedly of the opinion that the matter was not of sufficient importance to warrant a special international agreement.

I have, etc.,

LLOYD GRISCOM.

*Minister Griscom to the Secretary of State.*

No. 201.]

AMERICAN LEGATION,  
Tokyo, March 13, 1905.

SIR: Referring to the Department's No. 84 of November 4, and to my No. 167 of January 12, 1905, in regard to the destruction of sea fowl on the Midway and other American islands, I have the honor to transmit inclosed herewith a copy of a translation of a note received on the 21st ultimo from the minister of foreign affairs, giving further assurances of the efforts of the Japanese Government to stop these depredations.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.]

*Memorandum from the Minister of Foreign Affairs to Minister Griscom, received February 21, 1905.*

The minister of foreign affairs presents his compliments to his excellency the American minister and has the honor to state that the matter of the supervision of predatory hunters of birds on the Midway Islands and other islands belonging to the United States, referred to in a recent interview, was immediately brought to the attention of the minister of home affairs, from whom a reply has now been received to the effect that instructions have again been issued to the superintendent of the metropolitan police (Tokyo), the governor of Kanawa Ken and other chief local officials, and to the civil administrator of Formosa to take strict measures to prevent any persons within their respective jurisdictions from infringing the regulations prohibiting such expeditions.

#### RAISING OF THE BLOCKADE OF THE LIAOTUNG PENINSULA.

*Minister Griscom to the Secretary of State.*

No. 164.]

AMERICAN LEGATION,  
Tokyo, January 9, 1905.

SIR: I have the honor to confirm my telegram of the 7th instant, reporting the raising of the Liaotung Peninsula blockade. \* \* \*

I have also the honor to inclose herewith a copy of Baron Komura's note of the 7th informing me that the blockade is terminated and transmitting a copy of Admiral Togo's announcement of the fact.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Griscom.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, January 7, 1905.*

MR. MINISTER: Referring to my note under date of the 2d instant relative to a change in the zone of blockade in the Liaotung Peninsula, I have now the honor to intimate to your excellency that I am just in receipt of a communication from the commander in chief of His Imperial Japanese Majesty's combined fleet, stating that since the whole of the Liaotung Peninsula had fallen into our occupation he issued on the 7th instant a declaration raising the said blockade, a copy of which is herewith inclosed.

I beg to add that the Imperial Government have decided not to permit for the present all vessels excepting those in their service either to enter or to sail from Port Arthur.

I avail, etc.,

BARON JUTARO KOMURA.

[Subinclosure.]

I hereby declare, in view of our occupation of the whole of the Liaotung Peninsula, that the blockade declared on the 1st day of the first month of the thirty-eighth year of Meiji has been raised to-day.

Given this 7th day of the first month of the thirty-eighth year of Meiji.

Admiral TOGO HEIHACHIRO,  
*Commander in Chief of His Imperial Japanese Majesty's Combined Fleet.*

**PRESERVATION OF THE INTEGRITY AND NEUTRALITY OF  
CHINA.**

*The Secretary of State to Minister Griscom.*

No. 96.]

DEPARTMENT OF STATE,  
*Washington, January 13, 1905.*

SIR: The following telegraphic instruction has been dispatched to-day to the American ambassadors at Vienna, Paris, Berlin, London, and Rome, and to the American ministers at Brussels and Lisbon:

[Text of telegram printed under circulars, p. 1.]

The text of the foregoing telegram is communicated to you for your information and in order that you may be advised should the subject be mentioned to you by the minister for foreign affairs. It is not intended for communication to the government to which you are accredited, the sole object being to ascertain the position of the neutral powers in this relation.

I am, etc.,

JOHN HAY.

*The Secretary of State to the Japanese Minister.*DEPARTMENT OF STATE,  
*Washington, January 18, 1905.*

DEAR MR. MINISTER: Pursuant to my conversation with you this morning, I take pleasure in inclosing a paraphrase of the telegraphic instruction sent on the 17th instant to the American ambassadors at London, Paris, and Berlin, informing them of the Russian protest alleging Chinese violation of neutrality, and of the course pursued by the United States.

I am, etc.,

JOHN HAY.

[Inclosure.]

[Telegram.—Paraphrase.]

*To the American Ambassadors at London, Paris, and Berlin.*DEPARTMENT OF STATE,  
*Washington, January 17, 1905.*

Mr. Hay states that he has transmitted the Russian protest charging China with violation of neutrality to the American minister at Peking, instructing him to urge upon the Chinese Government strict observance of its obligations. Mr. Hay further states that he has addressed a note to the Russian ambassador at Washington bringing to his notice the fact that both the Chinese and Japanese Governments formally deny the charges of breach of neutrality. Mr. Hay in this note expressed the earnest hope and confidence of the President that there may not be on the part of either belligerent nor of a neutral power any breach of the neutrality which the whole civilized world has agreed to respect, a violation of which could only be disastrous to all the powers concerned.

*Note verbale handed to the Secretary of State by the Japanese Minister,  
January 28, 1905.*

TELEGRAM FROM BARON KOMURA TO MR. TAKAHIRA.

LEGATION OF JAPAN,  
*Washington.*

You are hereby instructed to hand to the government to which you are accredited a verbal note to the following effect:

The attention of the Imperial Government has been drawn to the communication recently addressed by Russia to the powers on the subject of the neutrality of China. The duty of defending China against the accusations of Russia does not devolve upon the Imperial Government, but so far as those accusations call in question the good faith and loyalty of Japan to her engagements, they feel bound to repel them.

(1) Russia indirectly suggests that the capture of *Reshitelinui* (*Ryeshitelni*) involved a violation of Chinese neutrality on the part of Japan. The capture in question was, on the contrary, nothing more than the just and inevitable measures of self-defense made necessary by the prior disregard of China's neutrality by Russia. The facts of the case were fully explained by the Imperial Government at the time, and it is consequently unnecessary to repeat them in the present context.

(2) It is next asserted in the Russian communication that it has been ascertained many times (a) that the bands of the Chunchuses (Hunghtuses) operating in the neutral territory were commanded by Japanese officers, (b) that a whole detachment of those Chunchuses have been enrolled in the Japanese army and are in the pay of the Japanese Government, and (c) that Japanese military instructors are constantly admitted among the Chinese soldiers stationed along the northern boundaries of Chili. These allegations, which, it is asserted, have been repeatedly ascertained, are one and all without any foundation whatever. Consequently the Imperial Government deny them, absolutely and without qualification, and declare that Russia can not produce any evidence worthy of credence to support their so-called ascertained charges.

(3) It is next stated it has been established that the Japanese have been using Miaotao Islands as a naval base of operations. Nothing of the kind has been established—nothing of the kind can be established—for the sufficient reason that the accusation is destitute of truth. As a matter of fact, however, those islands were used by Russia as a naval base until the blockade of Liaotung Peninsula was proclaimed, and thereafter until the fall of Port Arthur. They were made use of as a place of call for military junks employed by Russia in smuggling military stores through the blockade into Port Arthur from the Shantung Province. During this latter period Japanese men-of-war, it is true, cruised in the neighborhood of those islands, as it was deemed necessary to keep watch on the movements of these junks in question, but that a naval base in any sense of the word was ever created there by Japan is absolutely denied. It may be added, it was within the territorial waters of this Miaotao group that in March last the Japanese merchant steamer *Hanei-maru*, neither owned nor operated by the Imperial Government, was fired on and sunk by a Russian man-of-war.

(4) It is further charged that the Japanese are importing into Dalny from Chefoo and other Chinese ports, without hindrance, a great quantity of contraband of war. The Imperial Government do not deny that they have obtained from Chefoo and other Chinese ports through private persons supplies for their forces in the field. Neither do they deny that those articles, having in view their destination, were contraband of war; but they do deny that their action constituted a breach of China's neutrality on the part of either Japan or China. Trade in contraband is not interdicted by international law. It is carried on subject to right of hostile capture. The fact that Russia is not now in a position to exercise that right is not sufficient to make the trade illicit, which would be otherwise entirely licit. That Russia did not regard trade with China in contraband as violative of China's neutrality so long as she was in the possession of Port Arthur and was able to benefit by it, is shown by the fact that during the siege she drew a large portion of her military supplies for Port Arthur from China. Some idea of the extent of the traffic may be gathered from the fact that no less than half a dozen steamers and many tens of junks were captured in the attempt to pass the blockade. Besides, we know of several instances in which Russia, unlike the Japanese army, which obtained supplies from private individuals, herself fitted out vessels at several Chinese ports and transported contraband goods in them in flagrant violation of China's neutrality.

(5) The complaint that the government shops at Hanyang are furnishing cast iron to the Japanese army stands practically on the same footing as the charge just referred to. The facts of the case are as follows:

About four years ago a private firm in Japan entered into contract with the Hanyang foundry for the supply of a certain quantity of pig iron. The Imperial Government was not a party to the contract, neither had they anything to do with the transaction. The due fulfillment of the contract in question furnishes the only foundation for the accusation under this head.

(6) It is finally alleged in the Russian communication that the Chinese, no longer satisfied with a violation of the neutrality in the directions indicated, are making serious preparations with the



apparent intention of taking an active part in military operations, and that a feverish excitement, dangerous alike to all Europeans, prevails among the Chinese people and is being constantly fomented. This condition of things, it is asserted, is due to the action of the Japanese and to their intimidating pressure on the government at Peking.

It is difficult to imagine how it would be possible to frame charges more mischievous or more remote from actual facts than these. That the Chinese are making preparations with the intention of taking part with the Japanese in the hostilities is entirely destitute of truth. That there is at the present moment in China any antforeign movement or increase in the antforeign feeling is equally unfounded. That Japan has attempted to draw China into the conflict or to cause a recrudescence of antforeign sentiment in China is precisely contrary to facts which are, the Imperial Government believe, within the knowledge of all the powers. At the beginning of the war the Imperial Government agreed to the localization of warlike operations and engaged to respect the neutrality of China outside of the belligerent zone, provided Russia, making similar engagements, should in good faith fulfill conditions of such engagement. The Imperial Government loyally and in good faith kept their engagement, and they have no other intention than to continue to do so. They have at all times since the outbreak of hostilities watched with utmost vigilance the course of events in China, and they have repeatedly, whenever occasion arose, advised the Chinese Government, in as strong a manner as possible, to maintain an attitude of strict neutrality and take all necessary steps to protect the lives and property of foreigners. They will feel bound to pursue the same course in the future if the situation in China at any time become such as to make similar action necessary or desirable. The conclusion of the Russian communication makes it abundantly clear that the motive of the Russian Government in formulating the baseless accusations which it contains was to relieve themselves of an engagement the terms of which, with the progress of the war, no longer inured mainly to their advantage.

At the same time you deliver the foregoing verbal note you will present a statement to the following effect:

STATEMENT OF SOME OF THE MORE CONSPICUOUS INSTANCES IN WHICH  
RUSSIA HAS VIOLATED THE NEUTRALITY OF CHINA.

(1) It is a notorious fact that Russia frequently dispatches her troops to Mongolia for the purpose of imposing military requisitions, and that she appropriated to military use horses, provisions, etc., thus collected from that province.

(2) In October last Russia chartered at Tientsin a German merchant steamer, *Fooping*, and loaded her there with arms, ammunition, provisions, etc. The vessel was placed under control and direction of a Russian military officer—Capt. Wasulyurle Wichessekalt—and was to run the blockade at Port Arthur. On her way to Port Arthur, however, she was captured by one of the imperial men-of-war off Pehuangcheng Tao and taken to Sasebo prize court, where the foregoing facts were disclosed upon examination.

(3) In December last Russia attempted to forward from Kalgan to Port Arthur 3,600,000 rounds of small-arm cartridges, concealed in 2,330 sheepskin packages, which were seized by the Chinese authorities at Fengtai. The latter also seized at Kalgan and other

places about 4,000 packages of the same descriptoin, and 3,200 sets of saddles at Hsuanhuafu, all of which had been forwarded by Russia. Judging from the manner of packing, as well as from the enormous quantity, it is evident that these articles were intended for military purposes to be used at the theater of war.

(4) In June last wireless telegraphic apparatus was installed within the compound of the Russian consulate at Chefoo and at some other places, whereby telegraphic communication was established with the Port Arthur fortress, and in utter defiance of the repeated protests from the Chinese authorities the apparatus were maintained and communication continued.

(5) It is a well-known fact that the *Manjour*, a Russian gunboat which was lying in the port of Shanghai at the outbreak of hostilities, unwarrantably refused to leave the port for several weeks after the demand for the immediate departure had been made by the Chinese authorities, and it was only after prolonged negotiations that the commander of the vessel finally agreed to disarm her. In consequence of the naval engagement of August 10 last *Askold* and *Grozovoi* took refuge at Shanghai, and their commanders refused, under various pretexts, either to leave the port or to disarm the men-of-war, and it was only after several zealous negotiations that they eventually effected disarmament.

(6) When in November last members of the crew of the *Reshitelinui* were on their way from Chefoo to Shanghai to be interned there the commander of the vessel illicitly left the transport at Woosung, on a pretense of paying a visit to the Russian consulate, and escaped to Europe on board a steamer which sailed on the same day. This act was in total disregard of the internment enforced on him by the Chinese Government, and, as if in approval of his action, he has since been decorated by the Emperor of Russia. Later on the crew of the *Rastorpnj* were also to be interned at Shanghai. The commander of the said man-of-war, Powel Mikhailowich Plen, and Sublieutenant Klawdy Balentinowich Seliow, secretly found their way to a merchantman, *Negretia*, and attempted to escape to Vladivostok in the disguise of freight agents. They were captured by the Imperial Japanese Navy and confessed the above fact at the Sasebo prize court.

(7) In December last Lieutenant-Commander Mizzenowff (second in command of *Poltava*) and seven others, including a naval officer, reached Chefoo in a small sailing vessel from Port Arthur. Whereupon the Chinese local authorities opened negotiations with the Russian consul at Chefoo, demanding that these Russians be interned in China, but the Russian consul, falsely pretending that they were merchants, allowed them to escape to Tientsin and other localities.

(8) With a view to limit the area of hostile operations in the present war to as small a zone as possible, the Imperial Government have invariably respected China's neutrality in the region west of Liao-ho, but Russia has repeatedly violated it and is now stationing a large force of her army in that region.

In presenting the foregoing statement you will explain that the Imperial Government have adopted this course of procedure because, while they wish to bring actual facts contained in the statement to the full appreciation of the government to which you are accredited, they are still more anxious to exclude any intention inconsistent with a loyal adhesion to their engagement concerning the neutrality of China.

*The Secretary of State to the Japanese Minister.*

Personal.]

DEPARTMENT OF STATE,  
Washington, March 8, 1905.

MY DEAR MR. MINISTER: I inclose herewith, for your information, a copy of the French text of a promemoria <sup>(a)</sup> in which the Russian Government calls attention to an alleged recent renewal of activity on the part of bands of Chinese in Mongolia, directed against the Russians, and repeats its intention to restrict in future the theater of military operations, provided the powers interested take measures to oblige Japan and China to renounce the idea of enlarging the sphere of military operations and, especially, to avoid carefully the carrying of the war into the provinces east of Mongolia.

I am, etc.,

JOHN HAY.

*The Secretary of State to Minister Griscom.*

No. 113.]

DEPARTMENT OF STATE,  
Washington, March 9, 1905.

SIR: Supplementing the Department's instructions of the 26th <sup>(b)</sup> of January and the 1st ultimo, inclosing copies of correspondence in reference to the protest of the Russian Government against the alleged violation of neutrality by China, I inclose herewith, for communication by you to the Japanese Government, the translation of a promemoria which was sent to the Department by the Russian ambassador on the 2d instant, <sup>(a)</sup> in which the Russian Government calls attention to an alleged recent renewal of activity on the part of bands of Chinese in Mongolia, directed against the Russians, and repeats its intention to restrict in future the theater of military operations, provided the powers interested take measures to oblige Japan and China to renounce the idea of enlarging the sphere of military operations and, especially, to avoid carefully the carrying of the war into the provinces east of Mongolia.

I am, etc.,

JOHN HAY.

*Minister Griscom to the Secretary of State.*

No. 210.]

AMERICAN LEGATION,  
Tokyo, March 14, 1905.

SIR: Referring to previous correspondence, I have the honor to transmit to you herewith inclosed a copy of a note received this day from the Japanese minister for foreign affairs, wherein he acknowledges receipt of the printed copy of your circular telegram disclaiming on the part of the American Government any thought of reserved territorial rights or control in the Chinese Empire.

Baron Komura requests me to convey to you an expression of his sincere thanks for your courtesy in acquainting him with the substance of your highly important circular telegram, and to assure you at the same time that the attitude assumed at the outbreak of hostili-

<sup>a</sup> Printed under Russia, p. 761.<sup>b</sup> See circular of March 24, 1905, p. 5.

ties, regarding the integrity of China and the maintenance therein of the principle of equal opportunity for all, has undergone no change whatever.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Griscom.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, March 14, 1905.*

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 23d ultimo, in which, in pursuance of instructions from your Government, you inclosed for my information a copy of a print of a circular telegram which the honorable the Secretary of State addressed to the American representatives to Germany, Austria, Belgium, France, Great Britain, Italy, and Portugal, by which any thought of reserved territorial rights or control in the Chinese Empire by the United States was disclaimed.

I beg that you will be good enough to convey to the Hon. Mr. Hay an expression of my sincere thanks for his courtesy in acquainting me with the substance of his highly important circular telegram, and to assure him at the same time that the attitude assumed by the Imperial Government at the outbreak of hostilities regarding the integrity of China and the maintenance therein of the principle of equal opportunity for all has undergone no change whatever.

I avail, etc.,

BARON KOMURA JUTARO.

*Minister Griscom to the Secretary of State.*

No. 211.]

AMERICAN LEGATION,  
*Tokyo, March 14, 1905.*

SIR: Referring to previous correspondence, I have the honor to transmit to you herewith inclosed a copy of a note received this day from the Japanese minister for foreign affairs wherein he acknowledges the receipt of a printed copy of recent correspondence between the American Government and the Governments of Russia and China, concerning the observance of neutrality by China in the present war.

Baron Komura states that his government has had occasion to present to you, through their representative at Washington, a statement in refutation of the Russian charges, so far as these charges reflect on the action of Japan, and it, therefore, only remains for them in that connection at this time to confirm the entire accuracy of that statement.

Baron Komura also asks me to convey to you an expression of his high appreciation of your courtesy in placing him in possession of the correspondence in its complete form.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Griscom.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, March 14, 1905.*

MR. MINISTER: I have had the honor to receive your excellency's note of the 23d ultimo, inclosing for my information in pursuance of instructions from your Government, copy of a print of a recent correspondence that passed between the American Government and the Governments of Russia and China concerning the observance of neutrality by China in the present war.

The Imperial Government, as your excellency is aware, have already had occasion to present to the honorable the Secretary of State, through their representative in Washington, a statement in refutation of the Russian charges, so far as those charges reflected on the action of Japan, and it therefore only remains for them in that connection at this time to confirm the entire accuracy of that statement.

In requesting you to convey to the Hon. Mr. Hay an expression of my high appreciation of his courtesy in placing me in possession of the correspondence in its complete form, I beg to renew, etc.,

BARON KOMURA JUTARO.

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*Note verbale handed to Acting Secretary of State Adee by the Japanese Minister, March 21, 1905.*

TELEGRAM FROM BARON KOMURA TO MR. TAKAHIRA.

LEGATION OF JAPAN,  
*Washington.*

In reference to the promemoria of the Russian Government, which the Secretary of State was good enough to communicate to you and the substance of which you telegraphed me, you are hereby instructed to hand to the Secretary of State the following as the reply of the Japanese Government to the charges of the Russian Government contained in that promemoria:

You are authorized to deny formally and categorically the suggestion or assertion that the Chinese bandits or other Chinese forces, regular or irregular, either in Mongolia, Manchuria, or any other part of China, are now or were at any time during the war directed by the Japanese officers, subjects, or other persons acting under the authority of the Japanese Government. You will say that the Japanese Government find no indication whatever of a renewal in any part of China of the antiforeign feeling which justifies the apprehension of popular outbreaks similar to those of 1900. That there exists some anti-Russian activity in those portions of Manchuria which are held by Russia is no doubt to some extent true. It is a just and inevitable consequence of Russia's acts of aggression, for it could hardly be expected that even the most peacefully disposed inhabitants would calmly submit to the rule of the invader without some show of hostility. That such hostility in the present case is local and does not extend to foreigners generally is shown by the fact that it is entirely nonexistent in those regions from which Russian troops have been expelled. You will call the attention of the Secretary of State to my statement giving instances in which Russian forces had clearly violated the neutrality of China. You are authorized to confirm the accuracy of that statement in every particular. You will assure the Secretary of State in the most positive manner that the Japanese Government, mindful of their engagement at the beginning of the war and considering common interests of all the powers in China, have not only carefully and scrupulously refrained from any step tending to enlarge the area of military operation, but have used their undivided influence to induce the Chinese Government to take every necessary measure to prevent any anti-foreign uprising and that they will in the future loyally pursue the same course.

*Note verbale handed to Acting Secretary of State Adee by the Japanese Minister, March 21, 1905.*

STATEMENT OF THE JAPANESE GOVERNMENT REGARDING THE NEUTRALITY OF CHINA.

It is reported that the Russian Government has again drawn attention of the powers with a statement to the effect that the imperial troops were guilty of a violation of China's neutrality, as their appearance behind the Russian army in the western portion of Fenghien Province must have been effected by taking route through Mongolia. As a matter of fact, however, the imperial forces have never passed through Mongolian territory; while Russia has long been drawing supplies from Mongolia, and always sending there disguised or armed troops, which, intimidating native princes and people, have caused them to render assistance to the Russians in the rear.

The following are the facts in evidence:

1. From the beginning of the war till last July Russia had at Halatokai and Lesserkoulon and in Khorechin district, under the jurisdiction of Prince of Hintu, some 200 soldiers detailed for requisitioning horses and cattle.

2. In the latter part of last June a Russian force consisting of some 50 troopers and artillerymen proceeded from the neighborhood of Tie Ling and Kaiyuan, penetrated into the interior of Mongolia under the rule of Prince Pei, taking their route between Chungchiatun and Kangan.

3. In last September a body of Russian soldiers, together with a number of Manchurian and Mongolian soldiers under their employ, proceeded westward from the neighborhood of Tie Ling, guarding 300 carts laden with arms and ammunition and passing through that part of Mongolia which is administered by the Prince of Hintu to Pakuoshu, near Lesserkoulon. At Pakuoshu they met with resistance at the hands of the Chinese officials and people, and, being defeated, had the ammunition confiscated by the magistrate of the Chaoyang district.

4. On September 15 last 300 Russian troopers were dispatched from Tie Ling to Halaseokai, presumably for the purpose of intimidating the aforesaid Chinese officials and people.

5. Since August last from 200 to 500 Russian soldiers have been stationed in the capital town of the Hwaite-Haien or district, and they have been going round in the Khorlos district in Mongolia, extending from Chungchiatun to Petun. These Russian soldiers levied supplies, especially cattle and horses, by requisition in the northeast of Mongolia, and after bringing them together at Petun conveyed them southeast under custody of soldiers, both by water and land routes, through the Khorlos district.

6. It is still afresh in the memory of the general public that Russia had the rifles, guns, and ammunitions which she attempted to send to North China from Mongolia, through Changchiakuo or Kalgan, confiscated by the Chinese authorities at Kalgan.

*Summary of a telegram from Baron Komura to the Japanese Minister handed to Acting Secretary of State Loomis, April 27, 1905.*

Inform Secretary of State that reports are being constantly received by the Japanese Government regarding the measures taken for the restoration of the fighting power to the dismantled Russian vessels now interned at Shanghai and for the preparation for putting them to sea. They are overhauling and testing the engines and other mechanical appliances, taking coal and provisions aboard, and doing various other things which clearly indicate the intention on the part of those vessels to leave the port, in disregard of the terms of internment.

That it is the duty of the Chinese Government to exercise the necessary degree of diligence in order to make her neutrality respected can not be contested, and that, should she resolve to use force at her disposal for the purpose, she can put an end to the scandal complained of is beyond question. But the Chinese Government are disinclined to take even such measures as are necessary for her self-preservation. Nothing but the strongest pressure brought to bear upon China can overcome this disinclination on her part. The Japanese Government have tried all their efforts to make China realize the sense of her responsibility, but it was in vain. Under such circumstances the Japanese Government believe that they would be fully justified in taking all necessary measures in order to protect themselves against the continued danger arising from the practically warlike preparations and movements of those vessels. But out of deference for the large interests which neutral powers have in Shanghai and of the loyal desire on the part of the Japanese Government to conserve Chinese neutrality as far as possible, they are reluctant to resort to the extreme measures, if only that could be avoided.

You will point out to Secretary of State the gravity of the situation and assure him that the only aim of the Japanese Government is to secure a faithful adhesion on the part of the Russian vessels to the terms of internment and ask him if in the circumstances of the case it is not possible for the United States Government, either singly or in conjunction with other interested neutral powers, to bring sufficient pressure to bear upon China in order to make her take necessary steps for putting back the said vessels to the condition of internment and for checking any further activities or preparations inconsistent with that condition.

Inform Secretary of State that the Japanese Government are approaching the British Government in the similar sense.

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*The Acting Secretary of State to the Japanese Minister.*

No. 198.]

DEPARTMENT OF STATE,  
Washington, May 5, 1905.

SIR: Referring to the summary of a telegram from Baron Komura to you, received the 26th ultimo, which you handed to the Department on the 27th ultimo, and which relates to the duty, as a neutral power, of China regarding the reports that are being constantly received by the Japanese Government concerning the measures taken for the restoration of the fighting power to the dismantled Russian vessels now interned at Shanghai, I have the honor to inform you that

the Department is in receipt of a telegram from the American chargé d'affaires ad interim at Peking, dated the 2d instant, in answer to the Department's telegram to him of the 28th ultimo directing him to point out to the Chinese Government the gravity of the situation and to urge that no proper effort be spared to maintain China's neutrality.

The chargé's telegram, summarized, is as follows:

China answers that some time ago the Chinese foreign office, upon hearing reports that the Russian vessels interned at Shanghai were planning to put to sea, sent telegrams repeatedly, directing the viceroy at Nanking to investigate the matter. The viceroy reported that the condition of the Russian war vessels was unchanged since the removal of parts of their machinery; that he (the viceroy) had detailed additional war vessels to watch, and that strict and secret protective measures were being taken, no remissness being shown. The foreign office had also asked the Russian minister to instruct, by telegraph, the Russian war vessels at Shanghai that on no account should they attempt such a thing. The foreign office adds that it is China's desire and for the interest of all nations that its neutrality should not be violated; and that the government of that country is observing strict neutrality and will certainly use every exertion to discharge its responsibility.

Accept, etc.,

F. B. LOOMIS.

**REGULATIONS FOR THE DEFENSIVE SEA AREA AT KELUNG,  
FORMOSA.**

*Minister Griscom to the Secretary of State.*

No. 168.]

AMERICAN LEGATION,  
*Tokyo, January 13, 1905.*

SIR: I have the honor to inclose herewith a copy of a translation of the notification issued by the commander of the naval station at Mokyū, in the Pescadores, relative to navigation through the defensive sea area at Kelung.

This notification was promulgated in the Formosan Official Gazette the 24th ultimo and has just reached this legation from the consulate at Daitotei.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.—Translation.]

[From the "Official Gazette" of the Formosan Government, December 24, 1904.]

**INSTRUCTIONS TO VESSELS TRAVERSING THE DEFENSIVE SEA AREA AT KELUNG.**

The commander of the naval station at Mokyū (Pescadores) has issued the following instructions to vessels traversing the defensive sea area at Kelung:

ARTICLE 1. Matters relating to the defensive sea area at Kelung are under the direction of the commander of the temporary Kelung submarine detachment.

ART. 2. Vessels other than those employed in the government service or the regular mail steamers wishing to traverse the defensive sea area must first obtain permission from the commander of the temporary Kelung submarine detachment.

ART. 3. Vessels not in the service of the army or navy before passing or traversing the defensive sea area between the hours of sunset and sunrise must obtain permission from the commander of the temporary Kelung submarine detachment.

ART. 4. While passing through the defensive sea area vessels must not exceed a speed of 5 nautical miles per hour.



ART. 5. Excepting in the districts in which permission has been given by the commander of the temporary Kelung submarine detachment, fishing is prohibited within the defensive sea area.

ART. 6. In case it is deemed necessary the commander of the temporary Kelung submarine detachment may designate the anchorage for vessels, or may limit or prohibit their passage or mooring for a time.

**NEUTRALITY OF THE UNITED STATES IN THE WAR BETWEEN  
RUSSIA AND JAPAN.**

[NOTE.—For previous correspondence see Foreign Relations, 1904, pp. 427 and 780.]

*The Acting Secretary of State to the Japanese Minister.*

No. 190.]

DEPARTMENT OF STATE,  
Washington, March 24, 1905.

SIR: I have the honor to inform you that the Navy Department has acquainted me with a communication from the commandant of the Mare Island Navy-Yard transmitting a letter from the commander of the dismantled Russian ship *Lena* requesting that one of the seamen of the *Lena*, Nicholas Starikoff, who had been recruited in the compulsory service by mistake, be given permission to return to Russia.

From the indorsements accompanying the communication it appears that there was a mistake made three years ago by which Starikoff was drawn for the five years' compulsory service and that he took the place of another man whose name should have been drawn; that Starikoff was therefore properly exempt from military or naval service three years ago and would not have been required to serve at all had not the mistake occurred.

The officers and men of the Russian ship *Lena* being paroled in fulfillment of the neutrality of the United States, this government is disposed, in the exceptional circumstances recited in this case, to discharge Nicholas Starikoff from his parole, provided that course is agreeable to your government. If this is acceptable to the Japanese Government, I should be glad to have you inform me whether any conditions or restraints would be required, as between your government and the seaman, in granting the desired permission to return to Russia.

Accept, etc.,

ALVEY A. ADEE.

*The Japanese Minister to Acting Secretary of State Adee.*

No. 12.]

LEGATION OF JAPAN,  
Washington, March 27, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 190, of the 24th instant, informing me that the Navy Department has acquainted you with a communication from the commandant of the Mare Island Navy-Yard transmitting a letter from the commander of the dismantled Russian ship *Lena* requesting that one of the seamen of the *Lena*, Nicholas Starikoff, who had been recruited in the compulsory service by mistake, be given permission to return to Russia; that from the indorsements accompanying the communication it appears that there was a mistake made three years ago by which Starikoff was drawn for the five years' compulsory service and

that he took the place of another man whose name should have been drawn; and that the officers and men of the Russian ship *Lena* being paroled in fulfillment of the neutrality of the United States, your government is disposed, in the exceptional circumstances recited in this case, to discharge Nicholas Starikoff from his parole, provided that course is agreeable to my government.

In reply, I beg to state, under instructions, that the Imperial Government entertains no objection to the proposal of the United States Government to permit Nicholas Starikoff, one of the seamen of the *Lena* now interned in San Francisco, to return to Russia, in the exceptional circumstances recited in your note, provided the said Nicholas Starikoff be made to give parole before the United States authorities to the effect that he will not take part in the war now being waged between Japan and Russia as long as it lasts, or, in case this can not be done, he may be made to give parole to the same effect before the Japanese consul at San Francisco. Should the latter course be preferred, I should like to be fully informed as to how and when the man shall appear before the said consul, in order that I may give him necessary instructions on the subject.

Accept, etc.,

K. TAKAHIRA.

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*The Acting Secretary of State to the Japanese Minister.*

No. 192.]

DEPARTMENT OF STATE,  
Washington, March 28, 1905.

SIR: I have the honor to acknowledge receipt of your note of yesterday, in relation to Nicolas Starikoff, a seaman on the dismantled Russian ship *Lena*, who was found to have been unlawfully conscripted into the naval service of Russia and whose release is requested by the captain of the *Lena*, the matter having been brought to my attention by the Secretary of the Navy. I have given due attention to your statement that the Japanese Government has no objection to permitting Starikoff to return to Russia, provided either that he be paroled before the United States authorities or, in case this can not be done, that he be made to give parole before the Japanese consul at San Francisco.

Inasmuch as the parole given by the officers and crew of the *Lena* is a domestic requirement prescribed by this government in execution of its function of preserving neutrality within its own jurisdiction, it would not be practicable for the United States to exact a valid parole from Starikoff, effective as between the belligerents.

The alternative proposition, that Starikoff shall give parole before the Japanese consul, would appear to constitute a valid engagement between the belligerents, and I have suggested to the Secretary of the Navy that the commandant of the Mare Island Navy-Yard be advised that, with the acquiescence of the captain of the *Lena*, he is authorized to send Starikoff before the Japanese consul, under escort of an orderly.

Accept, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to the Japanese Minister.*

DEPARTMENT OF STATE,

*Washington, April 13, 1905.*

DEAR MR. MINISTER: I am in receipt of a note from the Russian ambassador stating that Commander Berlinski, of the Russian transport *Lena*, now interned at Mare Island Navy-Yard, San Francisco, Cal., has been granted a four-months leave of absence by his government on account of his health, which has become somewhat seriously impaired, and he will probably desire to proceed to some European health resort, if there be no objection offered on the part of your government.

Of course it is not competent for the United States Government to accept Commander Berlinski's parole, save for a sojourn in territory within the jurisdiction of this government, and I should be glad to know whether the Japanese Government has any objection to granting the desired permission to Commander Berlinski.

Very sincerely, yours,

F. B. LOOMIS.

*The Japanese Chargé to Acting Secretary of State Loomis.*

No. 19.]

LEGATION OF JAPAN,

*Washington, April 14, 1905.*

SIR: I have the honor to acknowledge for Mr. Takahira, who is temporarily out of town, the receipt of your note of yesterday's date informing him that you are in receipt of a note from the Russian ambassador respecting Commander Berlinski, of the Russian vessel *Lena*, now interned at Mare Island Navy-Yard, who may probably desire to proceed to some European health resort on account of his health, if there be no objection offered by his government, and asking him whether the Japanese Government have any objection to granting the desired permission to Commander Berlinski.

I am authorized to state in reply that the Japanese Government have no objection to the United States Government's granting the desired permission to Commander Berlinski under such circumstance as is recited in your note.

As you gave me to understand at our interview of yesterday afternoon, I regard your note as official.

Accept, etc.,

EKI HIOKI.

*The Acting Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,

*Washington, April 18, 1905.*

DEAR MR. HIOKI: I beg leave to inclose a copy of a letter from the Acting Secretary of the Navy, by which it appears that an American examining board finds that Commander A. N. Ritchagoff, executive officer of the Russian transport *Lena*, ought to be sent to Russia for treatment at the naval hospital at Kronstadt.

Will you kindly ascertain and advise me whether I may say to the Secretary of the Navy that the Japanese Government has no objection

to granting permission to Commander Ritchagoff to return to Russia on an indefinite leave of absence for the purpose indicated.

I am, etc.,

F. B. LOOMIS.

*The Japanese Chargé to Acting Secretary of State Loomis.*

LEGATION OF JAPAN,  
Washington, April 20, 1905.

DEAR MR. LOOMIS: I beg to acknowledge the receipt of your note under date of the 18th instant, asking me to ascertain and advise you whether the Japanese Government has any objection to granting permission to Commander A. N. Ritchagoff, executive officer of the Russian transport *Lena*, to return to Russia on an indefinite leave of absence for treatment at the naval hospital at Kronstadt, which treatment an American examining board finds ought to be given.

I beg leave to inform you in reply that the Imperial Government has no objection to the United States Government's granting the desired permission.

I am, etc.,

EKI HIOKI.

*The Acting Secretary of State to the Japanese Minister.*

No. 203.]

DEPARTMENT OF STATE,  
Washington, June 20, 1905.

SIR: The Department has received a communication from the Russian Government to the effect that the hospital ship *Kostroma* has been ordered from Shanghai to Manila to take the sick or wounded officers and sailors from the vessels of Admiral Enquist, and take them back afterwards to Russia, and an application has been made to this government to obtain its permission.

This application of the Russian Government is coupled with the formal statement by it that all the persons who shall be authorized and permitted by the united authorities to go on board the *Kostroma* will give their word to take no further part in the present war. In bringing to your notice the aforesaid request and statement, the Department would be pleased to receive, with as little delay as possible, any suggestions which you may have to make, inasmuch as in the absence of any agreement on the matter between the belligerents, this government will be constrained to take such action as may seem requisite to the duties of the United States as neutral.

Accept, etc.,

FRANCIS B. LOOMIS.

*The Japanese Minister to Acting Secretary of State Peirce.*

No. 30.]

LEGATION OF JAPAN,  
Washington, June 26, 1905.

SIR: I have the honor to acknowledge the receipt of Mr. Loomis's note No. 203, dated June 20, informing me that the Department had received a communication from the Russian Government to the effect that the hospital ship *Kostroma* had been ordered from Shanghai to Manila to take the wounded officers and sailors from the vessels of

Admiral Enquist, and to take them back afterwards to Russia, and an application had been made to the United States Government to obtain its permission, and that that application of the Russian Government is coupled with the formal statement by it that all persons who shall be authorized and permitted by the United States authorities to go on board the *Kostroma*, will give their word to take no further part in the present war, and that the Department would be pleased to receive any suggestion which I may have to make regarding the above.

In reply to your courteous communication, I beg to state that the matter has been submitted to the Japanese Government, which informed me that they see no objection to whatever disposition the United States Government may deem fit to make in the matter.

Accept, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Minister.*

Personal.]

DEPARTMENT OF STATE,  
Washington, July 13, 1905.

MY DEAR MR. TAKAHIRA: I beg leave to inclose a copy of a letter from the Secretary of the Navy by which it appears that an American medical survey board reports that Lieutenant Alexis Speshnoff, of the Russian transport *Lena*, ought to be transferred to the hospital at St. Petersburg for medical treatment.

Will you kindly ascertain and advise me whether I can say to the Secretary of the Navy that the Japanese Government has no objection to granting permission to Lieutenant Speshnoff to return to Russia on an indefinite leave of absence for the purpose indicated, under the same conditions as in the case of Commander Ritchagoff?

I am, etc.,

ALVEY A. ADEE.

*The Japanese Minister to the Acting Secretary of State.*

Personal.]

LEGATION OF JAPAN,  
Washington, July 17, 1905.

MY DEAR MR. ADEE: Acknowledging receipt of your personal note of the 13th instant relative to granting an indefinite leave of absence to Lieutenant Speshnoff, of the Russian transport *Lena*, which is considered necessary by an American medical survey board, I have the honor to inform you that the Imperial Government entertain no objection to the United States Government's granting such permission to the said officer of *Lena*.

I am, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Minister.*

DEPARTMENT OF STATE,  
Washington, July 18, 1905.

MY DEAR MR. MINISTER: Referring to Mr. Loomis's personal note to you of April 13 last and to subsequent correspondence regarding a leave of absence for Commander Berlinski of the Russian transport

*Lena*, now interned at Mare Island Navy-Yard, San Francisco, I beg to inform you that the Department is in receipt of a telegram of this day's date from the American ambassador at St. Petersburg, stating that the Russian Government requests permission for Captain Ginter to replace Captain Berlinski, on account of the illness of the latter, and that the Russian minister of marine officially guarantees that Captain Ginter will take no further part in the war. I presume Captain Berlinski is meant.

I shall be greatly obliged if you will, at your earliest convenience, advise me whether your government would have any objection to this arrangement.

I am, etc.,

ALVEY A. ADEE.

*The Japanese Chargé to Acting Secretary of State Adee.*

LEGATION OF JAPAN,  
Washington, July 27, 1905.

MY DEAR MR. ADEE: Acknowledging for Mr. Takahira, receipt of your note of the 18th instant relative to the request of the Russian Government, transmitted by the United States ambassador at St. Petersburg to the effect that permission be given to Captain Ginter to replace Captain Berlinski of the interned Russian transport *Lena*, who is now in Russia on sick leave, I beg to state in reply that the Japanese Government have no objection to such permission being granted by the United States Government.

The statement to the effect that Russian minister of marine has given assurance that Captain Berlinski will take no part in the present war has been noted.

I am, etc.,

EKI HIOKI.

*The Acting Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,  
Washington, July 27, 1905.

DEAR MR. CHARGÉ: I am in receipt of a telegram from the Russian ambassador, Baron Rosen, stating that he is directed by cable to request permission for the return to Russia, under his parole not to take any part in the war, of Sublieutenant Bertenson, of the cruiser *Aurora*, interned at Manila.

It is not stated that the release is asked for on account of illness or disability, and it seems to be requested as a favor.

Begging to refer to Mr. Loomis's letter of April 13 last to Mr. Takahira, in the case of Commander Berlinski, may I ask you to ascertain and inform me whether the Japanese Government will have any objection to the granting of the desired permission to Sublieutenant Bertenson, under the conditions exacted in former cases.

I am, etc.,

ALVEY A. ADEE.

*The Japanese Chargé to Acting Secretary of State Adee.*

LEGATION OF JAPAN,  
Washington, July 28, 1905.

DEAR MR. SECRETARY: Acknowledging receipt of your personal note of the 27th instant relative to the request made by the Russian ambassador for permission for the return to Russia, under his parole not to take any part in the war, of Sublieutenant Bertenson, of cruiser *Aurora*, interned at Manila, I have the honor to state in reply that the Imperial Government have no objection to the United States Government's granting the desired permission to the said officer.

I am, etc.,

EKI HIOKI.

*The Acting Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,  
Washington, July 29, 1905.

DEAR MR. HIOKI: The Secretary of the Navy has communicated to me the text of a telegram received by him on yesterday from the commander of our Philippine Squadron stating that Admiral Enquist requests that two lieutenants and three sublieutenants aboard the Russian vessels now interned at Manila, be permitted to return to Russia on account of illness, humanity demanding that they leave the climate of Manila.

On the assumption that the illness of these five officers has been or will be established according to precedent, by means of an examination made by the United States medical officers at Manila and certified by them, I beg to inquire if there is any objection on the part of the Imperial Japanese Government to our granting these officers sick leave to return to Russia, under the conditions exacted in former similar cases.

I am, etc.,

ALVEY A. ADEE.

*The Japanese Chargé to Acting Secretary of State Adee.*

LEGATION OF JAPAN,  
Washington, July 31, 1905.

DEAR MR. ADEE: Referring to your note of the 29th instant, relative to the request for permission to return to Russia for two lieutenants and three sublieutenants aboard the Russian vessels now interned at Manila, on account of illness, I have the honor to inform you that the Japanese Government would not have objection to the desired permission being given to the said officers under such conditions as have been exacted by the United States Government in former similar cases.

I am, etc.,

EKI HIOKI.

*The Acting Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,  
Washington, August 8, 1905.

MY DEAR MR. CHARGÉ: Referring to my note of the 29th ultimo, asking whether your government had any objection to this government granting leave to return to Russia on account of illness to two lieutenants and three sublieutenants on board the Russian vessels interned at Manila, and to your note of the 31st of the same month, stating that your government had no objection to the granting of the leaves, I have the honor to inform you that I am advised by the Secretary of the Navy that on the 4th instant he telegraphed the commander of the Philippine Squadron that he was authorized to permit Lieuts. D. de Daehn and A. Lossev, and Sublieuts. M. Bertenson and V. Iakovleff (four officers) to return to Russia after giving parole not to engage further in the present war.

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to the Japanese Minister.*

DEPARTMENT OF STATE,  
Washington, September 21, 1905.

MY DEAR MR. MINISTER: The Department is advised by the Acting Secretary of the Navy that certain officers of the interned Russian war vessels at Manila, whose names are given below, have signed the parole not to further engage in the present war with Japan and have been authorized to leave the immediate vicinity of Manila and to return to Russia: Lieut. D. de Daehn, I. R. Navy; Lieut. A. Losseff, I. R. Navy; Sublieut. M. Bertenson, I. R. Navy; Sublieut. V. Iakovleff, I. R. Navy.

These are the officers in regard to whom Mr. Hioki's personal note of July 31 last informed me the Japanese Government would have no objection to their being permitted to return to Russia under the conditions exacted by the Government of the United States in former similar cases. My informal note of August 8 advised Mr. Hioki that the Secretary of the Navy had, in view of this acquiescence, authorized the commander of the Philippine Squadron to permit their return to Russia upon giving their parole.

I am, etc.,

ALVEY A. ADEE.

**TREATMENT OF PRISONERS OF WAR, THEIR RELEASE AND EXCHANGE.**

*The Japanese Minister to Acting Secretary of State Loomis.*

No. 14.]

LEGATION OF JAPAN,  
Washington, April 3, 1905.

SIR: I have the honor to inform you that I have received from Baron Komura, His Imperial Majesty's minister for foreign affairs, an instruction in the following sense:

According to article 7 of the regulations respecting the laws and customs of war on land, annexed to the Hague convention, which provides that prisoners of war shall be treated, as regards food, quarters, and clothing, on the same footing as the troops of the government which has captured them, the Imperial Government is giving to the Russian prisoners the



treatment due to the rank of each individual and on the same footing as the troops of the Imperial Government.

As to food, special consideration was given to the difference of habits and a larger allowance is made for the Russian prisoners than for the imperial troops. The ration allowance for the noncommissioned officers and privates of the imperial troops is 17 sen per day, while that for the Russian prisoners is fixed by the regulations respecting the treatment of the prisoners of war at 30 sen per day. Moreover, to the noncommissioned officers and privates of the prisoners are given 1 yen and 50 sen, respectively, as allowance for the incidentals.

The Russian Government, on the contrary, refused to accord Messrs. Mizoguchi and Ogorusu, lieutenant-commanders of the imperial navy, who were captured by the Russians on board of the transports *Kinshiu Maru* and *Sado Maru*, the treatment due to their rank and treated them only as lieutenants.

Further, while in the Russian army the ration allowance for soldiers is 25 kopecks, that for the Japanese prisoners of the same rank is only 14 kopecks, and not a cent is given as allowance for the incidentals. Thus the Japanese prisoners of the inferior rank are subjected to great hardships, so that the officer prisoners have to contribute from their own scanty allowance 2 or 3 rubles every month in order to aid such poor soldiers.

This conduct of the Russian Government is deemed by the Imperial Government as a clear contravention of provisions of the regulations annexed to the Hague convention. You shall, therefore, request the good offices of the United States Government to instruct the American ambassador to Russia to treat with the Russian Government in view of inducing it to accord to the officers and men of the Japanese prisoners the treatment due to their respective ranks in accordance with the provisions of the above-mentioned regulations. It is needless to say that the treatment of the prisoners is reciprocal between the belligerents, and therefore if the Russian Government does not consent to accord proper treatment to the Japanese prisoners it may be necessary for the Imperial Government to change the treatment of the numerous Russian prisoners now held in Japan. Consequently the Imperial Government is desirous to be informed of the reply of the Russian Government to the above representation at the earliest possible moment.

In accordance with the foregoing instruction, I now beg leave to request you to be so good as to take such steps as would give effect to the desire of the Imperial Government expressed therein.

Accept, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Minister.*

No. 194.]

DEPARTMENT OF STATE,  
*Washington, April 4, 1905.*

SIR: I have the honor to acknowledge the receipt of your note No. 14 of the 3d instant, pointing out the difference in the treatment of prisoners of war held by the Japanese and Russian Governments, respectively, and requesting that the matter be brought to the attention of the Russian Government with the view of inducing it to accord to the officers and men of the Japanese prisoners the treatment due to their respective ranks, in accordance with the provisions of article 7 of the regulations respecting the laws and customs of war on land.

In reply I have the honor to inform you that a copy of your note has been sent this day to the American ambassador at St. Petersburg, with instructions to bring the matter to the attention of the Russian Government and to express to that government the pleasure it would afford to him and, through him, to the Government of the United States, to be instrumental in bringing about a satisfactory understanding in this important regard.

Accept, etc.,

FRANCIS B. LOOMIS.

*The Acting Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,  
Washington, April 18, 1905.

DEAR MR. HIOKI: I have to-day received a cablegram from Mr. Meyer, our ambassador at St. Petersburg, who says he is in receipt of a detailed report from Mr. Smith, the United States vice-consul at Moscow, who has lately paid a visit to the Japanese prisoners.

Major-General Lapouschinski, who is in charge of all the Japanese prisoners in Russia, informed Consul Smith that an allowance of 30 kopecks is now being received by each Japanese private soldier. Mr. Smith states also that he was present at the midday meal with the prisoners and he himself ate the food supplied, which he states was excellent.

I transmit this for your information, and such consideration as you may choose to give it.

Very sincerely, yours,

FRANCIS B. LOOMIS.

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*The Japanese Minister to Acting Secretary of State Loomis.*

No. 20.]

LEGATION OF JAPAN,  
Washington, April 27, 1905.

SIR: I have the honor to inform you that I am in receipt of a communication from His Excellency Baron Komura, His Imperial Majesty's minister for foreign affairs, instructing me to request the good offices of your government in obtaining the release and exchange of the noncombatants prisoners mentioned in the three lists hereto annexed.<sup>a</sup>

Of the 295 noncombatants kept by the Russian Government as prisoners of war, those mentioned in the annexed list A—that is, army nurses and merchant passengers of the Japanese merchant vessels at the time of their capture, belong to the category of the people who, according to the Red Cross conventions and international usages, can not be made prisoners of war. As to the officers and crew of the merchant vessels, the Imperial Government, have, acting upon the humane principle of the modern warfare that the hardship of war upon noncombatants should be mitigated as much as possible, released all the officers and crew of all the Russian merchant vessels captured hitherto by the imperial navy since the outbreak of the present war, excepting those who are in the military service of Russia. The Russian Government, on the other hand, are still holding as prisoners of war 45 officers and 220 crew, mentioned in the annexed list B, belonging to the Japanese merchant vessels which were either captured or sunk by the Russian navy up to this date.

As to the civil officials belonging to the imperial army as well as the other civilians attached thereto and now held by the Russian Government as prisoners of war, mentioned in the annexed list C, the Imperial Government desire that they may be exchanged with the civil officials of the Russian army who did not return home on parole at the time of the capitulation of Port Arthur and the Russian

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<sup>a</sup>Not printed.

combatants of the corresponding rank and status now held in Japan as prisoners.

I now have the honor to request you to be so good as to instruct the United States ambassador at St. Petersburg to communicate with the Russian Government on this matter, and to obtain prompt release of the noncombatant prisoners mentioned in the annexed lists A and B, and to obtain the consent of the Russian Government to the proposed exchange of the civilian prisoners mentioned in the annexed list C.

Accept, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,  
Washington, April 25, 1905.

DEAR MR. HIOKI: Referring to Mr. Loomis's note of the 18th instant I have now to inform you that the Department is in receipt of a telegram, dated the 20th instant, from the American ambassador at St. Petersburg, in which he says that his telegram of the 18th instant should be amended so as to make it say that each Japanese private soldier, prisoner of war in Russia, has an allowance of 30 kopecks per month, while Russian privates receive only 2½ kopecks.

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to the Japanese Minister.*

No. 197.]

DEPARTMENT OF STATE,  
Washington, May 3, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 20, of the 27th ultimo, requesting the use of the good offices of this government to obtain the release and exchange of the noncombatant prisoners mentioned in the three lists annexed to your note.

In reply I have the honor to inform you that copies of your note and of its inclosures have been sent to the American ambassador to Russia, with instructions to bring the matter at once to the attention of the Russian Government.

Accept, etc.,

ALVEY A. ADEE.

*The Japanese Minister to Acting Secretary of State Peirce.*

No. 32.]

LEGATION OF JAPAN,  
Washington, June 28, 1905.

SIR: I have the honor to inform you that three Japanese merchants, viz, Nobe Ichitaro, Yagabe Chiuzaburo, and his son Gyo, who had been traveling in the northern part of Korea for the purpose of commerce, were captured by some Russian cavalymen on May 1, 1904, at the district of Kisen in the province of Ping-an-do, Korea, and on the suspicion of espionage, they were sent to Russia and have since then been kept in a place called "Mezwetz" (?) as prisoners of war.

The Imperial Government, being convinced that the above-mentioned Japanese are bona fide merchants and had no connection whatever with the Japanese army or navy at the time of their capture,

instruct me to request the good offices of the United States Government in instructing Ambassador Meyer to obtain from the Russian Government their release at the earliest possible moment.

Accept, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Minister.*

No. 207.]

DEPARTMENT OF STATE,  
Washington, July 6, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 32, of the 28th ultimo, requesting the good offices of the Government of the United States in securing the release of three Japanese merchants, Messrs. Nobe Ichitaro, Yagabe Chiuzaburo, and his son Gyo, who were captured by Russian soldiers while traveling in Korea on commercial business and held as prisoners of war; and to inform you that on the 30th ultimo I had the pleasure of instructing Ambassador Meyer to use his good offices with the Russian Government for the release of the three Japanese merchants mentioned, in accordance with your request.

Accept, etc.,

HERBERT H. D. PEIRCE.

*The Japanese Chargé to Acting Secretary of State Adee.*

No. 49.]

LEGATION OF JAPAN,  
Washington, September 18, 1905.

SIR: I have the honor to inform you that, regarding the exchange of the prisoners of war which shall take place immediately after the exchange of the ratifications of the peace treaty signed at Portsmouth, the Imperial Government deem it convenient to receive the Japanese prisoners, and others who are detained in Russia, at the western frontier of that country, and to hand over the Russian prisoners, and others who are detained in Japan, at the ports of Nagasaki, Kobe, and Yokohama.

With this fact in view, I am instructed by the Imperial Government to request the good offices of the United States Government in instructing by telegraph Ambassador Meyer to bring the above to the attention of the Russian Government and obtain their assent to the proposition in order to enable the two governments to act promptly in the matter. The subject in question having an important relation to the preparatory arrangement concerning the exchange of the prisoners, the prompt reply of the Russian Government will be especially appreciated by the Imperial Government.

Accept, etc.,

EKI HIOKI.

*The Acting Secretary of State to the Japanese Minister.*

No. 216.]

DEPARTMENT OF STATE,  
Washington, September 19, 1905.

SIR: I have the honor to acknowledge receipt of Mr. Hioki's note of yesterday communicating the proposition of your government with regard to the procedure to be followed in the matter of the exchange of prisoners immediately after the exchange of ratifications of the treaty

of peace signed at Portsmouth. In accordance with his request, I have had pleasure in telegraphing to the American chargé at St. Petersburg the proposition of your government with instructions to bring it to the attention of the Russian Government with a view to their assent and early reply.

Accept, etc.,

ALVEY A. ADEE.

*The Japanese Minister to Acting Secretary of State Adee.*

No. 51.]

LEGATION OF JAPAN,  
Washington, September 20, 1905.

SIR: Referring to Mr. Hioki's note No. 49, dated September 18, I have the honor to inform you that the intention of my government is to carry out the proposed arrangement for the exchange of the prisoners soon after ratification of the treaty by the respective sovereigns, which becomes immediately operative thereon even before the execution of the usual formalities of exchanging the same.

I beg to request you to be so good as to further communicate the above to the Russian Government.

Accept, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Minister.*

No. 217.]

DEPARTMENT OF STATE,  
Washington, September 23, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 51, of the 20th instant, informing the Department that the intention of your government is to carry out the proposed arrangements for the exchange of prisoners soon after the ratification of the treaty by the sovereigns of Japan and Russia, which treaty, you say, becomes immediately operative thereon even before the execution of the usual formalities of exchanging the same.

In reply I have the honor to say that a telegram was sent to the American ambassador at St. Petersburg on the 22d instant directing him to communicate to the Russian Government the information contained in your note.

Accept, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to the Japanese Minister.*

No. 218.]

DEPARTMENT OF STATE,  
Washington, September 26, 1905.

SIR: Referring to Mr. Hioki's dispatch No. 49, of the 18th instant, I have the honor to inform you that the Department is in receipt of a telegram, dated the 25th instant, from the American chargé d'affaires ad interim at St. Petersburg, in which he says that he has learned through the Russian general staff that they do not hope to have all the necessary arrangements made for the exchange of prisoners of war before October 7; that there are two Japanese prisoners of war at Medved, who have been sentenced to six and eight months' imprisonment for insubordination; and that Count Bobrisky, a Russian prisoner of war in Japan, has been condemned to five years' imprisonment

on a similar charge. The chargé expresses the opinion that the Russians would remit the imprisonment of the two Japanese held by them if the Japanese Government would do likewise in the case of Count Bobrisky.

Accept, etc.,

F. B. LOOMIS.

*The Japanese Minister to Acting Secretary of State Adee.*

No. 55.]

LEGATION OF JAPAN,  
*Washington, September 29, 1905.*

SIR: I have the honor to acknowledge the receipt of your note No. 218, dated September 26, in which you informed me that the Department received a telegram from the American chargé d'affaires at St. Petersburg to the effect that the Russian general staff do not hope to have all the necessary arrangements made for the exchange of the prisoners of war before October 7; that there are two Japanese prisoners of war at Medved, who have been sentenced to six and eight months' imprisonment for insubordination; and that Count Bobrisky, a Russian prisoner of war in Japan, has been condemned to five years' imprisonment on a similar charge; that the chargé expresses the opinion that the Russians would remit the imprisonment of the two Japanese if the Japanese Government would do likewise in the case of Count Bobrisky.

Having communicated by telegraph the substance of the above dispatch to the Imperial Government, I am now in receipt of instructions to inform you that the Imperial Government have already arranged to remit the imprisonment of all the Russian prisoners of war held by Japan, irrespective of the nature of the penalty to which they have been condemned, on the day on which the peace treaty shall come into force, provided that the Russian Government would likewise remit the imprisonment of all the Japanese prisoners of war held by them on the same date.

I have now the honor to request you to be so good as to communicate the proposed arrangement of the Imperial Government to the Russian Government, and ascertain their views thereon. The Imperial Government are further desirous to obtain at the earliest moment the definite reply of the Russian Government to the proposition of the Imperial Government, transmitted to you in Mr. Hioki's dispatch No. 49, of the 18th instant, regarding the place where the delivery of the prisoners shall take place.

Accept, etc.,

K. TAKAHIRA.

*The Secretary of State to the Japanese Minister.*

No. 219.]

DEPARTMENT OF STATE,  
*Washington, October 2, 1905.*

SIR: Upon the receipt of your note of the 29th ultimo, a telegram was dispatched to the American embassy at St. Petersburg, instructing it to make known to the Russian Government that the Imperial Japanese Government have arranged to remit the imprisonment of all the Russian prisoners of war held by Japan, irrespective of the nature of the penalty to which they have been condemned, on the day on which the peace treaty shall come into force provided that

the Russian Government would, on the same date, likewise remit the imprisonment of all the Japanese prisoners of war held by it.

With reference to the place where the delivery of prisoners shall take place, I am now enabled to advise you, on information supplied by the embassy in a telegram received late on Saturday, that the Russian Government shares entirely the point of view of your government as to accelerating as much as possible the preparations for the delivery and accepts in principle the proposition of your government for the giving back of the Japanese prisoners on the western frontier of the Empire and for receiving the prisoners and other Russians detained in Japan at the ports of Nagasaki, Kobe, and Yokohama, as soon as preliminary arrangement is made. The embassy adds that the Russian Government will immediately communicate with the Japanese Government through the usual diplomatic channels.

Accept, etc.,

ELIHU ROOT.

*The Japanese Minister to the Secretary of State.*

No. 65.]

LEGATION OF JAPAN,  
Washington, October 20, 1905.

SIR: Referring to your note No. 219, dated the 2d instant, I have the honor to inform you that I am in receipt of a further telegram from my government to the effect that they appointed Col. Kikutaro Oi, military attaché to the Japanese legation in Germany, as special commissioner of the Imperial Government for receiving the Japanese prisoners of war to be delivered by the Russian Government, and further he is authorized to take charge of matters connected with the receiving of those Japanese other than the prisoners of war who are now detained in Russia.

As regards the place where the delivery of the prisoners shall take place, the Imperial Government believe that Wirballen was finally decided upon for the purpose, as it was proposed by the Russian Government through the French minister at Tokyo, and accepted by the Japanese Government accordingly.

The Imperial Government on their part will be prepared to direct their bureau of information relating to the prisoners of war, to deliver at Yokohama, Kobe, and Nagasaki the Russian prisoners of war and others detained in Japan to the special commissioner to be appointed by the Russian Government or his duly authorized representative; and as to those who are sick or wounded and will not be able to stand the transportation the bureau of information will be directed, after the completion of the general delivery of prisoners, to carry out the necessary procedures at the hospitals attached to the places for detaining prisoners, or at the military and naval hospitals where they are cared for, respecting their delivery to the Russian special commissioner or his duly authorized representative, with the understanding that the date of such delivery and other details connected therewith shall be arranged between the director of the bureau of information and Russian special commissioner, or his duly authorized representative.

I now have the honor, under instructions, to request of you the good offices of the United States Government to telegraph to the

United States embassy at St. Petersburg, with necessary instructions to bring the above to the notice of the Russian Government and obtain an early answer thereto.

Accept, etc.,

K. TAKAHIRA.

*The Japanese Minister to the Secretary of State.*

LEGATION OF JAPAN,  
*Washington, October 31, 1905.*

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your note of yesterday's date advising me that my communication of the 20th instant regarding the exchange of prisoners was received on Saturday the 21st, and was cabled to Russia on Monday the 23d and that no reply has been received; and, further, that you have cabled yesterday to the American embassy to get a reply if possible. I have received a telegram from Baron Komura informing me that a Russian commissioner has arrived in Japan and the necessary steps will be shortly taken to commence the delivery of the Russian prisoners. It seems that the Russian Government sent their instructions to the proper authorities in the Far East but their answer has not reached St. Petersburg as yet.

Thanking you cordially for the action so promptly taken in compliance with our request,

I remain, etc.,

K. TAKAHIRA.

*The Japanese Minister to the Secretary of State.*

No. 68.]

LEGATION OF JAPAN,  
*Washington, October 31, 1905.*

SIR: In a telegram received from His Imperial Majesty's minister for foreign affairs this morning, he states that the Japanese minister at Berlin telegraphed him that he learned from the American chargé d'affaires at that city of the presence at Harbin of 219 and at Irkutsk of 11 Japanese prisoners, who are sick, and the Imperial Government desires to obtain the surrender of these unfortunate prisoners before the winter is too advanced, at a place near Chantu to be agreed upon between the representatives of the commanders in chief of the Manchurian armies of Japan and Russia. I am, therefore, instructed to request the further exercise of your good offices to make the necessary communication to the Russian Government through the American chargé d'affaires at St. Petersburg in the above sense and obtain their answer as soon as practicable.

In this respect I beg to add, for your information, that in case the Russian Government should find it inconvenient to make early communication in the matter with the commander in chief of their Manchurian army, on account of the interruption of the inland telegraphic lines, which often occurs in Siberia because of unfavorable weather prevailing in that part of the year, I doubt not the Imperial Government will be pleased to deliver to the Russian commander such message as the Russian Government may desire to forward to him in the premises.

Accept, etc.,

K. TAKAHIRA.



*The Secretary of State to the Japanese Minister.*

No. 230.]

DEPARTMENT OF STATE,  
*Washington, November 1, 1905.*

SIR: Referring to previous correspondence on the subject of the exchange of prisoners of war, and acknowledging the receipt of your note of yesterday's date with reference to the desire of your government to obtain the surrender before the winter season is advanced of the Japanese sick prisoners at Harbin and Irkutsk, I have the honor to advise you of the receipt of a telegram, late last evening, from the American chargé d'affaires ad interim at St. Petersburg, in which he reports information furnished to him by the Russian minister of foreign affairs, in substance as follows:

The latest list shows that there are 2,059 prisoners of war in the Russian Empire, of whom 103 are officers. Of the total prisoners 1,732 soldiers and 99 officers are in European Russia and will be sent out of the country via Wirballen, including the 215 sick and wounded, who will be sent to Wirballen in a hospital train. There remain 4 officers and 224 soldiers in the theater of war, and it is proposed that the commanders in chief of the Japanese and Russian armies arrange for the exchange of prisoners of war there.

Mr. Eddy adds that the Russian Government desires a reply to the above proposal, and that owing partly to recent disturbances the date of the dispatch of prisoners of war via Wirballen has not yet been decided upon.

The coincidental receipt of Mr. Eddy's telegram and your note of yesterday made the dispatch of a further telegram to him unnecessary.

Accept, etc.,

ELIHU ROOT.

*The Japanese Minister to the Secretary of State.*

No. 72.]

LEGATION OF JAPAN,  
*Washington, November 4, 1905.*

SIR: Acknowledging the receipt of your note No. 230, dated the 1st of November, advising me of the receipt of a telegram from the American chargé d'affaires ad interim at St. Petersburg in which he reported the proposal made by the Russian minister for foreign affairs in regard to the exchange of prisoners of war, I have the honor to inform you that I have received a telegram from His Imperial Majesty's minister for foreign affairs to the effect that the Imperial Government have agreed to the proposal of the Russian Government, that in respect to the prisoners in the theater of war, the commanders in chief of the Japanese and Russian armies in Manchuria shall arrange for the exchange of them there. As regards the Japanese prisoners in European Russia, Baron Komura adds that the Imperial Government also desires that they shall be surrendered as soon as possible before the winter season is advanced.

I beg therefore to request under instruction that you will have the goodness to make the necessary communication to the Russian Government in the above sense.

Accept, etc.,

K. TAKAHIRA.

*The Acting Secretary of State to the Japanese Minister.*

DEPARTMENT OF STATE,  
Washington, November 8, 1905.

MY DEAR MR. MINISTER: The Department has received to-day from our embassy at St. Petersburg a telegram which I quote for your information:

The following telegram has been received from the Japanese minister at Berlin, regarding question of clothing for prisoners: "As it is intended to send a Japanese officer to arrange all matters with Russian authorities before the departure of prisoners, he will also arrange about clothing, if necessary."

I am, etc.,

ROBERT BACON.

*The Acting Secretary of State to the Japanese Minister.*

Personal.]

DEPARTMENT OF STATE,  
Washington, November 21, 1905.

DEAR MR. MINISTER: Confirming my telephone message to your legation this morning, I take pleasure in communicating for your information the following telegram which was received from the American chargé d'affaires at St. Petersburg at 12.20 p. m. to-day:

Russian general staff ask for the delivery of Japanese prisoners of war in three trains to reach Wirballen December 15 during the morning, at noon, and in the afternoon.

EDDY.

I am, etc.,

ROBERT BACON

*The Japanese Chargé to the Secretary of State.*

No. 86.]

LEGATION OF JAPAN,  
Washington, December 11, 1905.

SIR: Referring to Mr. Takahira's note No. 68, dated October 31, 1905, I have the honor to inform you that I am in receipt of a cablegram from His Majesty's minister for foreign affairs, in which he instructs me to request the good offices of the United States Government, in instructing Ambassador Meyer to find out at the earliest convenience, from the Russian Government, whether or not the necessary instructions regarding the surrender of the Japanese prisoners held in the theater of war, referred to in the above-mentioned note, have already been issued to the Russian military authorities in Manchuria. It is evident from the report of your chargé d'affaires at St. Petersburg, cited in your note No. 230, dated November 1, 1905, that it was the proposition of the Russian Government, which was immediately agreed to by the Japanese Government, to instruct the commanders in chief of the Japanese and Russian armies to arrange for the exchange of prisoners of war held in the theater of war.

Accept, etc.,

EKI HIOKI.

*The Secretary of State to the Japanese Chargé.*

No. 243.]

DEPARTMENT OF STATE,  
Washington, December 19, 1906.

SIR: Referring to your note No. 86 of the 11th instant, I have the honor to advise you of the receipt of a telegram from Ambassador Meyer, received at 6.05 p. m. yesterday, by which he advises me that a special telegram has been sent to General Linevitch by the Russian general staff requesting information "as to the details of arrangement for exchange of prisoners." On receipt of the reply Mr. Meyer will cable.

He adds that the Japanese prisoners from Medoen were delivered in excellent condition at Wirballen on the morning of the 15th.

Accept, etc.,

ELIHU ROOT.

**MINING LAW OF JAPAN.***Minister Griscom to the Secretary of State.*

No. 219.]

AMERICAN LEGATION,  
Tokyo, April 4, 1905.

SIR: I have the honor to transmit herewith three copies of a translation of the mining law which was enacted at the recent session of the Japanese Parliament.<sup>a</sup>

The portion of this law which particularly affects foreigners who desire to engage in mining in Japan is embodied in Article V, which reads:

No persons other than subjects of the Empire or companies duly formed in accordance with the laws thereof are entitled to acquire mining rights.

In this connection it may be noted that foreigners, resident in Japan, can organize such companies.

I have, etc.,

LLOYD GRISCOM.

**TREATY BETWEEN JAPAN AND GREAT BRITAIN REGARDING  
THE COMMERCIAL RELATIONS BETWEEN JAPAN AND INDIA.***Minister Griscom to the Secretary of State.*

No. 223.]

AMERICAN LEGATION,  
Tokyo, April 6, 1905.

SIR: I have the honor to transmit herewith inclosed, a copy, in duplicate, taken from the "Japan Daily Mail" of March 17, of a convention touching the commercial relations between Japan and India, which received the approval of the Japanese Emperor on the 14th ultimo.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.]

[The Japan Daily Mail, Yokohama, Friday, March 17, 1905.]

## CONVENTION REGARDING THE COMMERCIAL RELATIONS BETWEEN JAPAN AND INDIA.

The following convention was published in the Official Gazette of the 16th instant. It received the imperial approval on the 14th.

His Majesty the Emperor of Japan and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous of facilitating the commercial relations between Japan and India, have resolved to conclude a convention to that effect and have named as their respective plenipotentiaries—

His Majesty the Emperor of Japan, Baron Jutaro Komura, jusammi, first class of the Imperial Order of the Rising Sun, His Imperial Majesty's minister of state for foreign affairs; and

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, Sir Claude Maxwell MacDonald, knight, Grand Cross of the Most Distinguished Order of St. Michael and St. George, knight commander of the Most Honorable Order of the Bath, His Britannic Majesty's envoy extraordinary and minister plenipotentiary;

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

## ARTICLE I.

Any article, the produce or manufacture of the dominions and possessions of His Majesty the Emperor of Japan shall enjoy, upon importation into India, the lowest customs duties applicable to similar products of any other foreign origin.

## ARTICLE II.

Reciprocally any article, the produce or manufacture of India, shall enjoy, upon importation into the dominions and possessions of His Majesty the Emperor of Japan the lowest customs duties applicable to similar products of any other foreign origin.

## ARTICLE III.

The privileges and engagements of the present convention shall extend to native states of India which by treaty with His Britannic Majesty or otherwise may be entitled to be placed with regard to the stipulations of the convention on the same footing as British India.

His Britannic Majesty's Government shall communicate from time to time to the Imperial Government of Japan a list of these states.

## ARTICLE IV.

The present convention shall be ratified and the ratifications shall be exchanged at Tokyo as soon as possible. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of six months from the day on which one of the high contracting parties shall have announced the intention of terminating it.

In witness whereof the above-mentioned plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done in duplicate at Tokyo, in the Japanese and English languages, this 29th day of 8th month of the 37th year of Meiji, corresponding to the 29th day of August of year one thousand nine hundred and four.

[L. S.]

Baron JUTARO KOMURA,

*His Imperial Japanese Majesty's Minister of State for Foreign Affairs.*

[L. S.]

CLAUDE M. MACDONALD,

*His Britanic Majesty's Envoy Extraordinary and Minister Plenipotentiary.*

**JAPANESE SUPERVISION OVER KOREAN FOREIGN AND  
ADMINISTRATIVE AFFAIRS.**

[NOTE.—See same subject under Korea, p. 625.]

*The Japanese Minister to Acting Secretary of State Loomis.*

No. 21.]

LEGATION OF JAPAN,  
*Washington, April 28, 1905.*

SIR: I have the honor to transmit to you, under instructions, the inclosed copy of an agreement regarding the communication services in Korea,<sup>a</sup> which was signed at Seoul on April 1, 1905, by Mr. Hayashi Gonsuke, envoy extraordinary and minister plenipotentiary of Japan to Korea, representing the Japanese Government, and Mr. Ye-ha-yeng, the minister for foreign affairs of Korea, representing the Korean Government.

Accept, etc.,

K. TAKAHIRA.

*The Japanese Minister to the Secretary of State.*

No. 79 B.]

LEGATION OF JAPAN,  
*Washington, November 23, 1905.*

SIR: Under instructions of His Imperial Majesty's Government, I have the honor to announce to the United States Government the conclusion of a new agreement between the Governments of Japan and Korea, a copy of which I beg to herewith inclose, together with a copy of the declaration of the Japanese Government regarding it.

Accept, etc.,

K. TAKAHIRA.

[Inclosure 1.]

AGREEMENT BETWEEN THE GOVERNMENTS OF JAPAN AND KOREA.

The Governments of Japan and Korea, desiring to strengthen the principle of solidarity which unites the two Empires, have with that object in view agreed upon and concluded the following stipulations, to serve until the moment arrives when it is recognized that Korea has attained national strength.

ARTICLE I.

The Government of Japan, through the department of foreign affairs in Tokyo, will hereafter have control and direction of the external relations and affairs of Korea and the diplomatic and consular representatives of Japan will have the charge of the subjects and interests of Korea in foreign countries.

ARTICLE II.

The Government of Japan undertake to see to the execution of the treaties actually existing between Korea and other powers, and the Government of Korea engage not to conclude hereafter any act or engagement having an international character, except through the medium of the Government of Japan.

ARTICLE III.

The Government of Japan shall be represented at the court of His Majesty the Emperor of Korea by a resident general, who shall reside at Seoul primarily for the purpose of taking charge of and directing the matters relating to diplomatic affairs. He shall have the right of private and personal audience of His Majesty the Emperor of Korea. The Japanese

Government shall have the right to station residents at the several open ports and such other places in Korea as they may deem necessary.

Such residents shall, under the direction of the resident general, exercise the powers and functions hitherto appertaining to Japanese consuls in Korea, and shall perform such duties as may be necessary in order to carry into full effect the provisions of this agreement.

## ARTICLE IV.

The stipulations of all treaties and agreements existing between Japan and Korea not inconsistent with the provisions of this agreement shall continue in force.

## ARTICLE V.

The Government of Japan undertake to maintain the welfare and dignity of the Imperial House of Korea.

In faith whereof the undersigned duly authorized by their governments, have signed this agreement and affixed their seals.

NOVEMBER 17, 1905.

*His Imperial Japanese Majesty's Envoy Extraordinary and Minister Plenipotentiary.*

HAYASHI GONSUKE,

PAK CHE SOON,

*His Imperial Korean Majesty's Minister for Foreign Affairs.*

[Inclosure 2.]

## DECLARATION OF THE JAPANESE GOVERNMENT.

NOVEMBER 22, 1905.

The relations of propinquity have made it necessary for Japan to take and exercise, for reasons closely connected with her own safety and repose, a paramount interest and influence in the political and military affairs of Korea. The measures hitherto taken have been purely advisory, but the experience of recent years has demonstrated the insufficiency of measures of guidance alone. The unwise and improvident action of Korea, more especially in the domain of her international concerns, has in the past been the most fruitful source of complications. To permit the present unsatisfactory condition of things to continue unrestrained and unregulated would be to invite fresh difficulties, and Japan believes that she owes it to herself and to her desire for the general pacification of the extreme East to take the steps necessary to put an end once for all to this dangerous situation. Accordingly, with that object in view and in order at the same time to safeguard their own position and to promote the well-being of the Government and people of Korea, the Imperial Government have resolved to assume a more intimate and direct influence and responsibility than heretofore in the external relations of the peninsula. The Government of His Majesty the Emperor of Korea are in accord with the Imperial Government as to the absolute necessity of the measure, and the two governments, in order to provide for the peaceful and amicable establishment of the new order of things, have concluded the accompanying compact. In bringing this agreement to the notice of the powers having treaties with Korea, the Imperial Government declare that in assuming charge of the foreign relations of Korea and undertaking the duty of watching over the execution of the existing treaties of that country they will see that those treaties are maintained and respected, and they also engage not to prejudice in any way the legitimate commercial and industrial interests of those powers in Korea.

*The Secretary of State to the Japanese Minister.*

No. 237.]

DEPARTMENT OF STATE,  
Washington, November 24, 1905.

SIR: Referring to your interview with me on yesterday, and acknowledging the receipt of your note of the 23d instant, inclosing copy of the convention of November 17, 1905, between Japan and Korea, by which Japan becomes the medium for conducting the foreign relations of Korea, I have the honor to inform you that I have

this day directed by telegraph the withdrawal of the American mission to Korea, and have given instructions that the representation of the United States in diplomatic matters in relation to Korea hereafter be conducted directly with your legation, or through the American legation at Tokyo.

Accept, etc.,

ELIHU ROOT.

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*The Secretary of State to Minister Griscom.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 24, 1905.

(Mr. Root advises Mr. Griscom that in view of the recent convention between Japan and Korea, relating to the foreign relations of Korea, the American minister at Seoul has been instructed to withdraw from Korea, and that the diplomatic representation of the United States affecting treaty rights, persons, and property in Korea is transferred to the American legation at Tokyo, such questions to be negotiated through the Japanese foreign office.)

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*Telegram received from the Japanese Minister for Foreign Affairs on the 27th of November, left at the Department of State by the Japanese Minister.*

In reference to your telegram on the 25th instant, you are hereby instructed to express to the Secretary of State the cordial appreciation of the Imperial Government of the friendly disposition again shown by the United States Government by favorably entertaining the desire of the Imperial Government and promptly taking the initiative action to withdraw the United States legation in Korea.

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*The Japanese Minister to the Secretary of State.*

No. 82.]

LEGATION OF JAPAN,  
Washington, November 28, 1905.

SIR: I have the honor to inform you, under telegraphic instructions from His Majesty's minister for foreign affairs, that on November 22d an imperial decree to the following effect was issued by the Japanese Government:

In pursuance of the stipulations of Article III of the treaty of November 17, 1905, concluded between the Governments of Japan and Korea, the residency-general is hereby established at Seoul, and the residencies are established at Seoul, Jinsen (Chemulpo), Fusan, Gensan, Moppo (Mokpo), Basan (Masan), and other important places in Korea to deal with the various matters arising out of the operation of the treaty.

Additional article: The functions of the residency-general established by this decree shall be discharged for the present by the Imperial Japanese legation and those of the residencies by the Imperial Japanese consulates which have hitherto existed in Korea.

Accept, etc.,

TAKAHIRA.

*Chargé Wilson to the Secretary of State.*

No. 346.]

AMERICAN LEGATION,  
*Tokyo, November 30, 1905.*

SIR: I have the honor to acknowledge the receipt of your telegraphic instructions received the 25th instant.

On the same day I dispatched a note to the minister for foreign affairs informing him of my instructions in the above sense and stating that accordingly I should thenceforth have the honor of addressing him in regard to American diplomatic interests in Korea.

The reply of Count Katsura expresses the profound satisfaction of the Japanese Government at the prompt withdrawal of the legation of the United States from Seoul.

I have the honor to inclose herewith copies of the above-mentioned notes.

Your action in immediately suppressing the legation at Seoul and initiating the conduct of diplomatic relations vis-a-vis Korea through the medium of Japan is much appreciated here. It is received as a welcome expression of America's willing acquiescence in the order of things determined by the new Japan-Korea agreement; and the fact that the Government of the United States has been the first to take this step is esteemed as a very graceful and friendly act. The inclosed translation of an editorial from the "Jiji Shimbo" [not printed] of this date indicates the feeling of the Japanese on this subject.

I have, etc.,

HUNTINGTON WILSON.

[Inclosure 1.]

*Chargé Wilson to the Minister of Foreign Affairs.*AMERICAN LEGATION,  
*Tokyo, November 25, 1905.*

MR. MINISTER: I have the honor to communicate to your excellency the fact that I have to-day received from the Secretary of State telegraphic instructions, whereby I am informed that in view of the recent convention between Japan and Korea, in virtue of which the foreign relations of Korea are to be conducted through your excellency's government, the American legation at Seoul has been withdrawn.

The Secretary of State, therefore directs that this legation assume the representation of the United States in diplomatic matters affecting rights of treaty, persons, and property in Korea.

Accordingly I shall hereafter have the honor of addressing your excellency in dealing with such questions.

I avail, etc.,

HUNTINGTON WILSON.

[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Chargé Wilson.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Tokyo, November 28, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, informing me that in view of the recent convention between Japan and Korea, in virtue of which the foreign relations of Korea are to be conducted through the Imperial Government, the United States have withdrawn their legation at Seoul, that their legation at Tokyo will assume the representation of the United States in diplomatic matters affecting American



rights of treaty, persons, and property in Korea, and that you will hereafter address me in dealing with such questions.

In reply I beg to state that the Imperial Government are profoundly satisfied with the prompt and just steps which the United States Government have taken in the matter.

Accept, etc.,

Count KATSURA TARO.

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*The Japanese Chargé to the Secretary of State.*

LEGATION OF JAPAN,  
*Washington, December 12, 1905.*

SIR: Under instructions from His Majesty's minister for foreign affairs, I have the honor to announce hereby the withdrawal of the Korean legation at Washington and the Korean consulates in this country, the powers and functions of diplomatic and consular representatives of Korea having already been transferred to the diplomatic and consular representatives of Japan, respectively, accredited to this country in consequence of the agreement concluded between Japan and Korea on November 17, 1905.

Accept, etc.,

EKI HIOKI.

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*The Secretary of State to the Japanese Chargé.*

DEPARTMENT OF STATE,  
*Washington, December 21, 1905.*

DEAR MR. CHARGÉ: I beg to inclose for your information copy of a note which I have addressed to Mr. Min Yeung-Tchan, Korean minister at Paris,<sup>a</sup> indicating this Government's attitude in regard to the relations between Japan and Korea.

I am, etc.,

ELIHU ROOT.

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**STATUS AND FORM OF GOVERNMENT OF MANCHURIA.**

*Minister Griscom to the Secretary of State.*

No. 266.]

AMERICAN LEGATION,  
*Tokyo, May 27, 1905.*

SIR: I have the honor to report to you an interview which I had with Baron Komura on the 25th instant, when I requested him to give me some information in regard to the government of the territory in Manchuria occupied or conquered by the Japanese army, more particularly with respect to the methods of taxation which are now being pursued there.

Baron Komura replied that there were three different kinds of government:

First. In the part of Manchuria which had been leased to Russia. In this district a civil government has been established under the general direction of the commander in chief of the Japanese army, and civil officials have been appointed for this purpose.

Second. In the city of Niuchwang the Japanese are carrying on practically the same form of government which had been put into operation by Russia previous to the war. The foreign custom-house is in the hands of the regular Imperial Japanese customs and the duties collected are deposited in the custody of the Yokohama Specie Bank and will ultimately be handed over to the Chinese Government. The native custom-house is in the hands of the Japanese authorities and the duties collected are applied to the general improvement of the city and the conduct of its policing and government. The rest of the government of Niuchwang is entirely in the hands of Japanese officials, civil and military.

Third. In all the remainder of Manchuria occupied by the Japanese Government and not referred to in the two preceding paragraphs the Chinese Government continues in operation as before the war, excepting that the Japanese military authorities protect their military interests and punish offenders against their necessary military regulations. In each town and city under the control of the Japanese the Chinese Government are carrying on their administrative functions, and there has been no complaint from the Chinese Government with respect to this condition of affairs. Baron Komura added that no taxes are levied by the Japanese authorities in all this part of Manchuria and no part of the taxes collected anywhere in Manchuria is used to defray expenses of Japanese military operations.

I have, etc.,

LLOYD GRISCOM.

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*Minister Griscom to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Tokyo, June 29, 1905.*

(Mr. Griscom reports that a proclamation has been issued by the Japanese military commander opening to Japanese merchants for trade and travel the following Manchurian towns: Tashikao, Old Niuchwang, Haicheng, Anshantien, Liaonoang, Kaiping, Feng Wang Cheng, and Saimachi.

Upon inquiry the minister for foreign affairs stated that the above was purely a military measure.)

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**PEACE NEGOTIATIONS BETWEEN JAPAN AND RUSSIA.**

[NOTE.—See under Russia, p. 807, et seq.]

**ALLEGED VIOLATIONS OF THE GENEVA RED CROSS CONVENTION OF 1864 AND OF THE HAGUE CONVENTION OF 1899.**

*The Japanese Minister to Acting Secretary of State Adee.*

No. 39.]

LEGATION OF JAPAN,  
*Washington, July 20, 1905.*

SIR: Under instructions from H. I. M. minister for foreign affairs, I have the honor to inform the United States Government, as one of the governments which signified adhesion to the Geneva convention of 1864, of a case of the most flagrant violation of the said convention committed by the Imperial Russian troops in Manchuria, in wantonly attacking, on the 18th of May last, the defenseless and nonresisting personnel of a military field hospital of the Imperial Japanese army, which was at "Ee-chia-wo-pong," in the province of Feng-tien and in wounding and killing the persons who are entitled to protection and respect by the belligerents.

The details of the incident are given in the annex as translated from the various reports received by the Imperial Government from their army in Manchuria.

Besides bringing the above to the notice of your government, I am further instructed to request their good offices in instructing the United States ambassador at St. Petersburg to call serious attention of the Russian Government to this grave violation of the stipulations of the Red Cross convention by their troops in Manchuria.

Accept, etc.,

K. TAKAHIRA.

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[Inclosure.]

RÉSUMÉ OF THE OFFICIAL REPORTS ON THE ATTACK OF THE JAPANESE MILITARY FIELD HOSPITAL AT "EE-CHIA-WO-PONG," IN THE PROVINCE OF FENG-TIEN, BY A BODY OF THE RUSSIAN CAVALRY, ON MAY 18, 1905.

About 10.40 a. m. of the 18th sound of rifle fire was heard in the westerly direction of the hospital. Seeing the approach of danger, the superintendent of the hospital immediately ordered its withdrawal, and at about 11.10 a. m. four hospital wagons and the majority of the hospital corps sought refuge in the easterly direction. Surgeon Uyehara, superintendent of the hospital, together with Doctors Inouye and Fukuyama, military hospital nurses, and soldiers charged with the transportation of the hospital equipments, stores, and other materials commenced retreat. Thereupon a body of the enemy's cavalry, about 100 strong, surrounded "Ee-chia-wo-pong" and fiercely fired upon the withdrawing party. The hospital superintendent and party, being pursued by the enemy, retreated toward the village in the easterly direction. The enemy having already approached within the distance of only 10 meters, the superintendent and Doctor Inouye, who were mounted, narrowly escaped, but Doctor Fukuyama and military hospital nurse Sakai fell victims of the pursuers.

Military hospital nurse Kobayashi, who escaped the calamity by hiding himself in a hollow in the ground found near by and who personally witnessed the said incident, made the following statement concerning the attack of the Russian troops upon Doctor Fukuyama and military hospital nurse Sakai:

Doctor Fukuyama was overtaken by the enemy. Thereupon the doctor, as if he had made up his mind for the worst, sat down on the ground and pointed to his arm badge of neutrality. In spite of this the enemy cut the doctor down from the head with sword and felled him to the ground.

The military nurse Sakai, being likewise surrounded by the enemy, pointed to his arm badge of neutrality. Thereupon the enemy made gestures as if to indicate that they permitted him to proceed forward, and watching the moment of unguardedness on the part of the nurse, they gave a blow on the head with sword and the victim fell down upon the ground. He saw these two men fall, but could not say whether they were dead or not. He saw, further, that several of the soldiers, charged with commissariat duty of the hospital corps, were attacked in the same way, but could not give detailed accounts.

According to the statements of the natives, the Russians cut off the head and upper limbs of Doctor Fukuyama and threw his body in a wagon and carried it away. The cap and the girdle cloth were found on the spot where the attack took place, the former being badly damaged on the top.

Summing up the general results of the attack, the enemy attacked our defenseless and nonresisting hospital corps, seized or burned the greater portion of the hospital equipment, stores, and other materials, and out of 6 officers and 45 men severely wounded 2, killed 5 (bodies recovered, showing sword cut from the head), and made the fate of 41, including Doctor Fukuyama, unknown.

The enemy, while escorting to their headquarters, robbed money, watches, and other treasures of our men and took away their Red Cross arm badges.

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*The Acting Secretary of State to the Japanese Minister.*

No. 210.]

DEPARTMENT OF STATE,  
Washington, July 24, 1905.

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant, in which, under the instruction of your government, you request this government to bring to the attention of the Imperial Russian Government a violation of the Geneva convention of 1864, alleged to have been committed by Russian cavalry on May 18 last.

Copies of your note and its inclosure have been forwarded to the American ambassador at St. Petersburg, and he has been instructed to transmit them to the Russian foreign office.

Accept, etc.,

ALVEY A. ADEE.

---

*The Japanese Chargé to Acting Secretary of State Adee.*

No. 42.]

LEGATION OF JAPAN,  
Washington, July 29, 1905.

SIR: I have the honor to inform you, under instructions, that during the battle of Mukden our First Army seized in the battlefield a copy of Order No. 3, issued at Shui-lo-tai village on February 9, 1905 (February 22), by Colonel Muller, in charge of the First Brigade of the Thirty-first Infantry Division of the Russian army, of which copies of the original Russian text and an English translation are herein inclosed. The attention of the Imperial Government have been especially attracted to the passage of the above order that "the noncommissioned officers and men shall beforehand be instructed to the effect that in advancing if they find en route any Japanese soldiers lying flat, especially those lying on the back, they shall not fail to kill them," because they consider that such a measure is not only not warranted by the necessities of war, but is in direct contravention of the spirit of article 6 of the Geneva convention and article 23 of the "regulations respecting the laws and customs of war on land," annexed to the Hague convention of 1899, which have been adopted by all the nations of the civilized world, with the object of mitigating the unnecessary horrors of war. Even admitting, as is stated in the order, that the Japanese are wont to assume the appearance of wounded and to fire on the Russian skirmishers after allowing them to pass by, there is no ground whatever for justifying the said order, for, without resorting to such drastic and comprehensive measures, there are ways, authorized by the international usage of civilized warfare, of dealing with the alleged cases.

The Imperial Government, therefore, feel constrained again to ask the good offices of the United States in instructing their ambassador at St. Petersburg to call serious attention of the Imperial Russian Government to the grave infraction of the international conventions by the commander of their troops in Manchuria.

Accept, etc.,

EKI HIOKI.

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[Inclosure.]

*Order No. 3 of the First Brigade of the Thirty-first Infantry Division of the Russian army.  
(Issued at Shui-lo-pa-tai village, February 9, 1905.)*

In order to set up marks indicating the road leading from the first line of positions to the dressing station each regiment shall prepare small white flags with the greatest expedition, their poles to be of such height as not to stand higher than one and one-half arshine above the ground. The One hundred and twenty-second and One hundred and twenty-first Regiments shall erect these flag poles at various points between Huang-ti village and Erh-tai-tzu village, and between the latter place and Tien-shui-pao village, respectively.

Against the 11th instant ordinary rations shall be provided besides the midday meal and a pound of beef for each man. In the case of forward movement noncommissioned officers and privates shall each carry their knapsacks, a bag of hard biscuits, tea, sugar, a small pan, and a pair of warm boots. All other articles shall be left in the lodgings.

Each company shall carry at least four ladders not more than three arshines in length.

Each battalion in the reserve corps shall carry empty bags for making earthbags, which will be necessary when a village shall have been occupied. These empty bags may also serve the purpose of deceiving the enemy by putting them on our winter caps.

The noncommissioned officers and men shall beforehand be instructed to the effect that in advancing, if they find en route any Japanese soldiers lying flat, especially those lying on the back, they shall not fail to kill them, for the Japanese are wont to assume the appearance of wounded and to fire on our skirmishers after allowing them to pass by. Warning shall also be given in the sense that no faith is to be put in such voices as "Come on," "Hitherto", "Friend," etc. (especially on a dark night), for Japanese soldiers are so crafty as not only to make these utterances but also sometimes to announce even the numbers of our companies. In order to distinguish friends from foes watchwords shall be used. Such watchwords shall contain one or two "I's," for example, "Iyulka," for this soft sound being absent in the Japanese language, the enemy is unable to pronounce it.

The regiments shall each offer prayers to-morrow.

(Signed)

COLONEL MULLER,

*In charge of the First Brigade of the Thirty-first Division of Infantry.*

Inspected by:

Lieutenant \_\_\_\_\_,

*Acting Adjutant of the One Hundred and Twenty-second Regiment of Infantry.*

---

*The Japanese Chargé to Acting Secretary of State Adee.*

LEGATION OF JAPAN,  
Washington, July 29, 1905.

SIR: Referring to my note No. 42 of to-day's date, relative to the case of an infraction of the international conventions by the commander of the first brigade of the thirty-first division of the Russian army in Manchuria, I have the honor to inform you that I am instructed by the Imperial Government to bring the case in question to the special notice of the United States Government as one of the signatories of the Geneva and Hague conventions.

Accept, etc.,

EKI HIOKI.

*The Japanese Minister to the Secretary of State.*

No. 67.]

LEGATION OF JAPAN,  
*Washington, October 27, 1905.*

SIR: Under instructions from my Government, I have the honor to inclose herewith a copy of the English translation of a report received by the Imperial Government from the commander of the Japanese army in the island of Saghalien, accompanied by a supplementary statement of the superintendent of the field hospital attached to the said army,<sup>a</sup> regarding disregards and violations of the laws and customs of war by the Russian army during engagements which recently took place in the island.

I beg leave to add that, in the belief of the Imperial Government, conducts and practices of the Russian army, as stated in the above-mentioned report, constitute grave offenses against stipulations of the Geneva and Hague conventions, of which Russia is one of the signatory powers; and it is with this belief in view that the Imperial Government desire to bring the above to the notice of the United States Government and invite their consideration thereof, so that the matter may be made a subject of international discussion at such an opportunity as might present itself in future.

Accept, etc.,

K. TAKAHIRA.

[Inclosure—Translation.]

REPORT OF THE COMMANDER IN CHIEF OF THE SAGHALIEN ARMY REGARDING VIOLATIONS  
AND DISREGARDS BY THE RUSSIAN ARMY OF THE LAWS AND CUSTOMS OF WAR.

A considerable portion of Russian inhabitants of the island of Saghalien consists of criminal exiles. It was from among these undesirable inhabitants that the Russian Government recruited, during last year, their volunteers for the defense of the island. As a result thereof there were, since the time our (Japanese) army landed on the island, numerous instances of disregard and violation of the laws and customs of war on the part of Russians, not only as an individual combatant, but even as an organized army. Their conduct was also against the stipulations of the Geneva and Hague conventions. Military operations of our army were on that account greatly interrupted, and it encountered with no small amount of difficulties in carrying out the rules of war. Of this irregular and unlawful conduct of the Russian troops, in order to invite the attention of the world and also to furnish references for future discussion of the matter, certain conspicuous cases are specially pointed out in the following report:

\* \* \* \* \*

First. Use of dumddum bullets: On July 10, 1905, while engaged in the occupation of Vladimirovka, our army captured from the enemy cavalry rifles supplied with dumddum bullets. It is also clearly proved by the report of the superintendent of our field hospital that on the 11th and 12th of the same month, during the engagement which took place near Dalineye, and on the 22d, when scouts of both armies encountered near Adradonye, the enemy used dumddum bullets.

Besides, a Japanese by the name of Sumita Kametaro, who was found a prisoner among the Russians when the commander of the enemy surrendered on the 16th of July, witnessed three or four Russians carrying rifles to use dumddum bullets, while a considerable number of dumddum bullets were found among the ammunition captured by our army after the engagement near Dalineye.

Second. Abuse or improper use of the Red Cross flag and arm badge: The Russian troops seemed as if they regarded the Red Cross emblem as a necessary fighting instrument to prevent dangers from falling on them, and the abuse they made thereof reached an inconceivable extent.

Our troops, while invading the headquarters of the enemy, found on many occasions that the latter were displaying a number of Red Cross flags on the roofs of houses which were not employed for the care of the sick or wounded. In one instance, when our army attacked Rykoff, the enemy hoisted a Red Cross flag on the top of an isolated house, about 3,000 meters west of the place, where troops were sheltered under its cover, and, setting machine guns close by the house, fired at our troops. The similar treacherous conduct was repeated in Novomihayloskoe, Onor, and other places.

Besides, there were numbers of Russian soldiers who abused the Red Cross arm badge. On July 10, when our army occupied Vladimirovka, we found that an excessively large number of persons were attached to the eighteenth field hospital of the Russian army there. As it was suspected that volunteers and other combatants were using the Red Cross arm badge to escape danger an investigation was made and it was discovered that there were regular combatants who were carrying Red Cross arm badges. There is no doubt that in the Russian army the use of the Red Cross arm badge was allowed for combatants, which fact was also proved by confessions of Russian soldiers captured by our army. It is also true that in more than one instance Russian troops in their retreat left behind them certain number of combatants wearing Red Cross arm badges and let them make an armed resistance against the advance of our army.

Third. Irregular combatants without wearing uniforms: In spite of a fixed emblem being provided for the Russian volunteers, a part of the enemy's force in the island of Saghalien had no emblem whatever, and there were no means to distinguish them from the ordinary people of the place. For instance, on July 10, when the occupation of Vladimirovka was made, a company of the enemy, consisting of more than 100 soldiers without wearing uniforms, assaulted our advance company. Our company, however, with the assistance of another company, succeeded in taking a large portion of the enemy's soldiers as prisoners. On investigation it was discovered that a great number of volunteers, together with ordinary people who took up arms, were among them. Again, on July 19 a scouting party led by Lieutenant Watanabe (cavalry) was suddenly surrounded at a village called Romanovskoe by Russian volunteers wearing the same clothes as ordinary people and received considerable injury.

Evidently some of the enemy's volunteers were not furnished with any uniform from the outset, while others took off, in their retreat, their emblems and concealed themselves among ordinary people. Owing to such wanton disregard of uniform and emblems on the part of the enemy, which made it impossible to distinguish combatants from ordinary people, our army had great difficulty in conducting its operations. Our army, however, with conscientious regard for the laws of humanity, spared no effort to prevent superfluous injury of war.

Fourth. Release of criminal prisoners and their violent conduct: On our army having landed on the island of Saghalien the Russian army released the criminal prisoners kept at Alexandrovsk and several other places. These released prisoners entered upon a course of lawlessness, and as a result the city of Alexandrovsk greatly suffered. When our army occupied the city, as the looting was still rampant there, we organized a guard and put the city under its strict surveillance and protection. In spite of this fact the Russian army circulated the scandalous rumor that the violent disturbance of the city was caused by our army. But the fact that the conduct of those released prisoners was extremely threatening is indisputable, as admitted even by Russian officials and people at Rykoff and other places, where on account of the occupation by our army they escaped the injury of the released prisoners. It is evident, therefore, that the Russian army purposely released the prisoners and attempted to put the blame of their wanton conduct on our army.

Fifth. Inhuman insults inflicted upon the dead and wounded: On the morning of July 27 our cavalry scout was surrounded by Russian troops at a place south of Rykoff and our commanding officer, Lieutenant Watanabe, and five others were killed. From the fact that on their dead bodies there were found more than ten rifle, cutting, and stabbing wounds, and that particularly in the rifle wounds there was powder gas, it is doubtless the Russian soldiers must have either barbarously massacred the wounded or inflicted barbarous insults on the dead. Such conduct is not only against the laws and customs of war, but is a most wanton disregard of the laws of humanity.

Sixth. Exhumation of the buried: In an engagement of August 2 near Lake Tonnaicha Araya Kakusaburo, a soldier of the second grade, belonging to the fifth company of our infantry regiment, was killed. Our army buried the body of the killed in the wood near by and set a post over the grave. Later, on August 10, when our army came back to the same place after attacking the enemy's force thereabouts, it was suspected the grave of the buried had been opened. Subsequently the soldier's seal and pocketbook, which had been buried with the corpse, were discovered in a box containing the private effects of one of the commanders of the enemy's force. Thus it was confirmed that the grave of our soldier who died an honorable death on the field of battle had been opened by the enemy and the dead had been robbed.

*The Secretary of State to the Japanese Minister.*

No. 231.]

DEPARTMENT OF STATE,  
*Washington, November 6, 1905.*

SIR: I have the honor to acknowledge the receipt of your note, No. 67, of the 27th ultimo, inclosing a copy of the English translation of a report received by the Japanese Government from the commander of the Japanese army in the island of Saghalien, accompanied by a supplementary statement of the superintendent of the field hospital attached to said army, respecting instances of the disregard and violation of the laws and customs of war by the Russian army during engagements which recently took place in that island.

The Department has taken note of your statement that, in the belief of the Japanese Government, the conduct and practice of the Russian army, as stated in the above-mentioned report, constitute grave offenses against stipulations of the Geneva and Hague conventions, and that it is with this belief in view that the Japanese Government desires to bring the above to the notice of the Government of the United States, and to invite its consideration thereof, so that the matter may be made a subject of international discussion at such an opportunity as may present itself in the future.

Accept, etc.,

ELIHU ROOT.

**EXCLUSION OF JAPANESE FROM VLADIVOSTOK.**

[NOTE.—See same subject under Russia, p. 832.]

*The Japanese Minister to the Secretary of State.*

No. 76.]

LEGATION OF JAPAN,  
*Washington, November 10, 1905.*

SIR: I have the honor to inform you that fourteen Japanese passengers who arrived at the port of Vladivostok by the Norwegian steamship *Norma* were first permitted to land at the said port on the 28th of October, but on the following morning they were ordered by the local police authorities to leave the place and had, therefore, to return home by the next steamer. The reason assigned for the measure thus taken against the Japanese, as it is understood, is that inasmuch as Russians are not admitted to Port Arthur, Japanese should not be allowed to land at Vladivostok. In case of Port Arthur, however, no one, whether Japanese or foreigner, is allowed for the present to enter into the port unless special permission be obtained in advance; thus no discrimination whatever is being made against Russians in this respect, and therefore it is in no way the case of discriminatory treatment intended against any particular nationals as in Vladivostok where, while other foreigners are being admitted, only Japanese have been excluded.

With the circumstance in view, the Imperial Government instructs me to again request your good offices to issue necessary instructions by telegraph to the American commercial agent at Vladivostok directing him to communicate with the Russian authorities there to the end that no such discriminatory treatment against Japanese as above stated will be given hereafter, and to report the result of his action by telegraph.

Accept, etc.,

K. TAKAHIRA.



*The Secretary of State to the Japanese Minister.*

No. 235.]

DEPARTMENT OF STATE,  
*Washington, November 11, 1905.*

SIR: Your note of the 10th instant in regard to the refusal of the police authorities at Vladivostok to permit Japanese to land, has been received. In reply I take pleasure in saying that the substance of your note has been telegraphed to the American embassy at St. Petersburg with direction to instruct the consul at Vladivostok in the sense you suggest, and at the same time that the embassy shall advise the Russian Government of the complaint and of the explanation offered by the Japanese Government.

Accept, etc.,

ELIHU ROOT.

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**TREATIES CONCLUDED BY SWEDEN AND NORWAY WITH OTHER  
POWERS, AND THE DIPLOMATIC AND CONSULAR RELATIONS  
OF THOSE COUNTRIES WITH OTHER POWERS.**

[NOTE.—See under “Dissolution of the union between the Kingdoms of Sweden and Norway,” p. 853.]

# KOREA.

## JAPANESE SUPERVISION OVER KOREAN FOREIGN AND ADMINISTRATIVE AFFAIRS.

[NOTE.—See same subject under Japan, p. 612.]

*Minister Allen to the Secretary of State.*

No. 902.]

AMERICAN LEGATION,  
*Seoul, Korea, May 30, 1905.*

SIR: I have the honor to hand you inclosed a copy of the agreement recently concluded between the Governments of Japan and Korea whereby the former takes over the control and operation of all matters relating to posts, telegraph, and telephone services in Korea. \* \* \*

I have, etc.,

HORACE N. ALLEN.

[Inclosure.]

### AGREEMENT.

The Imperial Governments of Japan and Korea, finding it expedient from the standpoint of the administration and finances of Korea, to rearrange the system of communications in that country, and, by amalgamating it with that of Japan, to unite the two systems into one common to the two countries, and having seen the necessity, with that object in view, of transferring the post, telegraph, and telephone services of Korea to the control of the Japanese Government, Hayashi Gonsuke, envoy extraordinary and minister plenipotentiary of Japan and I-hayeng, minister of state for foreign affairs of Korea, each invested with proper authority, have agreed upon and concluded the following articles:

#### ARTICLE I.

The Imperial Government of Korea shall transfer and assign the control and administration of the post, telegraph, and telephone services in Korea (except the telephone service exclusively pertaining to the department of the imperial household) to the Imperial Japanese Government.

#### ARTICLE II.

The land, buildings, furnitures, instruments, machines, and all other appliances connected with the system of communications already established by the Imperial Government of Korea shall, by virtue of the present agreement, be transferred to the control of the Imperial Japanese Government.

The authorities of the two countries acting together shall make an inventory of the land, buildings, and all other requisites mentioned in the preceding paragraph, which shall serve as evidence in the future.

#### ARTICLE III.

When it is deemed necessary by the Japanese Government to extend the communication system in Korea, they may appropriate land and buildings belonging to the state or to private persons, the former without compensation and the latter with proper indemnification.

#### ARTICLE IV.

In respect of the control of the communication service and the custody of the properties in connection therewith, the Japanese Government assume, on their own account, the responsibility of good administration.

The expenses required for the extension of the communication services shall also be borne by the Imperial Government of Japan.

The Imperial Government of Japan shall officially notify the Imperial Korean Government of the financial condition of the system of communications under their control.

ARTICLE V.

All appliances and materials which are deemed necessary by the Imperial Government of Japan for the control or extension of the system of communication shall be exempt from all duties and imposts.

ARTICLE VI.

The Imperial Government of Korea shall be at liberty to maintain the present board of communication, so far as such retention does not interfere with the control and extension of the services by the Japanese Government.

The Japanese Government in controlling and extending the services shall engage as many Korean officials and employees as possible.

ARTICLE VII.

In respect of the arrangements formerly entered into by the Korean Government with the governments of foreign powers concerning the post, telegraph, and telephone services the Japanese Government shall, in behalf of Korea, exercise the rights and perform the obligations pertaining thereto.

Should there arise in the future any necessity for concluding any new convention between the Government of Korea and the governments of foreign powers concerning the communication services, the Japanese Government shall assume the responsibility of concluding such convention in behalf of the Korean Government.

ARTICLE VIII.

The various conventions and agreements respecting the communication services hitherto existing between the Governments of Japan and Korea are naturally abolished or modified by the present agreement.

ARTICLE IX.

When in future, as the result of the general development of the communication system in Korea, there is some adequate profit over and above expenditures defrayed by the Japanese Government for the control and maintenance of the old services and for their extensions and improvements, the Japanese Government shall deliver to the Korean Government a suitable percentage of such profit.

ARTICLE X.

When in the future an ample surplus exists in the finance of the Korean Government, the control of their communication services may be returned, as the result of the consultation of the two governments, to the Government of Korea.

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*Minister Morgan to the Secretary of State.*

No. 9.]

AMERICAN LEGATION,  
*Seoul, Korea, July 31, 1905.*

SIR: I have the honor to inclose for your information a copy of the regulations recently published by the Japanese military administration in Korea with penalties for their violation; and with these the special regulations for the fortified zone of Yong Heung Bay (Port Lazareff), issued under Article VII of the above.

I have, etc.,

EDWIN V. MORGAN.

[Inclosure.]

## REGULATIONS PUBLISHED BY THE JAPANESE MILITARY ADMINISTRATION IN KOREA, WITH PENALTIES FOR THE VIOLATION THEREOF.

I. As a safeguard against interference with the movements of the Japanese armies in Korea, the following regulations will hereafter be enforced.

II. Penalties for the violation of these regulations shall be as follows:

- (a) Death by hanging.
- (b) Imprisonment.
- (c) Exile.
- (d) The lash.
- (e) Fine.

A prisoner may, by a single sentence, be condemned to suffer any one of the above penalties, except hanging, in combination with any other herein mentioned.

III. Imprisonment shall consist in confining the prisoner in a certain jail, with or without hard labor.

Exile shall consist in excluding the prisoner from a certain locality for a certain time.

IV. Those convicted of the following offenses are liable to the sentence of death by hanging:

- (a) The enemy's spies or those who have in any way assisted such spies.
- (b) Those who report to the enemy the movements or dispositions of our troops, vessels of war, or military transports; who give information concerning our military lines of communication, the whereabouts of stores, or warehouses erected to facilitate the accumulation of weapons, ammunition, provisions, clothes, or other supplies; who divulge military secrets; who lead the enemy to such stores or warehouses; who have intentionally deceived or misled our forces, naval or military, or who have given or are giving any assistance to the enemy.
- (c) Those who assist in, either forcibly or otherwise, or connive at the escape of prisoners.
- (d) Those who destroy, burn, or steal military telegraphs, telephones, electric lights, railways, trams, carriages, boats, ships, military roads, bridges, buildings, warehouses, or the material therefor.
- (e) Those who poison wells, rivers, or other sources of water supply.
- (f) Those who destroy, burn, or steal military maps and books, weapons, ammunitions, provisions, clothes, or other supplies or military mails.
- (g) Those who spread by word of mouth, in writing, or by means of pictures, rumors disadvantageous to our army.
- (h) Those who interfere with our communications or transport.
- (i) Those who prevent or resist our military requisitions.
- (j) Those who interfere with our military activities or violate our military regulations.

V. Any offenses not included in the above will be punished in accordance with the laws of Japan or Korea.

VI. All persons who have actually committed, have connived at or instigated, or have had the intent to commit the above crimes shall be punished.

Those guilty of connivance at, assistance in, or in any way concerned in the commission of the above crimes shall be punished by imprisonment, exile, the lash, or fine, according to the gravity of the offense.

VII. Commanders of divisions, of the lines of communication, and of the fortified zones are authorized to issue such supplementary regulations as they may deem necessary.

Under the provision of Article VII of the regulations published by the Japanese military administration in Korea, General Minoda, commander of the fortifications at Yong Heung Bay (Port Lazareff), has issued the following:

I. Any articles calculated to disturb, or which have been obtained in such a manner as to interfere with, the preservation of good order within the fortified zone will be confiscated by the authorities. In case the articles have been destroyed the offender shall be subject to a fine equivalent to their original value.

II. Any persons who without the permit of the commander or who have obtained such permission from him by fraudulent means commit the following acts shall be punished by military law:

- (a) Entering military buildings or fortifications.
- (b) Making surveys, photographs, or publishing books and maps of the fortifications.
- (c) Anchoring off the fortified zone.
- (d) Rebuilding or making any alterations in dwellings, warehouses, or other buildings, or heaping articles in piles more than 5 feet in height within the fortified zone.
- (e) Constructing or tampering with existing embankments or canals or laying out or changing the present location of cultivated lands.
- (f) Felling timber or cutting bamboos or grass.
- (g) Permitting stock to graze within the fortified zone.

III. The following acts shall be punished:

- (a) Removal or destruction of wooden or stone boundary marks.
- (b) Violation of military instructions.
- (c) Interference with the preservation of good order within the fortified zone.
- (d) Failure to report any violation of these regulations or connivance or assistance in the escape of persons guilty of these offenses.

IV. Any building erected, removed, or repaired in violation of the above regulations will be destroyed or removed by the owners at their own expense.

V. The head men of the villages within the fortified zone will constitute a committee for the prevention of the violation of these regulations and shall be held responsible for the observance thereof.

VI. All persons violating the above regulations are liable to trial by court-martial.

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*Minister Morgan to the Secretary of State.*

No. 14.]

AMERICAN LEGATION,  
*Seoul, Korea, August 28, 1905.*

SIR: I have the honor to inform you that the Korean maritime customs, hitherto a separate and independent bureau, will be placed shortly under the Korean ministry of finance, controlled by Mr. Megata, a Japanese subject, who occupies the position of financial adviser. Mr. McLeavy Brown, a British subject, the present chief commissioner of customs, has been superseded. The European commissioners of customs at the Korean ports and the members of the indoor staff, the majority of whom have been detached from the Chinese customs service, will probably resign, although they have been given the option of remaining, and their places will be filled by Japanese. The transfer of the customs was arranged yesterday at an audience accorded by the Emperor to the Japanese minister and Mr. Magata.

\* \* \* \* \*

I have, etc.,

EDWIN V. MORGAN.

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*Minister Morgan to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Seoul, November 17, 1905.*

(Mr. Morgan reports that a programme has been laid before the Korean Emperor by Marquis Ito, who arrived here on the 9th instant as a special ambassador from Japan, which includes complete assumption of Korean foreign relations and supervision of her military and internal administration by Japan, and a Japanese resident-general at Seoul.)

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*Minister Morgan to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Seoul, November 18, 1905.*

(Mr. Morgan reports that the Japanese minister has informed him that under the agreement between Japan and Korea,<sup>a</sup> which was

signed on the 17th instant, Japan assumes complete direction and administration of Korean foreign relations. The agreement is based on the principles already outlined to the American Government by the Japanese minister for foreign affairs and the Japanese Government will communicate the text of it to the Department.)

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*The Secretary of State to Mr. Min Yeung-Tchan, Special Envoy without credentials.*

DEPARTMENT OF STATE,  
Washington, December 19, 1905.

SIR: Referring to your visit to this Department on the 11th instant, when, after having first stated that you had no credentials to the Government of the United States and could make no official communication, you stated to me, in effect, that the treaty of November 17, 1905, under which the direction of the external relations of Korea is to be conducted through the department of foreign affairs in Tokyo, was procured from the Emperor of Korea by duress and should therefore be ignored, I beg to inform you that this government has considered whether it could receive this statement as calling for or justifying any action by the Government of the United States, either upon the general ground of friendship, which this government has long felt for the Emperor and people of Korea, or upon the specific ground in the first article of the treaty between the United States and Korea of May 19, 1883, as follows:

If other powers deal unjustly or oppressively with either government, the other will exert their good offices, on being informed of the case, to bring about an amicable arrangement, thus showing their friendly feeling.

Since your visit we have received the following communication from Mr. Kim, the regularly accredited *chargé d'affaires* of Korea in Washington:

I have the honor to acknowledge the receipt of your note of the 24th ultimo, informing me that by agreement signed on November 17, by the plenipotentiaries of Japan and Korea, by which Japan becomes the medium for conducting the foreign relations of Korea, you had, under date of the 24th ultimo, telegraphed the American minister to withdraw from Korea.

I have further to inform you that I have this day received instructions from Mr. Yi Wan Yong, the acting minister of foreign affairs of Korea, to transfer to the Japanese legation the archives and other property in my charge.

Mr. Secretary, in taking leave of my diplomatic relations with your Department, I beg you to accept my thanks and the assurances of my high appreciation for past courtesies shown me.

In view of this official communication, it is difficult to see how the Government of the United States can proceed in any manner upon the entirely different view of the facts which you tell us personally you have been led to take by the information which you have received. It is to be observed, moreover, that the official communications from the Japanese Government agree with the official communications from the Korean Government, and are quite inconsistent with your information.

If, however, the difficulty of complying with your wishes were surmounted, we should be met by the fact that, on February 23, 1904, and on August 22, 1904, the Korean Government concluded with the Japanese Government treaties which are not now in any respect

impeached or questioned,<sup>a</sup> by which Korea gave to Japan such extensive control over her affairs and put herself so completely under the protection of the Government of Japan as to render completely impossible the application of the provisions of the treaty with the United States above quoted. The above-mentioned treaties between Japan and Korea appear to be of such a character as practically to give Japan control over the foreign relations of Korea, and to make the latest treaty of November 17, 1905, which is now called in question, but a slight advance upon the relations of control previously existing. Those previous relations of control amount to a complete bar to any interference by the United States under the treaty of 1883.

Under all these circumstances, I feel bound to advise you that the Government of the United States does not consider that any good purpose would be subserved by taking notice of your statements.

I have, etc.,

ELIHU ROOT.

**AGREEMENT BETWEEN KOREA AND JAPAN RESPECTING THE  
COAST TRADE OF KOREA.**

*Minister Morgan to the Secretary of State.*

No. 11.]

AMERICAN LEGATION,  
*Seoul, Korea, August 16, 1905.*

SIR: I have the honor to transmit the official text of the agreement respecting the coast trade of Korea, signed on the 13th instant on behalf of the Imperial Governments of Japan and Korea by their excellencies the Japanese minister, Mr. Hayashi, and the Korean minister for foreign affairs, Mr. Yi Ha Yong, and handed me yesterday by my Japanese colleague. \* \* \*

Under article 14 of the treaty of May 22, 1882, between the United States and Korea, the privilege obtained by Japanese subjects through this agreement should be open to the citizens of the United States. The Japanese minister assures me that this is the understanding of his government.

I have, etc..

EDWIN V. MORGAN.

[Inclosure.—Translation.]

**AGREEMENT RESPECTING THE COAST TRADE OF KOREA.**

Inasmuch as it has been recognized by the Japanese and Korean Governments that it is essential for the furtherance of industrial enterprise and for the expansion of trade in Korea that Japanese vessels should be permitted to make voyages on the coasts and in the inland waters of Korea, Hayashi Gonsuke, envoy extraordinary and minister plenipotentiary to the Empire of Korea and Yi Ha Yong, foreign minister of the Empire of Korea, having been respectively invested with full powers, hereby conclude the following agreement:

1. Japanese vessels may, subject to the provisions of this agreement, make voyages on the coast and in the inland waters of Korea. This agreement does not, however, apply to voyages between the open ports.

2. When a Japanese vessel is intended for voyages on the coast and in the inland waters of Korea, the names and addresses of its owners, the name, tonnage, and cargo capacity of the vessel, and the limits of the proposed voyage or voyages shall be notified to the Korean maritime customs through a Japanese consulate, and the vessel will receive a license.

This license shall be valid for a period of one year from the date of issue.

3. The following fees shall be paid to the Korean maritime customs for each license:

	Yen.
Vessels of Japanese type.....	15
Vessels of foreign type—	
Under 100 tons.....	18
Above 100 and under 500 tons.....	50
Above 500 and under 1,000 tons.....	100
Above 1,000 tons.....	150

4. Japanese vessels may voyage freely within the limits described in their licenses, but may not proceed to places outside Korean territory unless driven by stress of weather or other unforeseen circumstances, or have received permission to do so from the Korean maritime customs.

5. Japanese vessels, when engaged in coasting voyages, must always carry their licenses, and must produce them when required to do so by an official of the Korean maritime customs or by headmen of towns or villages authorized by the provincial authorities.

6. Owners of Japanese vessels may acquire ground for the erection of storehouses at places where their vessels touch.

They may also, with the sanction of the Korean maritime customs, erect wharves on the coast.

7. In the event of the infringement of the provisions of this agreement on the part of Japanese vessels, the Korean maritime customs have power, after inquiry into the circumstances, and having regard to the gravity of the offense, to demand the return of the license and to refuse to grant a fresh license.

8. Japanese vessels and their crews, in the event of infringement of this agreement or of the other treaty provisions, shall be dealt with at a Japanese consulate in accordance with treaty provisions and Japanese law.

9. The duration of this agreement shall be fixed at fifteen years from the date of signature, and on the expiration of this term a new arrangement may be entered into after consultation.

However, should maritime enterprise in Korea be extended in the future, a new agreement may be concluded before the expiration of the above term, after consultation between the two governments.

HAYASHI GONSUKE,  
*Envoy Extraordinary and Minister Plenipotentiary.*  
YI HA YONG,  
*Foreign Minister.*

AUGUST 13, 1905.

**WITHDRAWAL OF THE AMERICAN LEGATION FROM KOREA AND  
OF THE KOREAN LEGATION FROM THE UNITED STATES.**

*The Secretary of State to Minister Morgan.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 24, 1905.*

(Mr. Root advises Mr. Morgan that the representation of the United States in diplomatic matters affecting American treaty rights, persons, or property in Korea is transferred to the American legation at Tokyo, where such questions will be negotiated through the Japanese foreign office. Instructs him to transfer the legation property and archives to the custody of the consul-general; to withdraw from Korea and to return to the United States.)



*The Secretary of State to the Korean Chargé.*

No. 18.]

DEPARTMENT OF STATE,  
Washington, November 24, 1905.

SIR: I have the honor to inclose herewith a copy of the agreement signed on November 17, 1905, by the plenipotentiaries of Japan and Korea, by which Japan becomes the medium for conducting the foreign relations of Korea, and the subjects and interests of Korea in foreign countries are intrusted to the charge of the diplomatic and consular representatives of Japan.

I have accordingly this day sent telegraphic instructions to the American minister at Seoul to withdraw from Korea and to return to the United States.

Accept, etc.,

ELIHU ROOT.

*Minister Morgan to the Secretary of State.*

Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Seoul, November 28, 1905.

(Mr. Morgan reports that the legation property and archives have been delivered to the American consul-general at Seoul, and that he has informed the Korean minister for foreign affairs of his withdrawal from Korea.)

*Minister Morgan to the Secretary of State.*

No. 41.]

AMERICAN LEGATION,  
Seoul, Korea, December 6, 1905.

SIR: With the confirmation below of my telegram of the 28th of November in reference to my departure from Seoul, I have the honor to inclose copies of the notes addressed by me on that day to the Korean minister for foreign affairs, to our consul-general for Korea, and to the chargé d'affaires of the American legation at Tokyo, informing them that in conformity with your instructions I had intrusted the archives and property of the legation to the care of the American consul-general at Seoul and was about to withdraw from Korea.

\* \* \*

I have, etc.,

EDWIN V. MORGAN.

[Inclosure 1.]

*Minister Morgan to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
Seoul, Korea, November 28, 1905.

MR. MINISTER: As a result of the convention recently concluded between the Imperial Governments of Korea and Japan, whereby Japan, through the foreign office at Tokyo, will henceforward control and direct the foreign relations and affairs of Korea, and in view of the fact that I have been notified by my government that diplomatic matters affecting the persons and property rights of American citizens in Korea, as secured by the existing treaties between Korea and the United States, will be dealt with hereafter by the American legation at Tokyo,

I have the honor to inform your excellency that in pursuance of telegraphic instructions I have to-day placed the property and archives of this legation in the hands of the American consul-general at Seoul, whose functions as secretary of the legation cease, and am about to withdraw from Korea.

I avail, etc.,

EDWIN V. MORGAN.

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[Inclosure 2.]

*Minister Morgan to Consul-General Paddock.*

AMERICAN LEGATION,  
*Seoul, Korea, November 28, 1905.*

SIR: As a result of the convention recently concluded between the Imperial Governments of Korea and Japan, whereby Japan, through the foreign office at Tokyo, will henceforward control and direct the foreign relations and affairs of Korea, and in view of the fact that I have been notified by the Secretary of State that diplomatic matters affecting the persons and property rights of American citizens in Korea, as secured by the existing treaties between Korea and the United States, will be dealt with by the American legation at Tokyo, I have the honor to inform you that as I am about to withdraw from Korea, I hereby transfer to your charge as American consul-general for Korea, the property and archives of this legation, and that your functions as secretary of legation cease.

I have, etc.,

EDWIN V. MORGAN.

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[Inclosure 3.]

*Minister Morgan to Chargé Wilson.*

AMERICAN LEGATION,  
*Seoul, Korea, November 28, 1905.*

SIR: I have the honor to confirm below my telegram of the 28th instant regarding the withdrawal of the legation of the United States from Korea and to advise you that I shall proceed to America, through Japan, in order to place at your disposal information relating to the unfinished business of this legation, which will be dealt with hereafter by the American legation at Tokyo.

AMERICAN CHARGÉ, *Tokyo.*

Twenty-eighth. I have informed Korean minister foreign affairs that in compliance with the instructions of the Secretary of State, I have to-day placed the property and archives of this legation in the hands of the United States consul-general at Seoul and am about to withdraw from Korea.

I have, etc.,

MORGAN.

EDWIN V. MORGAN.

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*The Korean Chargé to the Secretary of State.*

LEGATION OF KOREA,  
*Washington, December 16, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, informing me that by agreement signed on November 17, by the plenipotentiaries of Japan and Korea, by which Japan becomes the medium for conducting the foreign relations of Korea, you had, under date of the 24th ultimo, telegraphed the American minister to withdraw from Korea.

I have further the honor to inform you that I have this day received instructions from Mr. Yi Wan Yong, the acting minister of foreign affairs of Korea, to transfer to the Japanese legation the archives and other property in my charge.

Mr. Secretary, in taking leave of my diplomatic relations with your Department, I beg that you accept my thanks and the assurances of my high appreciation for past courtesies shown me.

Accept, etc.,

YUN CHUNG KIM.

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*The Secretary of State to the Korean Chargé.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, December 16, 1905.*

SIR: I have the honor to acknowledge the receipt of your communication of even date by which you inform me of your receipt to-day of instructions from Mr. Yi Wan Yong, the acting minister of foreign affairs of Korea, to transfer to the Japanese legation the archives and other property in your charge.

In thanking you for the kind assurances with which your note closes I desire to add the expression of my own appreciation of the agreeable relations which I have had with you and my regret at their severance.

Accept, etc.,

ELIHU ROOT.

## LUXEMBURG.

### DECLARATION BETWEEN THE UNITED STATES AND LUXEMBURG FOR THE EFFECTIVE PROTECTION OF TRADE-MARKS.

*Signed at Luxembourg, December 23, 1904.*

*Signed at The Hague, December 27, 1904.*

*Ratification advised by the Senate, February 3, 1905.*

*Ratified by the President, March 15, 1905.*

*Published by Luxembourg, March 15, 1905.*

*Proclaimed, March 15, 1905.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

#### A PROCLAMATION.

Whereas a Declaration between the United States of America and the Grand Duchy of Luxemburg providing for a complete and effective protection of the manufacturing industry of the citizens and subjects of the two countries, was concluded and signed by their respective Plenipotentiaries at Luxemburg the twenty-third and at the Hague the twenty-seventh of December, one thousand nine hundred and four, the original of which Declaration, being in the English language, is word for word as follows:

#### DECLARATION.

The Government of the United States of America and the Government of the Grand Duchy of Luxemburg being desirous of securing a complete and effective protection of the manufacturing industry of the citizens and subjects of the two countries, the undersigned, being duly authorized to that effect, have agreed upon the following provisions.

#### ARTICLE I.

The subjects and citizens of each of the high contracting parties shall enjoy in the dominions and possessions of the other the same rights as are given to native subjects or citizens in matters relating to trade-marks.

#### ARTICLE II.

In order to secure to their marks the protection stipulated for by the preceding article, American citizens in the Grand Duchy of Luxemburg and Luxemburg subjects in the United States of America must fulfil the formalities prescribed to that effect by the laws and regulations of the country in which the protection is desired.

## ARTICLE III.

The present arrangement shall take effect from the date of its official publication in the two countries and shall remain in force until the expiration of twelve months immediately following a denunciation made by one or the other of the contracting parties.

In witness whereof, the undersigned have signed the present Declaration and have thereto affixed their seals.

Done in duplicate at Luxemburg, the 23, and in the Hague, the 27 December 1904.

STANFORD NEWEL  
EYSCHEN

[SEAL.]  
[SEAL.]

And whereas the said Declaration has been duly ratified;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Declaration to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

Done at the City of Washington this fifteenth day of March, in the year of our Lord one thousand nine hundred and five, and [SEAL.] of the Independence of the United States of America the one hundred and twenty-ninth.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

*Acting Secretary of State.*

## MEXICO.

### MURDER OF J. B. MAXWELL, J. C. MAXWELL, AND ENOCH WOODWORTH.

*The Secretary of State to Ambassador Clayton.*

No. 1210.]

DEPARTMENT OF STATE,  
*Washington, January 18, 1905.*

SIR: Referring to your No. 2435 of September 10 last,<sup>a</sup> stating that the Mexican judicial authorities were conducting the investigation of the murder of J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth, I have to say that the Department would be pleased to receive a report from you as to the present status of the case.

I am, etc.,

JOHN HAY.

*Ambassador Clayton to the Secretary of State.*

No. 2647.]

AMERICAN EMBASSY,  
*Mexico, January 31, 1905.*

SIR: I have the honor to acknowledge the receipt of your instruction No. 1210, of the 18th instant, relative to the murder of J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth, and to the desirability of a report from this embassy on the present status of the case.

In pursuance of your instruction, I have to-day addressed a note to the foreign office requesting such information as the department of foreign affairs may possess or may be able to procure upon the matter.

I have also addressed a communication to our consul at Ensenada, asking for such information as he may have or may be able to obtain upon the subject.

As soon as I receive information from these sources I will promptly report the result to the Department of State.

I have, etc.,

POWELL CLAYTON.

*Ambassador Clayton to the Secretary of State.*

No. 2805.]

AMERICAN EMBASSY,  
*Mexico, May 22, 1905.*

SIR: Referring to my No. 2767, of the 15th ultimo,<sup>b</sup> relative to the murder of J. C. Maxwell, J. B. Maxwell, and Enoch Woodworth, I have the honor to transmit herewith a copy and translation of a note from the foreign office, and of its inclosure, the latter being a report

<sup>a</sup> Printed in Foreign Relations, 1904, p. 490.

<sup>b</sup> Not printed.

from the governor of Sonora showing the proceedings instituted against the persons supposed to be guilty of the crime, one of whom, Muñoz, it appears, was killed by his guards in attempting to escape.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.—Translation.]

*The Minister of Foreign Affairs to Ambassador Clayton.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, April 28, 1905.*

MR. AMBASSADOR: Referring to your excellency's note, dated the 10th of March last, relative to the case brought against the persons supposed to be guilty of the murder of J. C. Maxwell, J. B. Maxwell, and Enoch Woodworth, I have the honor to transmit to your excellency herewith a copy of a communication addressed to me by the governor of the State of Sonora informing me of the status of said case.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.—Translation.]

*The Governor of the State of Sonora to the Secretary of Foreign Affairs.*

HERMOSILLO, *April 18, 1905.*

I have the honor to refer to your courteous note, No. 1078, issued out of the section on America, Asia, and Oceania, dated March 17 last, in which you were pleased to transmit the one of the 10th of the same month addressed to that department by the ambassador of the United States, relating to the explanation of certain reports of a previous date with respect to various points of the case instituted before the court of first instance of Moctezuma against the parties charged with the murder of J. C. Maxwell, J. B. Maxwell, and Enoch Woodworth.

As stated in my report to you, dated March 24 last, a certified copy of all the proceedings in the case was asked from the court of Moctezuma, from which it appears, as stated in my note of July 6, 1904, that up to that time Jose Muñoz or Bencomo, Mariano Gaxiola, Alberto Galindo, Teodoro Carbajal, and Francisco Mendoza have been arrested as the parties supposed to be guilty of the crime; that the necessary judicial proceedings having been instituted, all presumptions of guilt against the three last-named persons were dismissed, and the same were confirmed with regard to the two first prisoners, for which reason, on July 12, 1904, an order of formal imprisonment was issued against the latter and one of release in favor of the former; that the court ordered transfer of prisoners Muñoz and Gaxiola to Valle de Teras for the purpose of instituting various proceedings at the place of the occurrence, and to that end the prisoners were delivered to an escort furnished by the prefecture of the district, and while on the road, during the night of August 2, 1904, both prisoners attempted to escape, the escort being compelled to prevent such action by firing upon the prisoners, causing the death of Muñoz, though Gaxiola succeeded in getting away by jumping into the river, which was then very high, and, while he was pursued with all activity, it was not possible to rearrest him, but the proceedings having been continued, some data have been disclosed against Jesus Lopez Trujillo and Lino Chavez, causing the presumption that they are guilty of the two crimes to which the prosecution refers, for which reason orders were issued for their arrest, although the same has not been effected up to the present time; and as efforts have also been made to secure the rearrest of Mariano Gaxiola, the present status of the case is that of waiting for the arrest of the aforesaid individuals in order to proceed with the proper trial; that from the investigation that has been made there appear no data of guilt against any other persons, as Jose Muñoz, whose guilt was sufficiently well founded, perished in the manner hereinbefore stated.

I renew, etc.,

RAFAEL IZABAL,  
ALBERTO CUBILLAS,  
*Secretary.*

## DEPREDACTIONS OF YAQUI INDIANS.

*The Acting Secretary of State to Ambassador Clayton.*

No. 1220.]

DEPARTMENT OF STATE,  
Washington, February 1, 1905.

SIR: I inclose a copy of a letter from Mr. Birch F. Rhodus, president of the Mina Grande Mining Company,<sup>a</sup> requesting that the attention of the Mexican Government be called to the importance of adopting measures to restrain the Yaqui Indians and of maintaining order in the mountains of Sonora near the Yaqui River, where the mines of this company are situated.

While the Department does not doubt that the Mexican Government fully appreciates the gravity of the Yaqui problem in Sonora, and while the reports from your embassy indicate that Mexico is taking vigorous steps to pacify the tribe, this is sent to show the urgency of adopting measures to protect the large American interests and the many American citizens who have placed their property and lives under the safeguard of Mexican law, trusting in the ability of the Mexican Government to maintain public security.

I am, etc.,

F. B. LOOMIS.

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*The Acting Secretary of State to Ambassador Clayton.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 14, 1905.

General Manager Yaqui Copper Company represents that Yaqui Indians at Santo Niño, Sonora, are threatening massacre of Americans there. Bring matter to attention of Mexican Government and unofficially request that the matter may be looked into promptly and protection afforded if necessary.

ADEE.

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*Ambassador Clayton to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
Mexico, March 16, 1905.

(Mr. Clayton reports that the minister of foreign affairs will immediately telegraph to the local authorities on the subject of the fears expressed by the Yaqui Copper Company of Indian depredations.)

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<sup>a</sup> Not printed.



*Ambassador Clayton to the Secretary of State.*

No. 2708.]

AMERICAN EMBASSY,  
*Mexico, March 16, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instruction of the 14th instant relative to the question of protection, by the Mexican authorities, of the Yaqui Copper Company against alleged threatened Indian outrages upon said company.

Pursuant to said instruction, I called upon Mr. Mariscal yesterday, and, after discussing the Yaqui Indian question, so far as relates to American citizens and their interests, I left with him a copy of said telegraphic instruction.

I called Mr. Mariscal's attention to the fact that the Indian outrages of late appeared to have been directed almost entirely against Americans carrying on legitimate business in the state of Sonora; that my information from various sources was to the effect that, while the state authorities had adopted very drastic measures against the apparently peaceful Yaquis employed as laborers on the plantations of Mr. Carlos H. Johnson and others, they had not, in any case where Americans had been massacred, made any effective pursuit of the band or bands responsible for the same; that my information had impressed me strongly with the belief that all of the massacres referred to were perpetrated by the same roving band of wild Indians; that, from the accounts of the different massacres given by different eye-witnesses, the band or bands were comparatively small; that, with great respect for the governor of Sonora, my information impressed me strongly with the belief that his drastic measures against the apparently peaceful Indians had been barren of results. I remarked that the local authorities had, at least in one instance (that of Carlos H. Johnson), denied to an American, who had been a great sufferer growing out of said depredations, the right to bear arms for the defense of himself, family, and employees; and, under such circumstances, it would seem but just and proper that the Mexican authorities should break up the small band or bands of Indians who have so long terrorized the region in question.

Mr. Mariscal replied that, at present, they had 100 soldiers in the disturbed region; that they had given orders to increase this number to 200; that the great bulk of the Yaqui Indians had been deported from Sonora to Yucatan; that he would transmit by telegram, to the governor of Sonora, a copy of your aforesaid telegraphic instructions, with proper recommendations, and that he would communicate with him by letter the views that I had just expressed to him.

He informed me that he had in the course of preparation, and early delivery, a note to me, in reply to mine upon this subject of the 11th ultimo. This note grew out of your instruction No. 1220, of the 1st ultimo, inclosing a copy of a communication from the Mina Grande Mining Company, and out of a communication to this embassy, under date of the 28th of January last, from the Yaqui Smelting and Refining Company.

\* \* \* \* \*

I have, etc.,

POWELL CLAYTON.

*Ambassador Clayton to the Secretary of State.*

No. 2711.]

AMERICAN EMBASSY,  
*Mexico, March 18, 1905.*

SIR:

\* \* \* \* \*

I inclose a copy and translation of a note from Mr. Mariscal of the 15th ultimo, stating that before replying to my note therein referred to he had considered it expedient to transmit the same, as well as its inclosures, to the governor of the State of Sonora for report. This report having been received by Mr. Mariscal and a copy transmitted to me, with his note of the 16th instant, I inclose a copy and translation of both.

\* \* \* \* \*

I have, etc.

POWELL CLAYTON.

[Inclosure 1.—Translation.]

*The Minister of Foreign Affairs to Ambassador Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, March 16, 1905.*

MR. AMBASSADOR: Referring to your excellency's note, dated the 11th ultimo, inclosing copies of communications from the "Yaqui Smelting and Refining Company" and the "Mina Grande Mining Company," relative to the depredations committed by Yaqui Indians against American citizens, I have the honor to inclose herewith a copy of a note from the governor of the State of Sonora regarding the matter.

Permit me to call your excellency's attention to the parts of said note referring to the sale of arms to the Yaquis in the United States. The Mexican consuls at Phoenix and Tucson, Ariz., have frequently reported the sale of arms to the Yaquis in Arizona and New Mexico, and have endeavored to prevent it by applying to the respective authorities, and sometimes it has been necessary for this department to communicate with the ambassador of Mexico in Washington, so that the American Federal authorities might call the attention of the local authorities, of all of which there is record in the Department of State of the United States. I would be greatly obliged if your excellency would also call the attention of said Department to this point, because of its importance.

However, and notwithstanding that this does not relate directly to the case, like what I have said above, I deem it advisable to remind your excellency of the Carlos H. Johnson incident, which gentleman asked insistently that he be given permission by the government of Sonora to arm his servants, there having been transmitted to your excellency a report from the said government showing the inexpediency of granting this permission, in view of the fact that it was proved that on various occasions arms which American and Mexican haciendas had been permitted to have passed ultimately into the hands of the Yaquis, who make unlawful use of them, as is well known.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.]

*The Governor of Sonora to the Secretary of Foreign Affairs.*HERMOSILLO, *March 4, 1905.*

Republic of Mexico—Government of the free and sovereign State of Sonora.

This government received your courteous note of the 18th last, issued out of section on America, Asia, and Oceania, under No. 969, with which you were pleased to inclose the translation of the communications from "The Yaqui Smelting and Refining Company" and "Mina Grande Mining Company," respectively addressed to the ambassador of the United States and to the Secretary of State at Washington, relating to the assaults of Yaqui Indians upon American citizens.

In reply I have the honor to inform you that in connection with the Yaqui campaign the government under my charge and the military commander of the first zone have dictated

energetic measures to protect the lives and interests of all the inhabitants of the state, and that the Yaqui Indians have made victims of the reckless people who have ventured into the dangerous districts, knowing of the risks they would run; as at all times have we provided escorts for those who have asked for them for their personal protection or for that of freighters conveying their property from one place to another; and if we have had to regret several murders of American citizens, the same have been due to their recklessness and obstinacy in venturing to travel, disregarding the warnings given to them against the dangers to which they may be exposed. In the particular case of Messrs. Coy and Call I will say that they and their companions were the victims of the suggestions of Mr. Miller (one of the men who was fortunate to escape the assault), who told the others on several occasions in the presence of many persons that they should not lose time waiting for an escort, and gave them as a powerful reason that all Americans here were safe; that "the Yaquis would not hurt the Americans."

On the other hand, whenever any assault has taken place on the part of the Yaquis the military commander, as well as myself, start out after the criminals, and up to the present time I dare say not a single crime has been left unpunished. So soon as the assault of Coy, Call, and their friends, at La Tasajera, took place we started after the delinquents. Several of the murderers were captured by myself and made them pay with their lives for the crime committed, and we are in active pursuit of the balance.

Besides the above and without entering into many details, I shall confine myself to mention a fact which causes the termination of the Indian question to be a difficult and long task. Through different means we have been able to take and continue to take from the Yaquis arms and ammunition, and by this sole measure we thought at one time that this hard war would be brought to an end; but it happens that in the towns of the Territory of Arizona adjacent to the State of Sonora the aforesaid Indians provide themselves with arms and ammunition, wherefrom they return anew to continue their depredations. No one fails to know of the large number of Indians there is in the frontier towns to which I refer, and everybody knows that they do not go there for want of work here as the demand for them is large and they are well paid. They go there to provide themselves with ammunition, which they partly buy with the proceeds of their work at such places, but mostly with the results of their robberies on our highways, it being worthy of note that the most important robberies, consisting in hard cash, are generally perpetrated upon citizens of the United States, precisely because they are the ones who venture to travel over our roads without precaution, relying upon the false idea that the Yaquis will respect them.

At the same time I beg to add that prior to the last campaign criminal Yaquis would conceal themselves among those who worked on our plantations; but at the present time they are pursued even there, this being the reason why they leave the state and go to the Territory of Arizona not only to provide themselves with arms and munitions of war, as stated above, but also to find therein a place of refuge, thus evading the prosecution carried on against them.

I beg to insist upon the fact that the military commander of this zone as well as the government under my charge have provided escorts to all the Americans who have applied for the same, and in some cases we have offered them to travelers, and insisted upon it, although they have said that they would travel in sufficient number to be safe without the escorts.

To close, I will say that this government fully appreciates the gravity of the Yaqui problem and that regardless of all sacrifice makes every effort to cause the safety of all the inhabitants living under our laws, it being in condition to assure you that the lives and interests of all foreigners, as well as natives of the state, are protected as well as possible, and that those of cautious travelers who ask for escorts are protected as far as the places where they can not be in danger.

I renew, etc.,

RAFAEL IZABEL.

[Inclosure 2.]

*Ambassador Clayton to the Minister of Foreign Affairs.*

AMERICAN EMBASSY,  
Mexico, March 18, 1905.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 16th instant and its inclosure, the latter document being a report from the governor of Sonora addressed to your excellency, and both documents relating to the depredations committed by the Yaqui Indians against American citizens.

I inclose for the information of your excellency an extract from an affidavit made by Charles E. Tolerton, who was an eyewitness to the late attack of the Yaquis, resulting in the killing of Messrs. R. C. Coy, J. K. McKenzie, M. A. Call, and Walter Stuebinger, which alleges that the officer in charge of the troop that came afterwards upon the scene refused to

proceed in pursuit of the Indians for fear, as he stated, that they would kill his entire party. I also invite your excellency's attention to the discrepancy between the allegations of the governor in his report to you and that of Mr. Tolerton as to the furnishing of escorts to American parties when requested, the governor stating that they had always been furnished and Mr. Tolerton stating that in this tragic occurrence the escort was at first ordered, but afterwards refused.

I note what your excellency and the governor say concerning the Indians buying arms from Americans in Arizona, to which statements I have invited the attention of the Department, having to-day transmitted to it a copy of the correspondence referred to. I also note your reference to the Carlos H. Johnson incident, who requested permission, through this embassy, to purchase and use twelve stands of arms and corresponding ammunition for the protection of himself, family, and servants, which request was declined; and in this connection I invite your excellency's attention to so much of the report of the governor of Sonora, a copy of which was transmitted to this embassy with your excellency's note of October 28th last, as relates to the confession of the superintendent of El Lapiz; that after purchasing arms by permission of Governor Luis E. Torres, who permitted him to buy them only upon the condition that they would be placed in the hands of Mexicans, and not of Indians; that he had violated his promise by giving them to his Indian servants, from whom they were taken by the authorities; and that at the request of the superintendent the governor returned the arms and ammunition to him. Just why the governor should have, under the circumstances, granted him the permission to keep arms, thus misused, and refused to Mr. Johnson permission to do so does not seem apparent from the correspondence. The latter insists that it arose from the governor's enmity to him growing out of certain civil and criminal litigation in which Mr. Johnson recovered property illegally taken from him, in which the governor took an adverse interest.

I renew, etc.,

POWELL CLAYTON.

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[Subinclosure.]

*Extract from affidavit by Mr. Charles E. Tolerton.*

There was a body of 40 or 50 Mexican soldiers at Cobachi when he arrived there with the bodies, and the officer in command informed him that they had been sent out from La Colorado on account of the massacre of their party, but the officer refused to proceed in pursuit of the Indians for fear, as he stated it, that they would kill his entire party. The officer and entire party of soldiers were intoxicated, and returned to La Colorado, where he saw the same officer the following morning. No attempt was made whatever by the officials to capture the Indians that had ambushed them. The authorities at Hermosillo had given them a written order to the authorities at La Colorado for an escort of soldiers for their return trip to La Colorado. No escort was furnished them, the authorities asserting that their party was so large they would not need an escort and that they would be kept for smaller parties.

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*The Acting Secretary of State to Ambassador Clayton.*

No. 1256.]

DEPARTMENT OF STATE,  
Washington, March 21, 1905.

SIR: Referring to your telegram of the 16th instant concerning the fears of the Yaqui Copper Company of depredations by Yaqui Indians at Santo Niño, Sonora, I inclose herewith for your information a copy of the company's letter of the 15th instant,<sup>a</sup> giving further information in the matter and alleging that the authorities of the State of Sonora do not exert themselves as they ought toward protecting the lives and property of American citizens engaged in mining in that state.

The Department would be pleased to have a report from you of the facts of the case.

I am, etc.,

ALVEY A. ADEE.

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<sup>a</sup> Not printed.

*Ambassador Clayton to the Secretary of State.*

No. 2723.]

AMERICAN EMBASSY,  
*Mexico, March 22, 1905.*

SIR: Referring to my No. 2711, of the 18th instant, and previous dispatches relative to the massacre of American citizens by the Yaqui Indians in the State of Sonora, I now have the honor to inclose a copy and translation of a note from Minister Mariscal, inclosing a copy of a telegram from the governor of Sonora, copy and translation inclosed, stating that he has always furnished escorts for the employees of the Santo Niño concern when requested to do so, and that he will continue to look out for them.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Ambassador Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, March 17, 1905.*

MR. AMBASSADOR: Referring to the interview we had on the 15th instant by reason of a telegram sent to your excellency by the Department of State of the United States relative to the threatened assassination of the Americans, residents of Santo Niño, Sonora, by the Yaqui Indians, I have the honor to inclose herewith a copy of a telegram from the governor of that state<sup>a</sup>, stating that he has always furnished due protection to those persons and that he will continue to do so.

I renew, etc.,

IGNO. MARISCAL.

*The Acting Secretary of State to Ambassador Clayton.*

No. 1262.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1905.*

SIR: I have to acknowledge the receipt of your dispatch, No. 2708, of the 16th instant, acknowledging the Department's telegram of the 14th instant. \* \* \*

Your representations to the Mexican Government regarding the effectiveness of Mexican precautions against the Yaquis and your course in the matter are approved by the Department. You will press for due protection for American citizens in Sonora.

I am, etc.,

ALVEY A. ADEE.

*Chargé McCreery to the Secretary of State.*

No. 125.]

AMERICAN EMBASSY,  
*Mexico, November 4, 1905.*

SIR: I have the honor to inclose herewith a copy of a letter from the president of the Mina Grande Mining and Milling Company, <sup>a</sup> complaining that the property of the company in the Ures district, State of Sonora, and the employees of the company are not given proper protection by the Mexican authorities against the Yaqui Indians, and

that escorts are refused by the authorities at Hermosillo, capital of Sonora, to officials of the company who desire to visit the mine.

I also inclose a copy and translation of a note from Mr. Mariscal, dated the 19th ultimo, and of the communication from the minister of government (also vice-president), therewith transmitted, stating that the governor has been requested to furnish the company with escort when required and to give the fullest protection to persons having interests or traveling in the state.

I have informed the president of the company that the Mexican Government has taken prompt and willing action on his complaint.

I have, etc.,

FENTON R. McCREERY.

[Inclosure 1.]

*Chargé McCreery to the Minister of Foreign Affairs.*

AMERICAN EMBASSY,  
Mexico, October 9, 1905.

MR. MINISTER: In view of the American interests involved, I have the honor to inclose a copy of a communication from the president of the Mina Grande Mining and Milling Company, whose property is located in the Ures district, State of Sonora.

I beg, etc.,

FENTON R. McCREERY.

[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Chargé McCreery.*

DEPARTMENT OF FOREIGN AFFAIRS,  
Mexico, October 19, 1905.

MR. CHARGÉ D'AFFAIRES: Referring to your note of the 9th instant, relating to the case of the "Mina Grande Mining and Milling Company," which requests the protection of the Mexican Government with respect to the property it owns near Ures, Sonora, against the assaults of the Yaqui Indians, I have the honor to transmit to you herewith a copy of a note addressed to me by the department of government, informing me that it has already asked the governor of the State of Sonora to furnish, when required, the escorts which the company may request, and to endeavor to give the fullest protection to the persons who have any interests in said state, or who may travel through it.

On my part, I have asked the department of government to advise this department with respect to any information from the governor of Sonora bearing upon the matter.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.—Translation.]

*The Secretary of Government to the Secretary of Foreign Affairs.*

DEPARTMENT OF GOVERNMENT,  
Mexico, October 18, 1905.

I have received your communication, No. 449, dated the 14th instant, in which you have been pleased to include the note from the chargé d'affaires ad interim of the United States of America, inclosing a copy of a communication from the president of the "Mina Grande Mining and Milling Company."

In reply, I have the honor to inform you that your aforesaid note has been transmitted to the governor of the State of Sonora, with a copy of the above-mentioned inclosure, with the recommendation that he furnish, when required, the escorts to which the president of the Mina Grande Company refers, and to endeavor in general to give the fullest protection to the persons who may have any interests in said state, or who may travel through it.

I renew, etc.,

CORRAL.

*The Secretary of State to the Mexican Ambassador.*

DEPARTMENT OF STATE,  
Washington, November 11, 1905.

DEAR MR. AMBASSADOR: During the past year I have received from a number of American citizens having mining and other local interests in Sonora letters giving detailed accounts of the hostile activity of the Yaquis and the depredations committed by them to the great damage of life and property. Many of them go so far as to express a doubt as to the full gravity of the situation being understood by the Mexican authorities, in view of the extent and duration of the hostilities and the insuccess of the measures taken to put a stop to them and to secure protection to peaceable residents.

I annex extracts from some of these letters<sup>a</sup> as showing their general tenor, thinking that the statements therein made may be of interest and possibly of service to the Mexican Government in dealing with this grave problem, which affects so many foreigners in common with native Mexicans. The general facts recited are probably known to your government, but the testimony of eyewitnesses and parties in interest may supply useful details which may not be accessible in the ordinary course of administration. In my own country it has not infrequently happened that private and personal information has helpfully supplemented the knowledge gained through official channels, as in the case of the uprisings of our own Indians, and has thereby enabled the authorities to take necessary and effective action. It may very possibly be the same in Mexico. At any rate, the urgency of the situation in Sonora is my excuse for bringing the matter to your notice.

For the purpose of this informal communication it has not seemed necessary to give the names of the writers. In the instances where their statements were specific and the urgency of protection apparent the representations of our citizens have been conveyed to your government through our embassy.

I am, etc.,

ELIHU ROOT.

*Chargé McCreery to the Secretary of State.*

No. 127.]

AMERICAN EMBASSY,  
Mexico, November 11, 1905.

SIR: Referring to my No. 125, of the 4th instant, inclosing copies of correspondence showing that I presented to the foreign office the complaint of the president of the Mina Grande Mining and Milling Company that the authorities of the State of Sonora did not furnish proper protection to the employees of the company against the Yaqui Indians and refused to furnish escort when it was desired to visit the mine or ship ore from the mine, and also showing that the Mexican Government requested the governor of Sonora to furnish such escort when required, I have the honor to inclose copy and translation of a note from Mr. Mariscal, dated the 7th instant, and of the communication from the governor therewith transmitted, stating that the company had not made application to him or to the commander of the military district and that if application had been made escort would have been furnished.

<sup>a</sup>Not printed.

I have sent a translation of Mr. Mariscal's note and inclosure to the president of the company.

I have, etc.,

FENTON R. McCREERY.

[Inclosure.—Translation.]

*The Secretary of Foreign Affairs to Chargé McCreery.*

MEXICO, November 7, 1905.

MR. CHARGÉ D'AFFAIRES: Referring to your note, dated October 9 last, relating to the case of the Mina Grande Mining and Milling Company, which claims to have asked in vain for an escort from the authorities of Sonora in order to visit its mining property, which it considers in danger of being assaulted by the Yaqui Indians, I have the honor to transmit to you herewith a copy of a communication from the governor of the State of Sonora, stating that he has not received said request, as otherwise he would have attended to it in the usual manner.

I renew, etc.,

IGNO MARISCAL.

[Subinclosure.—Translation.]

*The Governor of Sonora to the Secretary of Foreign Affairs.*

HERMOSILLO, October 29, 1905.

Government of the free and sovereign State of Sonora.

This government received, together with your courteous note No. 443, dated the 14th instant, a copy of a communication addressed by the president of the Mina Grande Mining and Milling Company to the chargé d'affaires ad interim of the United States of America to Mexico, stating that he had asked the authorities of this state for an escort in order to visit the company's property, which he considers in danger of being assaulted by the Yaqui Indians, and that said escort was denied.

In reply I have the honor to say that neither this government nor the military commander of the zone, to whom I referred the matter, have heard of said request, for if the same had been received the usual escort would have been furnished, as the government as well as the military commander are and have always been willing to give protection not only to persons traveling from one place to another, but also to shipments of ores and merchandise belonging to mining concerns.

I renew, etc.,

RAFAEL IZABEL.

*The Mexican Ambassador to the Secretary of State.*

EMBASSY OF MEXICO,  
Washington, November 14, 1905.

DEAR MR. ROOT: Your letter of the 11th instant has just reached me, together with the letters that you had received from some American citizens having interests in Mexico, and wherein are contained detailed accounts of the hostile activity of the Yaquis and the depredations committed by them, to the great damage of life and property of my countrymen, as well as of said American citizens.

The Mexican Government has always given to the Yaqui question all the importance that it deserves, and has endeavored through various means within its power to reestablish that confidence which the inhabitants of those regions ought to have, and to give them all the security which undoubtedly they should enjoy.

The information which you sent will prove most useful to my government, because, as you say, private and personal information in the United States, as well as in Mexico, especially when relating to the uprisings of Indians, is of the greatest importance to the authorities, so that they may take the necessary steps to insure prompt and efficacious action.



I am transmitting to my government your letter and inclosures, and I recommend, in compliance with the desire you expressed, that it may give the subject its due attention.

I hope that very soon I shall be able to communicate to you the answer I may receive from my government.

I remain, etc.,

JOAQUIN D. CASASUS.

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*The Secretary of State to Chargé McCreery.*

No. 67.]

DEPARTMENT OF STATE,  
Washington, November 15, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 125, of the 4th instant, inclosing a copy of a letter from the president of the Mina Grande Mining and Milling Company, complaining that the property of the company in the Uree district, State of Sonora, and the employees of the company are not given proper protection by the Mexican authorities against the Yaqui Indians, and that escorts are refused by the authorities at Hermosillo, capital of Sonora, to officials of the company who desire to visit the mines.

You report that you have called the attention of the Mexican Government to the matter, and that the governor of Sonora has been requested to furnish the company with escorts when required, and to give the fullest protection to persons having interests in the state or traveling therein.

The Department would be pleased to know whether the company is under American or Mexican incorporation.

In this connection I inclose for your information merely a copy of an informal communication I have sent to the new Mexican ambassador at Washington concerning the situation in Sonora. [Printed ante.]

I am, etc.,

ELIHU ROOT.

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*Chargé McCreery to the Secretary of State.*

No. 143.]

AMERICAN EMBASSY,  
Mexico, December 2, 1905.

SIR: I have the honor to inclose an article from the Daily Record relative to the arrival at this city, under guard, of a band of Yaqui Indians en route to the Yucatan peninsula.

During the past three years the Mexican Government has transported to Yucatan and Quintana Roo many Indians who had taken part in or abetted Yaqui depredations in Sonora.

I have, etc.,

FENTON R. McCREERY.

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[Inclosure.]

*Clipping from the Daily Record, City of Mexico, November 29, 1905.*

All warlike Yaquis are shot wherever captured, but those who are merely sympathizers are being deported, family by family, as fast as the troops can round them up. In this way it is hoped that the warriors may be starved into submission. Some of these families go to Yucatan to work on plantations; others go to Sinaloa, where the Redo estate is colonizing to

work them on their sugar plantation on the Redo peninsula, while others are being used in convict gangs in public improvements for Sonora.

The government is disposed to act fairly by those who will become peaceable colonists and is giving them farming implements, animals, and poultry in Sinaloa. Those who will not be colonized are sent to Yucatan, where the rigors of the climate frequently end their lives.

**DISINFECTION OF VESSELS IN MEXICO BY UNITED STATES  
MEDICAL OFFICERS.**

*The Mexican Ambassador to the Secretary of State.*

[Translation.]

No. 130.]

EMBASSY OF MEXICO  
TO THE UNITED STATES OF AMERICA,  
*Washington, March 11, 1905.*

**MOST EXCELLENT SIR:** Pursuant to special instructions from my government, that are set forth in the copy inclosed with this note, which will acquaint you with all the particulars of the matter therein dealt with, I have the honor to apply to you with a request that the proper measures be taken in the case by the Government of the United States and that you may be pleased to advise me of whatever decision may be reached, so that I may in turn report to the Government of Mexico.

Accept, etc.,

M. DE AZPIROZ.

[Inclosure.—Translation.]

DEPARTMENT OF FOREIGN RELATIONS,  
*Mexico, February 11, 1905.*

The secretary of government, in an official letter numbered 6814, of the 26th of September last, makes the following statement:

“The chairman of the superior board of health writes the following to this department under date of the 22d instant:

“At the meeting held yesterday by this board an opinion of the counsel member of the corporation, here quoted, was approved: The counsel of the board has acquainted himself with the case that occurred at Progreso on the 13th day of July last in connection with the disinfection of the English steamer *Atheniana* by Dr. J. F. Harrison, a physician in the sanitary federal service, effected under such conditions that 80 bales of henequen were set on fire. By direction of the chairman of the board an inquiry was instituted, from which it appears that Mr. Harrison does, in the character above described, disinfect vessels clearing from Progreso for American ports, and while the said gentleman asserts that he only disinfects vessels when requested by the agents or masters, as there may be truth in the common report that unless disinfected by the said American physician vessels are not admitted into ports of the United States, the undersigned believes that the department of foreign relations should be fully apprised of the incident and send it a copy of the investigation conducted by the sanitary delegate to the end that such measures as may be appropriate be, if necessary, taken through the diplomatic channel.”

This department has examined the case in the light of the fact that the Mexican Government never intended to admit American physicians into the national territory in an official capacity. This was made quite clear by the last quarantine decreed by the government of the State of Texas against Mexico on account of the yellow fever, and again when the American Government asked permission to have the disinfecting barge *Sanator* stationed in Vera Cruz for the disinfection of vessels clearing from that port for the United States. On that occasion the permission was refused because the said port possessed facilities for every kind of disinfection and because the Second International American Conference had declared that all matters pertaining to international sanitary police remained subject to the jurisdiction of each government within its own territory. Lastly, when Mr. Barlow, then consul-general of the United States at Mexico City, claimed that Doctor Cofer should be recognized in the federal district as the physician whose duty it was to issue bills of health to persons intending to visit the United States, Mr. Barlow could not carry his points and confined himself to issuing the said certificates personally, and instructed the consuls under his jurisdiction to do like-

wise. In the issuance of such certificates Mr. Barlow was assisted by two physicians who had no official character.

In view of the foregoing, I have the honor to communicate to you the above-quoted official dispatches in order that you bring the matter to the knowledge of the Department of State in the light of the precedents in the case to the end that appropriate measures be taken in the matter herein referred to.

*The Acting Secretary of State to the Mexican Chargé.*

No. 594.]

DEPARTMENT OF STATE,  
*Washington, April 3, 1905.*

SIR: I have the honor to acknowledge the receipt of Mr. Azpiroz's note No. 130, of the 11th ultimo, with one inclosure, from which it appears that the Mexican Government is not disposed to permit Dr. J. F. Harrison, an inspector of the Public Health and Marine-Hospital Service, stationed at Progreso, Mexico, to make official disinfection of vessels leaving that port for the United States.

In reply I have the honor to inform you that copies of the ambassador's note and of its inclosure have been sent to the Secretary of the Treasury for the information of the Surgeon-General of the Public Health and Marine-Hospital Service.

Accept, etc.,

ALVEY A. ADEE.

**TREATY BETWEEN THE UNITED STATES AND CERTAIN  
AMERICAN POWERS FOR THE ARBITRATION OF PECUNIARY  
CLAIMS.**

*Signed at Mexico, January 30, 1902.*

*Ratification advised by the Senate, January 11, 1905.*

*Ratified by the President of the United States, January 28, 1905.*

*Ratification deposited with the Mexican Government, February 10, 1905.*

*Proclaimed March 24, 1905.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty of Arbitration for pecuniary claims between the United States of America and the Argentine Republic, Bolivia, Colombia, Costa Rica, Chile, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru and Uruguay, was concluded and signed by their respective Plenipotentiaries at the City of Mexico on the 30th day of January, 1902, the original of which Treaty in the English language, is word for word as follows:

*Treaty of Arbitration for Pecuniary Claims.*

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chili, Dominican Republic, Ecuador, El Salvador, the United States of America, Guatemala, Hayti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following Delegates:

*For the Argentine Republic.*—Their Excellencies Antonio Bermejo, Martín García Mérou, Lorenzo Anadon.

*For Bolivia.*—His Excellency Fernando E. Guachalla.

*For Colombia.*—Their Excellencies Carlos Martínez Silva, General Rafael Reyes.

*For Costa Rica.*—His Excellency Joaquín Bernardo Calvo.

*For Chile.*—Their Excellencies Alberto Blest Gana, Emilio Bello Codecido, Joaquín Walker Martínez, Augusto Matte.

*For the Dominican Republic.*—Their Excellencies Federico Henríquez y Carvajal, Luis Felipe Carbo, Quintín Gutiérrez.

*For Ecuador.*—His Excellency Luis Felipe Carbo.

*For El Salvador.*—Their Excellencies Francisco A. Reyes, Baltasar Estupinián.

*For the United States of America.*—Their Excellencies Henry G. Davis, William I. Buchanan, Charles M. Pepper, Volney W. Foster, John Barrett.

*For Guatemala.*—Their Excellencies Antonio Lazo Arriaga, Colonel Francisco Orla.

*For Hayti.*—His Excellency J. N. Léger.

*For Honduras.*—Their Excellencies José Leonard, Fausto Dávila.

*For Mexico.*—Their Excellencies Genaro Raigosa, Joaquín D. Casasús, José López Portillo y Rojas, Emilio Pardo, jr., Pablo Macedo, Alfredo Chavero, Francisco L. de la Barra, Manuel Sánchez Mármol, Rosendo Pineda.

*For Nicaragua.*—His Excellency Luis F. Corea, His Excellency Fausto Davila.

*For Paraguay.*—His Excellency Cecilio Baez.

*For Peru.*—Their Excellencies Isaac Alzamora, Alberto Elmore, Manuel Álvarez Calderón.

*For Uruguay.*—His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act "ad referendum," have agreed, to celebrate a Treaty to submit to the decision of arbitrators Pecuniary Claims for damages that have not been settled by diplomatic channel, in the following terms:

ART. 1. The High Contracting Parties agree to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens, and which cannot be amicably adjusted through diplomatic channels and when said claims are of sufficient importance to warrant the expenses of arbitration.

ART. 2. By virtue of the faculty recognized by Article 26 of the Convention of The Hague for the pacific settlement of international disputes, the High Contracting Parties agree to submit to the decision of the permanent Court of Arbitration established by said Convention, all controversies which are the subject matter of the present Treaty, unless both Parties should prefer that a special jurisdiction be organized, according to Article 21 of the Convention referred to.

If a case is submitted to the Permanent Court of The Hague, the High Contracting Parties accept the provisions of the said Convention, in so far as they relate to the organization of the Arbitral Tribunal, and with regard to the procedure to be followed, and to the obligation to comply with the sentence.

ART. 3. The present Treaty shall not be obligatory except upon those States which have subscribed to the Convention for the pacific settlement of international disputes, signed at The Hague, July 29, 1899, and upon those which ratify the Protocol unanimously adopted by the Republics represented in the Second International Conference of American States, for their adherence to the Conventions signed at The Hague, July 29, 1899.

ART. 4. If, for any cause whatever, the Permanent Court of The Hague should not be opened to one or more of the High Contracting Parties, they obligate themselves to stipulate, in a special Treaty, the rules under which the Tribunal shall be established, as well as its form of procedure, which shall take cognizance of the questions referred to in article 1. of the present Treaty.

ART. 5. This Treaty shall be binding on the States ratifying it, from the date on which five signatory governments have ratified the same, and shall be in force for five years. The ratification of this Treaty by the signatory States shall be transmitted to the Government of the United States of Mexico, which shall notify the other Governments of the ratifications it may receive.

In testimony whereof the Plenipotentiaries and Delegates also sign the present Treaty, and affix the seal of the Second International American Conference.

Made in the City of Mexico the thirtieth day of January nineteen hundred and two, in three copies, written in Spanish, English and French, respectively, which shall be deposited with the Secretary of Foreign Relations of the Mexican United States, so that certified copies thereof be made, in order to send them through the diplomatic channel to the signatory States.

For the Argentine Republic,	For Hayti,
ANTONIO BERMEJO.	J. N. LÉGER.
LORENZO ANADON.	For Honduras,
For Bolivia,	J. LEONARD.
FERNANDO E. GUACHALLA.	F. DÁVILA.
For Colombia,	For Mexico,
RAFAEL REYES.	G. RAIGOSA.
For Costa Rica,	JOAQUIN D. CASASUS.
J. B. CALVO.	E. PARDO, jr.
For Chili,	JOSÉ LOPEZ PORTILLO Y ROJAS.
AUGUSTO MATTE.	PABLO MACEDO.
JOAQ. WALKER M.	F. L. DE LA BARRA.
EMILIO BELLO C.	ALFREDO CHAVERO.
For the Dominican Republic,	M. SANCHEZ MARMOL.
FED. HENRIQUEZ I CARVAJAL.	ROSENDO PINEDA.
For Ecuador,	For Nicaragua,
L. F. CARBO.	F. DÁVILA.
For El Salvador,	For Paraguay,
FRANCISCO A. REYES.	CECILIO BAEZ.
BALTASAR ESTUPINIAN.	For Peru,
For the United States of America:	MANUEL ALVAREZ CALDERON.
W. I. BUCHANAN.	ALBERTO ELMORE.
CHARLES M. PEPPER.	For Uruguay,
VOLNEY W. FOSTER.	JUAN CUESTAS.
For Guatemala,	
FRANCISCO ORLA.	

And whereas it is provided in its Article V that the said Treaty shall be binding on the States ratifying it from the date on which five signatory governments have ratified the same, and shall be enforced for five years;

And whereas, the said Treaty was ratified by the United States of America on January 28, 1905; by Guatemala on April 25, 1902; by El Salvador on May 19, 1902; by Peru on October 29, 1903, and by Honduras on July 6, 1904;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

Done at the City of Washington this twenty-fourth day of March, in the year of our Lord one thousand nine hundred and five, [SEAL] and of the Independence of the United States of America, the one hundred and twenty-ninth.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

*Acting Secretary of State.*

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NOTICE OF RATIFICATION BY MEXICO.

[Translation.]

No. 174.]

EMBASSY OF MEXICO TO THE  
UNITED STATES OF AMERICA,  
*Washington, May 22, 1905.*

HONORABLE SIR: I have the honor to inform you, for all pertinent purposes, that on the 1st day of the current month, as the department of foreign relations of Mexico has been pleased to advise me, the Government of the Republic ratified the treaty relative to claims for pecuniary damages and injuries that was signed in the said city of Mexico on the 30th day of January, 1902, by the delegates to the Second International American Conference.

Accept, honorable sir, the renewed assurances of my very high consideration.

F. GAMBOA,  
*Chargé d'Affaires ad Interim.*

Hon. FRANCIS B. LOOMIS,

*Acting Secretary of State.*

**DEATH OF AMBASSADOR MANUEL DE AZPÍROZ, OF MEXICO, AND  
REMOVAL OF HIS REMAINS TO MEXICO.**

*President Roosevelt to the President of Mexico.*

[Telegram.]

THE WHITE HOUSE,  
Washington, March 24, 1905.

For my countrymen and in my own name I offer heartfelt condolence upon the death of Ambassador Azpíroz.

THEODORE ROOSEVELT.

*The Mexican Chargé to Acting Secretary of State Adee.*

[Translation.]

No. 144.]

MEXICAN EMBASSY IN THE  
UNITED STATES OF AMERICA,  
Washington, March 25, 1905.

ESTEEMED SIR: In confirmation of what I had the honor to communicate to you yesterday verbally, with profound sorrow I advise you now by the present note that Dr. Don Manuel de Azpíroz, ambassador extraordinary and plenipotentiary of Mexico near the Government of the United States of America, died yesterday afternoon at 4.40.

I beg you, if possible, to be good enough to express to His Excellency the President the sentiments of gratitude which I hasten to tender in the name of my government, in that of this embassy, and in that of the family of the deceased for the personal condolence which His Excellency deigned to send last night by Colonel Bromwell.

I beg you also to be pleased to accept for yourself the same sentiments for the kindly sympathy which you were pleased to show yesterday on account of the sad event which has thrown the embassy under my charge into mourning.

I reiterate, etc.,

F. GAMBOA.

*The Mexican Chargé to Acting Secretary of State Adee.*

[Translation.]

No. 145.]

EMBASSY OF MEXICO IN THE  
UNITED STATES OF AMERICA,  
Washington, March 27, 1905.

SIR: I have the honor to acknowledge receipt of your courteous personal note of this date, by which you are pleased to inform me that His Excellency the President has been kind enough to order the United States cruiser *Columbia* to convey to the border the body of the deceased ambassador of Mexico.

I also noted, and at once advised the family of Señor Aspíroz, that the hospitality of the ship was extended to them.

In reply I beg at once to express in the name of my government, to whom I at once reported by telegraph this new and extreme manifestation of international friendship by the United States toward

Mexico, most sincere thanks as well as the gratitude of the family of the ambassador.

Regarding the other details concerning which you desire information, I am pleased to say that the persons who accompany the body are: The widow of the ambassador; her two daughters, the widow de Perez and Miss Belén de Azpíroz; Mr. Rodrigo de Azpíroz, son of the ambassador and second secretary of embassy, and a female servant. The family would like, if convenient, that the date of departure be fixed for the 8th of April. I beg you, in this regard, to be pleased to indicate where the embarkation will take place.

As you surmised, the port of disembarkation in Mexico will be Veracruz.

Be pleased, etc.,

F. GAMBOA.

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*The Acting Secretary of State to the Mexican Chargé.*

No. 587.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1905.*

SIR: Supplementing my personal note of the 27th and your reply of the same date, I have the honor to inform you that by direction of the President the Acting Secretary of the Navy has detailed the United States cruiser *Columbia* to convey the remains of the late ambassador to Mexico. Owing to the time necessary to bring the vessel home from the Caribbean Sea and prepare for the voyage to Mexico, the date of sailing from New York with the remains will probably be between April 15 and 20.

The Government of the United States further extends a cordial invitation to the widow and family of Señor Azpíroz to accompany the body. Accommodations to that end will be reserved on the *Columbia* for the family party, which, as I understand from your note, will consist of the widow of the ambassador; her two daughters, Señora de Perez and Señorita Belén de Azpíroz; Mr. Rodrigo de Azpíroz, son of the ambassador and second secretary of embassy, and a female servant.

Accept, etc.,

ALVEY A. ADEE.

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**MONETARY LAW OF MEXICO.**

*The Acting Secretary of State to Ambassador Clayton.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, March 30, 1905.*

Report by telegraph date on which new monetary law relating to monetary reform in Mexico will go into effect. Desirable that Treasury have this information by April 1.

ADEE.



*Ambassador Clayton to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*Mexico, March 30, 1905.*

Monetary law of Mexico promulgated twenty-fifth instant becomes operative May first next, but bullion presented by private persons at the mints and assay offices of the federation for coinage will cease to be admitted after April sixteen next, and from date of publication of this law metals from abroad will not be accepted unless they shall have been imported prior to that date.

CLAYTON.

*Ambassador Clayton to the Secretary of State.*

No. 2736.]

AMERICAN EMBASSY,  
*Mexico, March 30, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's telegram of this date and to confirm my telegraphic reply, also of this date [relating to the monetary law of Mexico].

I have the honor to transmit herewith for the information of the Department a copy and translation of the law upon this subject, dated March 25, 1905.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

## LAW RELATING TO THE REFORM OF MEXICO'S MONETARY SYSTEM.

[Extracts.]

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## CHAPTER I.

*Coins.*

ARTICLE 1. The theoretical unit of the monetary system of the United Mexican States is represented by seventy-five centigrams of pure gold and is denominated a "peso."

The silver peso which has heretofore been coined with a weight of 24.4388 grams of pure silver, will subject to the conditions mentioned in this law, have a legal value equivalent to said 75 centigrams of pure gold.

ARTICLE 2. The peso is divided into one hundred centavos (cents) and the coins to be struck shall represent the values given below:

Gold coins: Ten pesos, five pesos.

Silver coins: One peso, fifty cents, twenty cents, ten cents.

Nickel coins: Five cents.

Bronze coins: Two cents; one cent.

ARTICLE 3. The alloy of gold coins shall be nine hundred one thousandths ( $\frac{900}{1000}$ ) of pure gold and one hundred one thousandths ( $\frac{100}{1000}$ ) copper. The alloy of silver coins shall be: For coins of one peso, nine thousand and twenty-seven ten thousandths ( $\frac{9027}{10000}$ ) of pure silver and nine hundred and seventy-three ten thousandths ( $\frac{973}{10000}$ ) of copper; and for coins of lesser values the alloy shall be eight hundred one-thousandths ( $\frac{800}{1000}$ ) of pure silver and two hundred one-thousandths ( $\frac{200}{1000}$ ) copper. The alloy of bronze coins shall be ninety-five parts of copper, four of tin, and one of zinc. The five cent coins shall be struck out of nickel commercially pure.

\* \* \* \* \*

ARTICLE 8. The national coat of arms and the inscription "United Mexican States" shall appear on all the coins which may be coined. All other emblems, wording, and requisites shall be determined by governmental provision.

## CHAPTER II.

*Coinage and circulation of money.*

ARTICLE 9. The power of coining money appertains exclusively to the Executive of the Union, who shall exercise it in accordance with the present law, on the occasions and in such amounts as said law authorizes. In consequence, the right of private persons to introduce gold and silver bullion into the mints for coinage is abolished.

ARTICLE 10. The mintage of new gold coins shall be confined, unless otherwise ordered, to the quantity required to effect the exchange of the present gold coins, which shall cease to be legal tender on July 1, 1906.

Nevertheless, in the special circumstances laid down in the first section of article 12, the free coinage of gold may be authorized by a decree specially issued by the Executive of the Union.

ARTICLE 11. From and after the date on which this law becomes effective, and save and except the case of recoinage, as provided by article 14, new silver coins will only be coined and issued in exchange for gold coin or bullion at the rate of seventy-five centigrams of pure gold per peso. The gold thus received may be employed in the purchase of silver bars on the scale necessary for the mintage of the silver coins applied for.

\* \* \* \* \*

ARTICLE 16. Any inhabitant of the Republic is entitled to exchange subsidiary coins for dollar (peso) pieces and vice versa, provided that the amount presented by him for exchange is one hundred dollars or an exact multiple thereof. In these cases the department shall make terms with the persons in interest as to the charge for coinage and will take steps to satisfy itself as to the exportation of the pesos coined.

ARTICLE 18. With the exception of the case provided for in the preceding article, the charge for coinage of money of all kinds shall be levied by the Nation.

\* \* \* \* \*

## CHAPTER III.

*Legal circulation of coins.*

ARTICLE 20. The obligation of paying any sum in Mexican coin is satisfied by handing over coins of the issues which may be current for the value which they represent. Therefore, the public offices, of the federation and the states, as well as establishments, companies, and private persons are obliged to accept said coins in payment of moneys owed to them without any other limitation than that laid down in the following article:

ARTICLE 21. Gold coins of any value and silver pesos are unlimited legal tender.

As to the other silver coins, the nickel coin and the bronze coins, their acceptance in one and the same payment is only obligatory for a sum not exceeding twenty pesos, as regards the silver coins, and for a sum not exceeding one peso with respect to the nickel and bronze coins.

ARTICLE 22. Foreign coins are not legal tender in the Republic, save and except the cases wherein the law expressly provides the contrary.

Engagements to pay in foreign coins, contracted within or outside of the Republic, will be fulfilled therein by delivering the equivalent in native coin at the rate of exchange prevailing on the day and at the place where the payment has to be effected.

ARTICLE 23. The terms of the three foregoing articles are not relinquishable so that any agreement to the contrary will be absolutely void before the law, articles 1423 and 2690 of the civil code of the federal district being thus derogated.

\* \* \* \* \*

*Transient.*

ARTICLE 1. This law shall become effective on May 1, 1905. Nevertheless, from April 16, next, bullion presented by private persons at the mints and assays offices of the federation for coinage will cease to be admitted, and from the date of publication of this law metals from abroad shall not be accepted, unless they shall have been imported prior to this date.

ARTICLE 2. So long as gold coins coined up to the present time, with a nominal value of \$20, be considered as legal tender, the same shall be accepted by public offices and private parties as the equivalent of thirty-nine pesos and forty-eight cents; and also ten dollar coins shall be considered as the equivalent of nineteen pesos and seventy-four cents; five dollar coins shall be the equivalent of nine pesos and eighty-seven cents; those of two dollars and fifty cents will be considered as equivalent to four pesos and ninety-three cents, and one dollar coins will be the equivalent of one peso and ninety-seven cents.

I, therefore, command that the present law be printed, published, circulated, and faithfully complied with.

Done in the palace of the federal executive power, at the City of Mexico, on the 25th day of March, 1905.

PORFIRIO DIAZ.

**ABOLITION OF THE "FREE ZONE" OF MEXICO.***The Mexican Chargé to the Department of State.*

[Memorandum of an oral communication.]

WASHINGTON, *July 18, 1905.*

In the Diario Oficial of June 30 there was published a governmental decree abolishing the Free Zone on the Mexican frontier adjoining the United States.

Have the goodness to say orally to the Department of State that in taking this action the Mexican Government took into consideration, among other reasons of internal policy, the representations made by the Government of the United States in regard to the frauds committed against the United States Treasury under cover of the exemptions from the payment of duties granted by virtue of that institution.

The Mexican Government considers that in taking this step it has given an additional proof of its friendly feeling for the Government of the United States, with which it maintains the most cordial relations.

I renew, etc.,

MARISCAL.

*The Department of State to the Mexican Embassy.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, July 19, 1905.*

The Department of State has the honor to acknowledge the receipt of the memorandum of an oral communication from his government concerning the abolition of the Free Zone adjoining the United States with which the chargé d'affaires of Mexico favored it on the occasion of his personal call of the 18th instant.

The Government of the United States has received with sincere gratification the assurances of the friendly motives which actuated the Mexican Government in taking this step, and begs to assure the chargé d'affaires of its cordial reciprocation of the good will and friendship of his government and its high appreciation of its obliging courtesy.

**MESSAGE OF THE PRESIDENT OF MEXICO TO THE MEXICAN CONGRESS.***Chargé McCreery to the Secretary of State.*

No. 89.]

AMERICAN EMBASSY,  
*Mexico, September 21, 1905.*

SIR: I have the honor to inclose a copy and translation of the semi-annual message delivered by President Diaz at the opening of the Mexican Congress on the 16th instant.

That the number of pupils attending the primary schools of the federal district and territories alone has increased 10,000 during the past year is an indication of the successful educational policy of the Mexican Government.

The Free Zone which extended along the northern frontier has been abolished. The federal revenue for the fiscal year 1904-05 was 90,000,000 pesos, an increase of 3,000,000 over the previous year. A glance at the message will show that the development and progress of Mexico continue uninterrupted.

I have, etc.,

FENTON R. McCREERY.

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[Inclosure.]

*Extracts from the President's message.*

Yesterday evening the President of the Republic opened the third period of sessions of the twenty-second congress of the Union, on which occasion he delivered the following message:

MESSRS. DEPUTIES AND SENATORS: Gratifying as is ever the honor of appearing before you, it is doubly so when I come, as on the present occasion in compliance with our fundamental law, to relate to you facts which demonstrate the pacific and constant development of public wealth, as well as the advancement of the administrative branches confined to the executive power.

FOREIGN RELATIONS.

Our foreign relations continue day by day to grow, but the closeness of those which we cultivate with neighboring nations is naturally most conspicuous.

In this connection I take pleasure in referring to the exceptional courtesies of the Government of the United States of America on the occasion of the regretted demise, at Washington, of our ambassador. On that occasion not only were all the honors paid that were due to the position occupied by the deceased, according to international usage, but, in addition, the American Government sought to give to Mexico a particular mark of esteem by sending one of its warships to convey to our shores the ambassador's remains and desiring that a section of marines who had acted as their escort should accompany them to their last resting place in the soil of the fatherland. Such marked courtesies could not fail to awake a sentiment of lively gratitude and cordial good will in the heart of the Mexican people.

Another lamentable event has also demonstrated the solidarity resulting from our relations with other peoples. On the occasion of the Guanajuato catastrophe our government received expressions of sympathy and gifts in money for the victims either directly from foreign chancelleries or through the instrumentality of the several legations established at this capital. Moreover, some of the foreign colonies residing in our country have given similar proofs of generosity. These acts have served to strengthen the ties of friendship uniting those governments and nations with the Mexican nation and government.

The treaty signed during the second Pan-American conference, in regard to pecuniary claims and damages, to which I referred in my last message, was, after approval by the Senate, duly promulgated.

A convention signed during the course of the same conference for the exchange of publications among the governments of America was also promulgated after approval by the Senate and ratification by the executive.

In the month of August last the third Latin-American Scientific Congress was held at Rio de Janeiro, and the Government of Mexico was invited to send its delegates thereto. Though there was not sufficient time to send a regular delegation, the executive, desiring to show its appreciation of the courteous invitation of the Brazilian Government, took measures to be represented at that interesting assembly by our chargé d'affaires ad interim at Buenos Aires.

**CONTRAVENTION OF THE EXTRADITION TREATY BETWEEN THE UNITED STATES AND MEXICO BY THE GOVERNORS OF TEXAS AND TAMAULIPAS.**

*Chargé McCreery to the Secretary of State.*

No. 115.]

AMERICAN EMBASSY,  
*Mexico, October 19, 1905.*

SIR: Referring to my No. 96, of the 28th ultimo,<sup>a</sup> reporting that I had, as instructed in the Department's telegram of the 27th ultimo,<sup>a</sup> requested the arrest and provisional detention of Charles Luna, charged with murder in Williamson County, Tex., and that the Mexican Government had ordered his arrest, I have the honor to inclose copies and translations of a note from Mr. Mariscal, and its inclosures, from which it will be seen that the governor of Tamaulipas had ordered the provisional detention of the fugitive upon the request of the governor of Texas and that the foreign office considers the action of both governors in contravention of Article X of the extradition treaty, and desires that the case be brought to the attention of the Department.

I informed Mr. Mariscal that a copy of his note and inclosures had been transmitted to the Department.

I have, etc.,

FENTON R. MCCREERY.

[Inclosure 1.—Translation.]

*The Secretary of Foreign Affairs to Chargé McCreery.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, October 14, 1905.*

MR. CHARGÉ D'AFFAIRES: Referring to your note, dated the 27th of September last, in which you were pleased to request the arrest and provisional detention of Charles Luna, charged with murder in Williamson County, Tex., I have the honor to transmit herewith a copy of a communication addressed to me by the governor of the State of Tamaulipas, in which he informs me that the governor of Texas having directly requested from him the aforesaid provisional detention, he issued the regular orders for the arrest of the fugitive.

I also beg to inclose a copy of a report from the proper section of this department relating to the irregularities attending the matter in question, to the end that the Department of State of the United States be informed of the procedure followed in this case, with the understanding that the instructions which the case requires have been transmitted to the governor of Tamaulipas.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure 1.—Translation.]

*The Governor of the State of Tamaulipas to the Secretary of Foreign Affairs.*

Republic of Mexico—government of the free and sovereign State of Tamaulipas.

Referring to your courteous note, No. 361, dated September 28 last, issued by the section on America, Asia, and Oceanica, of the department under your worthy charge, I have the honor to inform you, that in view of a telegraphic request from the governor of Texas, the municipal prefect of New Laredo was ordered to cause the arrest and provisional detention of Charlie Looney, whose name was erroneously given in the telegrams and in your communication I answer, as Charles Luna. Therefore, on the 26th of last month the said individual was provisionally detained at said city of New Laredo, because the county sheriff from Texas identified him. The extradition has already been requested by the said governor of Texas for a man named Charlie Looney, alias Charlie Coleman, alia

Charlie Martin, an American citizen, and recommended by the American consul at New Laredo, who furthermore stated that the fugitive is willing to appear before the jurisdictional authorities of Texas to answer to charge of murder, for which he is indicted.

In transmitting the above to you, in reply it affords me pleasure to assure you of my distinguished consideration.

Ciudad Victoria, October 2, 1905.

PEDRO ARGUELLES, rubric.

[Subinclosure 2.—Translation.]

*Mr. Vera to the Secretary of Foreign Affairs.*

Department of Foreign Affairs—Section on America, Asia, and Oceanica.

MR. SECRETARY: The American embassy, in its note of September 27 last, requested from this department the provisional detention of Charles Luna, charged with murder in the State of Texas, and a fugitive at New Laredo. In accordance with the above request, the governor of Tamaulipas was asked by mail to issue his orders for the arrest of the accused, and in answer to the note from this department the above-mentioned officer replied that "in view of a telegraphic request from the governor of Texas the municipal prefect of New Laredo was ordered to cause the arrest and provisional detention of Charlie Looney, whose name was erroneously in the telegrams as Charles Luna; that therefore, on the 26th of last month, the said individual was provisionally detained at said city of New Laredo, because the county sheriff from Texas identified him; that the extradition had already been requested by the said governor of Texas for a man named Charlie Looney, alias Charlie Coleman, alias Charlie Martin, an American citizen, and recommended by the American consul at New Laredo, who furthermore stated that the fugitive was willing to appear before the jurisdictional authorities of Texas to answer the charge of murder for which he was indicted."

The undersigned takes the liberty to call your attention to the irregularity attending this case on account of the governor of Texas making a direct request for a *provisional detention* on the governor of Tamaulipas, and also because the latter granted said request, as in so doing both governors have infringed the spirit as well as the terms of Article X of the extradition treaty in force, which provides that "on being informed by telegraph or otherwise through the *diplomatic channel* that a warrant has been issued by competent authority for the arrest of a fugitive \* \* \* each government shall endeavor to procure the provisional arrest of such criminal," etc. There is no doubt that the intention in fixing the express provision of the treaty for federal action with respect to *provisional detention* was to protect personal rights so far as possible with a view to prevent any conflict between the laws of the states and those of the federation. Otherwise the powers to take cognizance of the *requests for extradition*, which are conferred on frontier authorities by Article IX of said treaty, would have also been extended to them in the above chapter.

If the report merits your approval, and you consider it advisable, the same may be transmitted to the governor of the State of Tamaulipas in reference to his note upon the subject, with a view that he bears the same in mind for future cases, adding that with respect to the present case he can continue to take cognizance of the same, since the request for extradition has been made upon him in accordance with said Article IX.

The undersigned begs to suggest that a copy of the governor's communication and of the above report (if approved) be transmitted to the American embassy in reply to its note, in order that the Department of State be informed of what has happened.

Mexico, October 10, 1905.

M. ZAPATA VERA.

*The Secretary of State to Chargé McCreery.*

No. 63.]

DEPARTMENT OF STATE,  
Washington, November 2, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 115, of the 19th ultimo, inclosing copies of a note from the Mexican minister for foreign affairs, and of its inclosures, from which it is seen that the governor of Tamaulipas had ordered the provisional detention of Charles Luna, upon the request of the governor of Texas, and that the foreign office considers the action of both governors to be in contravention of Article X of the extradition treaty, and desires that the case be brought to the attention of the Department.

The view of the Mexican foreign office that, in order to secure the provisional arrest and detention in Mexico of a fugitive criminal, it is necessary, under the provisions of Article X of the extradition treaty, to make request therefor through the diplomatic channel is correct.

A copy of the correspondence will be furnished to the governor of Texas for his information.

I am, etc.,

ELIHU ROOT.

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*The Secretary of State to Chargé McCreery.*

No. 66.]

DEPARTMENT OF STATE,  
Washington, November 14, 1905.

SIR: Referring to instruction No. 63, of the 2d instant, regarding the complaint of the Mexican Government of the action of the governor of Texas in making direct application to the governor of Tamaulipas for the arrest and provisional detention of Charles Luna, I inclose herewith for communication to the Mexican Government a copy of a letter from the governor of Texas, explaining his course in that and similar cases.

I am, etc.,

ELIHU ROOT.

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[Inclosure.]

*The Governor of Texas to the Secretary of State.*

EXECUTIVE OFFICE, STATE OF TEXAS,  
Austin, November 7, 1905.

SIR: I am directed by the governor to acknowledge receipt of your communication of the 2d instant, inclosing copy of communications referring to the interpretation of the Mexican minister of foreign affairs of Article X of the extradition treaty in so far as the same relates to the provisional arrest and detention of fugitives in the respective countries. In reply thereto I beg to advise you that while the governor has recognized the interpretation placed upon said article by the two countries as the correct one, he has simply invoked the friendly spirit of the governors of the border states of Mexico in effecting the arrest and provisional detention of fugitives purely for the purpose of expediting their detention and not with a view of superseding the functions of the State Departments of the respective governments. He has invariably extended the same official courtesy at the request of the governors of the border states of Mexico, not because they have the authority to make such request by the terms of the treaty, but purely as an act of official courtesy alone. In view of the objection which seems to have been raised on this dual procedure, similar requests from this state will hereafter be confined exclusively to the diplomatic channels at Washington, and the governors of the border states of Mexico will be urged to observe the same rule.

Trusting this will prove entirely satisfactory to the foreign office of the Mexican Government, I have the honor to be, sir, etc.,

F. G. LANHAM,  
Private Secretary.

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*Chargé McCreery to the Secretary of State.*

No. 156.]

AMERICAN EMBASSY,  
Mexico, December 15, 1905.

SIR: I have the honor to acknowledge the receipt of your No. 66, of the 14th ultimo, which refers to instruction No. 63, of the 2d ultimo, regarding the complaint of the Mexican Government of the action of the governor of Texas in making direct application to the governor of Tamaulipas for the arrest and provisional detention of Charles Luna,

and incloses for communication to the Mexican Government a copy of a letter from the governor of Texas explaining his course in that and similar cases.

I inclose a copy of my note communicating the letter of the governor of Texas to the foreign office, as instructed, together with copy and translation of Mr. Mariscal's reply, containing observations as to the procedure in the cases under consideration.

I have, etc.,

FENTON R. McCREERY.

[Inclosure 1.]

*Chargé McCreery to the Secretary of Foreign Affairs.*

AMERICAN EMBASSY,  
*Mexico, November 22, 1905.*

MR. MINISTER: Referring to my note of the 11th instant and to previous correspondence relative to the action of the governor of Texas in making direct application to the governor of Tamaulipas for the arrest and provisional detention of Charles Luna and the action of the latter governor in ordering such arrest, I have the honor to communicate to your excellency a copy of a letter from the governor of Texas, explaining his course in that and similar cases.

I beg, etc.,

FENTON R. McCREERY.

[Inclosure 2.—Translation.]

*The Secretary of Foreign Affairs to Chargé McCreery.*

DEPARTMENT OF FOREIGN AFFAIRS,  
*Mexico, November 28, 1905.*

MR. CHARGÉ D'AFFAIRES: With your note of the 22d instant I received a copy of that from the governor of the State of Texas, addressed to the Secretary of State at Washington, on account of the question raised by this department concerning the procedure observed by the governors of Texas and Tamaulipas in the matter of the provisional detention of fugitives from either state to the other.

Having taken cognizance of the note from the governor of Texas, I consider it advisable to say to you that, while Article X of the extradition treaty vests in the Federal Government of both countries the express duty to ask, reciprocally, the provisional detention of fugitives from the justice of one country who have sought refuge in the other, the local governments of the frontier may, however, by mutual understanding, dictate the necessary measures for their respective police to keep the suspect under surveillance during the time in which the provisional and formal detention is procured through the diplomatic channel in accordance with the treaty. Thus the ends of justice are obtained without openly violating the above-mentioned instrument and without any danger of perverting said ends.

As a matter of fact, should it ever occur that at the time of proceeding in the irregular manner observed heretofore by the frontier authorities of both countries the recourse of amparo be interposed against an illegal act, such as the provisional detention in which the provisions of the extradition treaty have not been followed, the amparo would have to be granted, and this might cause legal difficulties against the subsequent course of the proceedings.

I renew, etc.,

IGNO. MARISCAL.



## MONTENEGRO.

### PRESENTATION OF CREDENTIALS BY THE FIRST AMERICAN MINISTER TO THE PRINCE OF MONTENEGRO.

*The Acting Secretary of State to Minister Jackson.*

No. 80.]

DEPARTMENT OF STATE,  
*Washington, April 1, 1905.*

SIR: I have to inform you that the diplomatic and consular act approved March 3, 1905, establishes Roumania and Servia as a separate diplomatic mission and adds Montenegro to the mission to Greece and diplomatic agency to Bulgaria.

The President has nominated and the Senate confirmed Mr. John W. Riddle, at present agent and consul-general at Cairo, as envoy extraordinary and minister plenipotentiary to Roumania and Servia, and yourself as envoy extraordinary and minister plenipotentiary to Greece and Montenegro and diplomatic agent to Bulgaria.

These changes will not take effect until July 1 next, and your new credentials will be forwarded to you in due time. Your letters of recall from Roumania and Servia will be delivered by Mr. Riddle when he presents his letters of credence.

I am, etc.,

ALVEY A. ADEE.

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*Minister Jackson to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
*Cettinje, October 31, 1905.*

Presented credentials to-day. Prince requested me to express gratitude to President. Propose leaving Friday for Greece via Italy. Wilson in charge at Athens.

JACKSON.

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*Minister Jackson to the Secretary of State.*

No. 16. Montenegrin series.

AMERICAN LEGATION,  
*Athens, November 28, 1905.*

SIR: Referring to my dispatch from Cettinje of the 30th ultimo, I have now the honor to report more at length in regard to the presentation of my credentials to the Prince of Montenegro.

I reached Cattaro about noon on Friday, October 27, and the same afternoon I drove to Cettinje. The next morning I called at the ministry of foreign affairs and made the acquaintance of the secretary-general, leaving with him a copy of my credentials and a written

request for an audience in which to present the original to the Prince. Later in the day I renewed my acquaintance with the minister, his excellency the Voyevode G. Voucovitch, whom I had met at Belgrade about a year before, and the next day I was informed by the minister verbally that my audience would take place on Monday morning. On Sunday morning I met the Hereditary Prince, whose acquaintance I had also made at Belgrade, at the time of the coronation of King Peter of Servia, and was invited by him to lunch with the Princess and himself.

At the time appointed on Monday morning I was called for by the Prince's adjutant and driven to the palace in a court carriage. A military detachment was drawn up in front of the palace, which saluted me upon my arrival and departure, the band playing Hail Columbia on both occasions. Inside the palace I was met by the minister of foreign affairs, who escorted me up stairs to a large reception room in which I found the Prince and the Hereditary Prince surrounded by all the Montenegrin ministers and various generals and other dignitaries, all in the full national dress.

In presenting my credentials I paraphrased the words used by the President, adding that it was a personal pleasure to me to be the first representative of a free people in a country which had always been able to maintain its independence. I spoke in French and the Prince replied in the same language in a speech a copy and translation of which I inclose herewith. After receiving the President's letter the Prince presented the ministers and others to me, and then took me into another room where we sat down and where the conversation was of a pleasant informal character. In the course of this conversation the Prince referred repeatedly (as he and other members of the royal family did on various other occasions) to the pleasure it gave him to welcome an American representative to Montenegro and to the compliment paid Montenegro by the American Government in accrediting me to his court. He asked me to thank the President for his action in this matter, and he added that, as a friend of Russia, he felt very grateful to the President for the part taken by him in bringing about peace between that country and Japan. The Prince hoped that my coming to Montenegro would be of advantage to the Montenegrins in the United States and that it would lead as well to increased commercial relations between the two countries. His Royal Highness suggested the negotiation of a commercial treaty.

On the evening of the next day, October 30, a dinner was given in my honor at the palace, and on which occasion the Prince read and translated to me the proclamation [call for a national assembly], which was published four days later. That evening I was again sent for and taken back to my hotel by a carriage from the court.

On his hearing that I was leaving the next day the Prince sent for and received me in private audience on the morning of November 2, when we had a prolonged conversation of an informal general character, in which His Royal Highness repeated much that he had said before. I left Cetinje en route for Athens, by way of Italy, on November 3.

I have, etc.,

JOHN B. JACKSON.

[Inclosure.—Translation.]

MR. MINISTER: It is with lively satisfaction that I receive the letters by which his Excellency the President of the United States of America has accredited you to me as first American envoy extraordinary and minister plenipotentiary.

I can also assure you, Mr. Minister, that all my efforts will be extended to develop and strengthen the friendly and cordial relations which unite my country to the powerful and glorious United States.

I am deeply touched by the sentiments which His Excellency President Roosevelt cherishes for me, my family, and my country, and I eagerly seize the occasion to beg you to express to him all my gratitude.

While thanking you for the good wishes which you have given me in the name of your eminent President, I beg you, Mr. Minister, to be assured that you will always find with me as well as with my government, the most earnest cooperation in facilitating the accomplishment of your mission which is so precious to me. Welcome.

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**PROCLAMATION OF A CONSTITUTIONAL GOVERNMENT IN MONTENEGRO.**

*Chargé Wilson to the Secretary of State.*

No. 8. Montenegrin series.]

AMERICAN LEGATION,  
*Athens, August 22, 1905.*

SIR: I have the honor to report that the Official Gazette of Montenegro published a few days ago a decree of the Prince authorizing a parliament, which will probably meet next December for the first time, and also granting freedom of the press. Until now the legislative power in Montenegro has been in the hands of a council of state, consisting of the crown prince, the metropolitan, and the members of the cabinet.

I have, etc.,

CHARLES S. WILSON.

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*Minister Jackson to the Secretary of State.*

No. 23. Montenegrin series.]

AMERICAN LEGATION,  
*Athens, December 26, 1905.*

SIR: I have the honor to report the receipt to-day of a note from the minister of foreign affairs at Cetinje, dated the 6/19th instant, informing me that deputies had assembled that day, the Skupshtina had been opened by a speech from the throne delivered by His Royal Highness the Prince of Montenegro, and the constitution had been solemnly proclaimed. I am requested to inform you that "by this act, so important and so memorable for the people of Montenegro, who are filled with gratitude and devotion to their magnanimous master (Maitre), the Principality which has heretofore been governed under an autocratic régime, has become a constitutional monarchy."

Mr. Voucovitch writes that, "guided by ardent and profound affection for his subjects, the Prince, during the forty-six years of his reign, has ever been vigilant in behalf of the safety and prosperity of his country, and has never failed to interest himself sincerely in assuring their intellectual and economic development. In accord with the spirit of the age, His Royal Highness came to the conclusion that every man belonging to a cultivated state should at the same time be a free citizen, and in consequence he had decided of his own free will to institute a constitutional and representative régime." The procla-

mation of the 18/31st of October and subsequent decrees providing for elections on the principle of suffrage, universal, equal, and direct, was the result.

In the speech from the throne the Prince refers to the reciprocal confidence between Prince and people which has existed in Montenegro for generations and which has resulted in the formation of a state whose independence has been recognized for centuries. The constitution is granted, the Prince says, not because the development of the state and its prosperity have been hindered by an autocratic government, but because the time has come, in his opinion, when a more progressive régime should be introduced. This constitution the Prince characterized as "an inheritance from his liberal ancestors, who had always been the first to inculcate ideas of liberty upon the hearts and minds of their subjects."

In his speech the Prince refers to the good relations existing between Orthodox and Mohammedans in the Principality, while the sufferings of the Serbs in Old Serbia and Macedonia "find an echo in the hearts of all Montenegrins." Relations with Turkey are, however, described as friendly. In speaking of foreign relations the Prince mentions Russia first, "to whom, after God, Montenegro owes the most gratitude," and then the Emperor Francis Joseph, with whom his personal relations "have never been troubled." He also refers to the family ties connecting Montenegro and Italy, and to the promise made by the German Emperor to accredit a representative at Cetinje, as well as to the friendly relations existing with Great Britain and France. He adds that among the countries which have shown evidences of friendliness "must not be forgotten the United States of America, which has recently accredited a representative to my court." He also mentions the good relations between Montenegro and Serbia and Bulgaria. After reading the speech, the Prince took the oath to support the constitution.

The Skupshtina has already adjourned, and the mandates of its members are considered as having expired. New elections are to be held next October for members of the first regular Skupshtina, and in the meantime the government is to be carried on by the ministry just appointed by the Prince.

\* \* \* \* \*

I have, etc.,

JOHN B. JACKSON

## MOROCCO.

### MOROCCAN CONFERENCE.

*Minister Gummeré to Acting Secretary of State Loomis.*

No. 25.]

AMERICAN LEGATION,  
Tangier, June 5, 1905.

SIR: I beg to report to the Department that I have received from Sid El Hadj Mohammed Ben Arby Torres, minister for foreign affairs, at present with the Shereefian court at Fez, a communication, a translation of which is inclosed, regarding a conference which the Sultan proposes should be held for the consideration of reforms in his Empire and the means of raising the necessary expenses therefor, and which I am requested to place before my government. Awaiting further instructions in the matter,

I am, etc.,

S. R. GUMMERÉ. }

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Gummeré.*

After compliments.

We have been ordered by our master the Sultan (God strengthen him) to request all the great powers to hold a conference at Tangier, composed by its honorable representatives and those appointed by the Maghzen to discuss the manner for suitable reforms which His Shereefian Majesty has determined to introduce into his Empire, and the expenses to carry out the same. We therefore beg to inform your excellency of this, so that you may notify your government and request them to permit your excellency to attend said conference for the above-mentioned purpose and let us know of its answer, and remain in peace and with joy. Written at the Holy Court at Fez on the 25th day of Rabe 1st, 1905; corresponding to May 29, 1905.

MOHAMMED BEN ARBY TORRES.

*Ambassador McCormick to Acting Secretary of State Adee.*

[Telegram.]

PARIS, July 10, 1905.

France, with agreement of England, accepts invitation of Morocco to a conference on the understanding with Germany that her rights are respected, and that her arrangements with England and Spain will not be questioned nor will the open-door policy be altered.

McCORMICK.

*Ambassador Tower to Acting Secretary of State Adee.*

[Telegram.]

BERLIN, July 10, 1905.

The German minister for foreign affairs announced to me that the agreement between Germany and France in regard to Morocco was signed in Paris last Saturday. He asked me to communicate the

information to you and say that the Government of Germany recognizes the interest which the President has taken in that subject and greatly appreciates what he has done to bring about speedy and peaceful solution of the questions at issue.

TOWER.

*The Acting Secretary of State to Ambassador Tower.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 10, 1905.*

Answering your telegram of 10th. The President is greatly obliged, and is more than satisfied if he has been of any use whatever in helping toward the result that has been achieved.

ADEE.

*Ambassador McCormick to Acting Secretary of State Adee.*

No. 22.]

AMERICAN EMBASSY,  
*Paris, July 12, 1905.*

SIR: On the 10th instant I telegraphed the Department that the difficulty with Germany regarding the French interests and sphere of influence in Morocco had been settled, and I now send a copy and translation of the official text of the arrangement signed by Germany and by France on the 8th instant.

\* \* \* \* \*

I have, etc.,

ROBERT S. MCCORMICK.

[Inclosure.]

TRANSLATION OF THE OFFICIAL TEXT OF THE ARRANGEMENT SIGNED BY GERMANY AND FRANCE.

*M. Rouvier, Prime Minister and Minister for Foreign Affairs, to Prince Radolin, German Ambassador in Paris.*

PARIS, July 8, 1905.

The Government of the Republic has acquired the conviction, from the conversations which have taken place between the representatives of both countries in Paris and Berlin, that the Imperial Government would not pursue in the conference proposed by the Sultan of Morocco any course which would compromise the legitimate hopes of France in that country, which would be contrary to the rights of France resulting from her treaties or arrangements, which rights are in harmony with the following principles: Sovereignty and independence of the Sultan, integrity of his Empire, economic liberty without any inequality, utility of police reforms and financial reforms, the introduction of which would be settled for a short period by international agreement, recognition of the situation created for France in Morocco by the contiguity of a vast extent of territory of Algeria and the Shereefian Empire and by the special relations resulting therefrom between the two adjacent countries, as well as by the special interest for France, due to this fact, that order should reign in the Shereefian Empire. Consequently, the Government of the Republic abandons its original objections to the conference and agrees to take part in it.

*Prince Radolin, German Ambassador in Paris, to M. Rouvier, Prime Minister and Minister for Foreign Affairs.*

PARIS, July 8, 1905.

The Government of the Republic having agreed to take part in the conference proposed by the Sultan of Morocco, the Imperial Government has commissioned me to confirm to you its verbal declarations, according to which it will pursue at the conference no course compromising the legitimate interests of France in Morocco or contrary to the rights of France resulting from her treaties or arrangements, and in harmony with the following principles: Sovereignty and independence of the Sultan, integrity of his Empire, economic liberty without any inequality, utility of police reforms and financial reforms, the introduction of which would be settled for a short period by international agreement, recognition of the situation created for France in Morocco by the contiguity of a vast extent of territory of Algeria and the Shereefian Empire and by the special relations resulting therefrom between the two adjacent countries, as well as by the special interest for France due to this fact, that order should reign in the Shereefian Empire.

This exchange of letters was accompanied by the following declaration:

The Government of the Republic and the German Government agree, first, to recall to Tangier simultaneously their missions now at Fez when once the conference has been convened; secondly, to give to the Sultan of Morocco advice through their representatives in common agreement, with a view to the fixing of the programme which he will propose to the conference on the bases indicated in the letters exchanged under the date of July 8, 1905, between the prime minister and minister for foreign affairs and the German ambassador in Paris.

Done in Paris on July 8, 1905.

DE RADOLIN.  
ROUVIER.

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*Minister Gummeré to Acting Secretary of State Peirce.*

No. 36.]

AMERICAN LEGATION,  
Tangier, July 22, 1905.

SIR: I beg to report to the Department that ten of the signatory powers to the treaty of Madrid, viz, France, Germany, Great Britain, Spain, Austria-Hungary, Italy, Russia, Belgium, Holland, and Denmark, have announced officially their acceptance of the invitation of His Majesty the Sultan of Morocco to a conference regarding the affairs of his Empire. The remaining signatory powers—the United States, Norway and Sweden, and Portugal—have as yet made no reply to the said invitation.

I am, etc.,

S. R. GUMMERÉ.

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*The Acting Secretary of State to Minister Gummeré.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 29, 1905.

Referring to your No. 25, you will advise minister for foreign affairs that the Government of the United States will take part in the proposed conference and will announce its representatives when time and place of meeting are determined.

ADEE.

*Minister Gummeré to Acting Secretary of State Adee.*

AMERICAN LEGATION,  
Tangier, July 31, 1905.

SIR: I beg to acknowledge the receipt of the Department's cablegram of July 29, 1905, as follows, viz:

Referring to your No. 25, you will advise minister of foreign affairs that the Government of the United States will take part in the proposed conference and will announce its representatives when the time and place of meeting are determined.

ADEE.

I beg to report that pursuant to the said instructions of the Department I have written to Sid Hadj Mohammed Ben Arby Torres, minister for foreign affairs, now at Fez, informing him that I have been instructed by my government to advise him that the Government of the United States will take part in the proposed conference and will announce its representatives when the time and place of meeting are determined. I beg to inclose a copy of my said letter to the minister for foreign affairs.

I am, etc.,

S. R. GUMMERÉ.

[Inclosure.]

*Minister Gummeré to the Minister for Foreign Affairs.*

TANGIER, July 31, 1905

After compliments.

In further reply to your excellency's letter of May 29, 1905, in which you inform me that you have been ordered by your master the Sultan to request all the great powers to hold a conference composed of their representatives and those appointed by the Maghzen to discuss certain matters relating to reform in His Shereefian Majesty's Empire, etc., I have now to inform your excellency that I am instructed by my government to advise your excellency that the Government of the United States will take part in the proposed conference and will announce its representatives when the time and place of meeting are determined.

In peace.

S. R. GUMMERÉ.

*Minister Gummeré to Acting Secretary of State Adee.*

No. 38.]

AMERICAN LEGATION,  
Tangier, August 1, 1905.

SIR: I beg to report that I have been informed by the Portuguese minister that his government has accepted the invitation to take part in the proposed Morocco conference. The only government remaining to be heard from is that of Norway and Sweden.

I am, etc.,

S. R. GUMMERÉ.

*The Spanish Chargé to the Secretary of State.*

THE LEGATION OF SPAIN,  
New York, August 1, 1905.

MR. SECRETARY: I have the honor to inform your excellency that the government of His Majesty has notified that of the Sultan of Morocco that it is disposed to take part in the conference proposed by



him, provided it be previously informed of the programme of the conference, as well as the date and the place in which it is to be held.

In thus complying with the instructions of my government I take advantage, etc.,

L. PASTOR.

*The Acting Secretary of State to the Spanish Chargé.*

No. 192.]

DEPARTMENT OF STATE,  
Washington, August 8, 1905.

SIR: I have the honor to acknowledge the receipt of your letter of the 1st instant, advising the Department that your government had notified the Sultan of Morocco that it is disposed to take part in the conference proposed by him, on condition of being previously informed of the time, place, and programme of the meeting.

I have the honor to say in reply that the Department instructed the American minister to Morocco on the 29th ultimo to say to the government of the Sultan that this government would take part in the conference and would announce the names of its representatives when the time and the place of the meeting should have been determined.

Accept, etc.,

ALVEY A. ADEE.

*The French Ambassador to the Secretary of State.*

NOTE SIGNED BY MESSRS. REVOIL AND ROSEN.

[Received by the Department of State from the French Ambassador October 3, 1905.]

[Translation.]

SEPTEMBER 28, 1905.

The negotiations between France and Germany concerning the draft of the programme of the conference on Moroccan affairs have just been concluded. The agreement was reached on a programme which includes:

The organization of the police force; regulations concerning the surveillance and checking of the smuggling of arms; financial reforms, consisting mainly in the establishment of a state bank; study of better proceeds from imposts and new sources of revenue; finally, the determination of certain principles intended to secure economical freedom in the border region.

By means of a special reservation inserted in the draft of the programme it is agreed that the questions of police shall continue to be settled directly and exclusively between France and the Sultan and do not come within the programme of the conference. In the same region the enforcement of the regulations concerning the smuggling of arms will remain the exclusive affair of France and Morocco.

The two governments have agreed to ask Spain whether it would assent to the city of Algeciras being selected as the meeting place of the conference.

As regards the questions of the loan and of the harbor, they have been adjusted as follows: Pressed by the condition of his finances, the Maghzen had applied to a foreign intermediary who resides in Morocco,

and in turn had recourse to a group of German banks, in order to obtain a short-term advance, to be repaid out of the next loan. The Moroccan Government offered as a security its real property in the several cities on the coast. An agreement has been effected between the group of German banks and the consortium of French banks to the end of participating in the transaction, which will continue in its character of short-time advance with special security and repayable out of the next loan or by the ways and means of the state bank, the establishment of which is part of the programme of the conference. This transaction does not affect the question of the right of preference of the French consortium.

As regards the building of a breakwater in the port of Tangier, the Moroccan Government had, by a letter addressed to the legation of Germany, under date of March 26, requested the firm of Borgeaud & Reutman to prepare two plans, of which it would select one. Inasmuch as a French company had been authorized at the same time to make a study of the same work, it has been agreed that some time would be allowed for the examination of the company's rights, and that unless the French company should produce evidence of right identical with that of the German company the latter would carry on the work ordered by the Maghzen.

The draft of the programme and the proposition as to the meeting place of the conference will be submitted without delay by the two governments to the adhesion of the Sultan and to that of the powers signatory to the Madrid Convention or having adhered thereto.

As soon as the propositions concerning the programme and the meeting place shall have been laid before the Sultan, both missions shall leave Fez and return to Tangier.

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*The French Ambassador to the Secretary of State.*

[Received by the Department of State October 3, 1905.]

[Memorandum.—Translation.]

DRAFT OF THE PROGRAMME OF THE MOROCCAN CONFERENCE, SIGNED AT PARIS SEPTEMBER 28, 1905, BY THEIR EXCELLENCIES M. ROUVIER, PRESIDENT OF THE COUNCIL, AND PRINCE DE RADOLIN, GERMAN AMBASSADOR.

The two Governments have agreed to submit to the Sultan the draft of the following programme elaborated in conformity to principles adopted by exchange of notes on July 8:

*First.*—1. Organization, by way of international agreement, of the police outside the border region.

2. Regulations organizing the surveillance and suppression of the smuggling of arms. In the border region the enforcement of these regulations will exclusively concern France and Morocco.

*Second.*—Financial reform.

Financial support given to the Maghzen through the establishment of a state bank with the privilege of issue, taking charge of treasury operations and acting as a medium for the coinage of money, the profits of which would belong to the Maghzen.

The said state bank would undertake to bring about a sounder monetary condition.

The credits opened to the Maghzen would be applied to the equipment and salaries of the public forces and to urgent public works, especially the improvement of the harbors and their facilities.

*Third.*—Study of better proceeds from imposts and of new sources of revenue.

*Fourth.*—Undertaking on the part of the Maghzen that no public service will be disposed of for the benefit of private interests.

Principle of letting contracts for public works to the lowest bidder, without preference for any nationality.

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*Minister Gummeré to the Secretary of State.*

No. 53.]

AMERICAN LEGATION,  
Tangier, October 27, 1905.

SIR: I beg to report that the chargé d'affaires of the French legation has been informed that His Majesty the Sultan of Morocco has given his assent to the programme of the conference on Morocco affairs agreed upon between the French and German Governments, and also to the holding of the proposed conference at the small town of Algeciras, which is in Spain, directly across the way from Gibraltar, and only three hours from Tangier by boat.

No intimation of any kind regarding the said conference has been received from the Moorish Government since the invitation to the powers to assist at the same, but the general opinion among my colleagues is that it will be held either about the middle of December or in the early part of January, and that it will not occupy more than two weeks' time. I am also informed that the British Government will be represented by Sir A. Nicolson, ambassador at Madrid, as he was for nine years British minister at Tangier; the Spanish Government by Mr. de Ojeda, for the same length of time Spanish minister at Tangier; and the French Government by Mr. Revoil, formerly French minister at Tangier. The general opinion among my colleagues is that the other European powers will be represented at the conference by their present representatives at Tangier. Any further information received concerning the conference will be at once reported to the Department.

I am, etc.,

S. R. GUMMERÉ.

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*The French Ambassador to the Secretary of State.*

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,  
Washington, October 28, 1905.

MR. SECRETARY OF STATE: It appears from a telegram that I have just received from my government that the Sultan of Morocco has adopted the draft of programme which the Government of the Republic and the German Government had agreed to propose to him, and assents to the conference that is to take up the Moroccan affairs meeting at Algeciras.

By order of my government I have the honor to bring this intelligence to your excellency's knowledge. I further append hereto, with reference to the conversation I had with you previously on the sub-

ject, the text of the protocol concerning the project under consideration, which was signed on September 28 by M. Rouvier and Prince Radolin.<sup>a</sup>

Be pleased to accept, etc.,

JUSSERAND.

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*The German Chargé to the Secretary of State.*

[Translation.]

IMPERIAL GERMAN EMBASSY,  
*Washington, October 28, 1905.*

MR. SECRETARY OF STATE: By direction of the Imperial Government, I have the honor to forward to your excellency herewith a copy of the German-French understanding reached at Paris the 28th ultimo regarding a conference to be held at Algeciras for the purpose of considering measures looking toward an improvement of the present conditions in the Empire of the Shereef.<sup>b</sup>

The Sultan of Morocco has formally accepted the programme as well as the place of the conference.

I have been directed by his excellency the chancellor of the Empire to inquire of the Government of the United States, as one of the powers which signed the convention concluded in Madrid on July 3, 1880, concerning the exercise of the right of protection in Morocco, whether it is ready to take part in the conference in accordance with the programme after an invitation has been extended to it, and whether it agrees to the holding of the conference in the Spanish city—Algeciras.

I may observe in this connection that the present communication is sent in pursuance to an agreement with France.

Please accept, etc.,

BUSSCHE.

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*The Secretary of State to the French Ambassador.*

No. 258.]

DEPARTMENT OF STATE,  
*Washington, November 2, 1905.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 28th ultimo, transmitting a copy of the Franco-German understanding reached at Paris on the 28th of September last, regarding a conference to be held at Algeciras for the purpose of considering measures looking toward an improvement of the present conditions in the Empire of the Shereef.

I note that the Sultan of Morocco has formally accepted the programme as well as the place of the conference.

In reply to your inquiry to that effect, I have the honor to state that this government, as one of the powers which signed the convention concluded at Madrid July 3, 1880, concerning the right of protection in Morocco, is ready to take part in the conference and agrees to Algeciras as the place at which it shall be held.

Accept, etc.,

ELIHU ROOT.

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<sup>a</sup>The inclosure is word for word the same as the memorandum printed on p. 673, handed to the Secretary by the French ambassador on October 3, and as the inclosure with the German embassy's note of the same date as this.

<sup>b</sup>Printed on p. 673.

*The Secretary of State to the German Chargé.*

No. 277.]

DEPARTMENT OF STATE,  
*Washington, November 2, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, transmitting a copy of the German-French understanding reached at Paris on the 28th of September last, regarding a conference to be held at Algeciras for the purpose of considering measures looking toward an improvement of the present conditions in the Empire of the Shereef.

I note that the Sultan of Morocco has formally accepted the programme as well as the place of the conference.

In reply to your inquiry to that effect, I have the honor to state that this government, as one of the powers which signed the convention concluded at Madrid July 3, 1880, concerning the right of protection in Morocco, is ready to take part in the conference and agrees to Algeciras as the place at which it shall be held.

Accept, etc.,

ELIHU ROOT.

*The Secretary of State to Minister Gummeré.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, November 10, 1905.*

SIR: Referring to your No. 25 of June 5 last, I inclose herewith translations of notes from the French and German ambassadors, transmitting copies of the Franco-German understanding reached at Paris on September 28, 1905, regarding the conference to be held at Algeciras to consider Moroccan affairs.

In reply to these notes I stated to the ambassadors that the Government of the United States is ready to take part in the conference and agrees to Algeciras as the place at which it should be held.

The President desires you to hold yourself in readiness to attend the conference on the part of the United States when a date is fixed for its meeting.

I am, etc.,

ELIHU ROOT.

*The Secretary of State to Minister Gummeré.*

No. 20.]

DEPARTMENT OF STATE,  
*Washington, November 17, 1905.*

SIR: I have to acknowledge the receipt of your No. 53 of the 27th ultimo, reporting in regard to the conference to be held to consider Moroccan affairs and transmitting information concerning the representatives to be appointed by Great Britain, Spain, and France.

The United States will probably send two representatives to the conference, of whom, as you were informed by the Department's instruction of the 10th instant, you will be one.

Mr. Lewis Einstein, third secretary of the embassy at London, will be the secretary of the American representation.

I am, etc.,

ELIHU ROOT.

*Minister Gummeré to the Secretary of State.*

[Telegram.]

TANGIER, *November 19, 1905.*

German minister informs me Spanish minister is directed by Spanish Government to obtain the consent of Moorish Government to the meeting of the conference at Algeciras on December 15. Germany and France support this request.

GUMMERÉ.

*Minister Collier to the Secretary of State.*

No. 53.]

AMERICAN LEGATION,  
*Madrid, November 20, 1905.*

SIR: I have the honor to confirm my telegram of to-day, which reads as follows:

Spanish Government extends informal invitation to the United States to attend Algeciras conference to convene December 15. Formal invitation will be sent when the Sultan of Morocco acquiescence of this date has been received; every reason to expect the Sultan to acquiesce, but unavoidable delay in receiving acquiescence.

The under secretary of state, in extending this invitation on behalf of the Spanish Government, has explained that it is to be regarded as an informal and semiofficial invitation and a preparatory notification of the date fixed by Spain for the convening of the conference at Algeciras, which will be ratified with little doubt by the formal and official invitation which etiquette forbids being transmitted until the Sultan of Morocco's formal acquiescence in the date has been received. The difficulty of communicating with the seat of the Moroccan Government at Fez will cause undoubted delay, and an answer from the Sultan to the Spanish Government's proposal of December 15 as the date for convening the congress can hardly be expected much before December 5.

This semiofficial invitation, therefore, is to give the powers more time to make preparations for the conference. There is no reason to suppose that the Sultan will refuse to approve of the date fixed by Spain, but, at the most, a delay of a few days only may be suggested, the intervening time being somewhat short. On the other hand, the expected arrival of the Moroccan delegates to the conference at Algeciras on or about the 28th of this month would seem to indicate without doubt the Sultan's acquiescence in the date fixed by Spain.

I have, etc.,

WM. MILLER COLLIER.

*The Secretary of State to Ambassador White.*

DEPARTMENT OF STATE,  
*Washington, November 28, 1905.*

SIR: I confirm my telegram of the 23d instant, reading as follows:

You are designated to represent the United States at Moroccan conference at Algeciras on December 15. Gummeré, minister to Morocco, will be associated with you. Einstein, third secretary at London, will be secretary. Credentials by first mail.

Your commission is inclosed herewith, together with typewritten copy thereof for your files.

I also inclose for your information a copy of the programme agreed upon between France and Germany.<sup>a</sup>

I am, etc.,

ELIHU ROOT.

*The Secretary of State to Ambassador White and Minister Gummeré.*

DEPARTMENT OF STATE,  
*Washington, November 28, 1905.*

GENTLEMEN: The President having selected you to represent the United States at the forthcoming Moroccan conference, the following brief instructions are communicated to you for your guidance:

The United States is a participant in the discussions of the conference solely by reason of being a treaty power, having conventional engagements with Morocco dating back to 1836, by which this country not only enjoys special privileges, but is entitled to the most-favored-nation treatment for the time being. This government also shares in the right of protection of certain native Moors as defined in the multipartite convention of July 3, 1880. Our interest and right comprise and are limited to an equal share in whatever privileges of residence, trade, and protection are enjoyed by, or may be hereafter conceded by, the Shereefian Government to aliens and their local agencies, and it follows that we have a like concern in the enlargement of those privileges in all appropriate ways. With the special political problems of influence and association affecting the relations of the Moroccan Empire, as a Mediterranean state, to the powers having interests in that great sea and whose concern lies naturally in the conservation and extension of its commerce for the common benefit of all, the United States have little to do beyond expression of its wish that equality and stability be secured.

The French and German Governments have agreed upon a programme of the general subjects to be submitted to the conference. A copy thereof is attached hereto. It is not understood to exclude suggestions by other powers.

The first subject comprises two distinct features, as to one of which the United States shares the concern of the powers in a direct and large measure, while our interest in the other is indirect.

The organization, by means of an international agreement, of the Moroccan police outside of the border region is a measure whereby far-reaching reform may be accomplished to the benefit of all the powers having relations with Morocco. Intercourse with that country demands the existence of internal conditions favorable thereto. Security of life and property; equality of opportunities for trade with all natives; amelioration of those domestic conditions of religion and class which now weigh upon non-Mussulmans, and which impair the freedom of salutary foreign intercourse with the native population; improvement of the condition of the people that will enable them to profit by the opportunities of foreign traffic; orderly and certain administration of impartial justice; rigorous punishment of crimes against persons and property; exemption from erratic taxes and burdens; removal of class restrictions, and the power to repress

subversive disorder and preserve the public peace—all these enter as important factors into the problems of effectively policing the interior and of removing the barriers which have heretofore opposed the foreigner at the threshold and the non-Mussulman in the interior. In short, while it is to the advantage of the powers to secure the "open door" it is equally vital to their interests and no less so to the advantage of Morocco that the door, being open, shall lead to something; that the outside world shall benefit by assured opportunities, and that the Moroccan people shall be made in a measure fit and able to profit by the advantages of the proposed reform.

The second division of the first subject—suppression of the smuggling of arms in the border region between Morocco and Algeria—is qualified in the programme by restricting the enforcement of regulations to that end to the exclusive concern of France and Morocco. As a cognate subject, however, regulations for the repression of all contraband traffic, whether on the inland frontiers or on the coast, would inure to the benefit of all, and in that conception might well be considered by the conference.

The second subject—financial reform—as formulated in the programme, appears not to contemplate any discrimination in regard to the influence of foreign states. Here, again, the "open door" seems to be the sound policy to advocate, and in the absence of any suggestion that especial control or predominant influence of a foreign power or of any powers in concert in the financial administration of Morocco is contemplated it does not appear needful to give you particular instructions.

The third subject—to wit, the more economical collection of revenues and the establishment of new taxes or dues—would concern this country only in the event of such duties or other charges being levied as would in practice discriminate against the commerce of the United States or weigh more heavily upon American commercial, professional, or corporate enterprises in Morocco than upon the like ventures of other foreigners. Equality of treatment in all matters of trade, commerce, navigation, and individual pursuits being established, it would only remain to so adjust the revenues as to distribute the advantages of trade evenly among all the treaty nations and at the same time encourage the productive and assimilative capacity of the Moorish people.

The fourth subject, which aims at the prevention of private monopoly of the public services by farming them out or otherwise alienating them, is allied to the foregoing in the sense of averting discriminatory treatment and has a potential bearing upon the question of internal police and the maintenance of order in that it makes the Moroccan Government the responsible factor for the regular collection and economic application of its own revenues. The interests of the tax farmer and of the government are quite antipodal. This proposition may be cordially supported by you.

It is expected that your attitude in the proceedings of the conference will display the impartial benevolence which the United States feels toward Morocco and the cordial and unbiased friendship we have for all the treaty powers. Fair play is what the United States asks—for Morocco and for all the interested nations—and it confidently expects that outcome.



The complete dissociation of the United States from all motives or influences which might tend to thwart a perfect agreement of the powers should in case of need lend weight to your impartial counsels in endeavoring to compose any dissidence of aims which may possibly develop in the course of the conference.

With these briefly outlined instructions, the representation of the United States at the conference of Algeciras is intrusted to you by the President, with full confidence in your discretion and in your ability to treat the complex questions which will come before you.

You will consult the Department freely by cable upon occasion, and you will from time to time concisely report in the same way the progress made during the conference. At its close you will submit to the President a full report of its proceedings and conclusions. If an international convention should be required to formulate the results, you will, unless otherwise instructed, subscribe *ad referendum* merely, reserving formal plenipotentiary signature until you shall be duly empowered.

I am, etc.,

ELIHU ROOT.

*The Secretary of State to Ambassador White.*

DEPARTMENT OF STATE,  
Washington, November 28, 1905.

SIR: Supplementing my instruction of even date, and in connection with your functions as a representative of the United States at the Moroccan conference, it is desired that in all proper ways you shall urge upon the conference the consideration of guaranties of religious and racial tolerance in Morocco.

Concurrent testimony positively affirms the intolerance of the Mohammedan rule in that country toward non-Mussulmans in all that concerns their lives, avocations, and creeds. Jews, especially, appear to suffer from painful and injurious restrictions. I have been furnished by Mr. Jacob H. Schiff with a statement of the existing restrictions upon Moroccan Jews living in other than the harbor towns, the details of which appear well-nigh incredible and utterly at variance with any sound theory of the relation between the governing and governed classes. Were an American citizen, Jew or gentile, to suffer a tittle of such proscriptions in Morocco it would be impossible for this government to shut its eyes to their existence; and it is equally hard now to ignore them when we are called upon to enter, with Morocco as with other powers, upon the examination of schemes for bettering the relations of the Shereefian Empire with the countries to which it is bound by treaty engagements. It is alike the part of prudence and good will, on the one side as on the other, to restrain the spirit of intolerance and preclude the development of its effects into antagonism between all Mohammedans and non-Mohammedans. The powers are, it would seem, interested in seeking equality of privilege for their nationals and national interests in Morocco—not in emphasizing by the contrast of treaty discriminations in their favor, the class restrictions which weigh upon natives. To do so would but fan the popular prejudice and increase the spirit of resentment toward aliens. It is, moreover, evident that these restrictions operate to contract the field of commercial intercourse by barring a notable part of the population of Morocco from the open door of equal intercourse which we are so

anxious to see established and by hampering the channels of barter and the opportunities of consumption and supply.

It is also evident that reform in this regard is of equal importance from the point of view of internal order and security, a matter provided for in the programme submitted for consideration by the conference. The first subject concerns the adequate policing of the interior of Morocco through an international agreement. Effective policing means and requires such change in internal conditions as will smooth away the class and caste impediments to a beneficial intercourse, remove the prejudices that exist against aliens, and render the people of Morocco receptive to the broad influences of friendly international intercourse. If on no other ground, the measures advocated in this instruction should necessarily commend themselves to the good judgment of the conferees because essentially contributory to the success of any practical scheme of interior police in Morocco.

I inclose for your information copy of a letter from Mr. Schiff communicating the statement above mentioned. It is the President's wish that you give the subject your earnest attention and endeavor in all proper ways to impress its importance upon your colleagues in the conference.

I have, etc.,

ELIHU ROOT.

[Inclosure.]

*Mr. Schiff to the Secretary of State.*

WILLIAM AND PINE STREETS,  
New York, November 21, 1905.

DEAR MR. SECRETARY: I have your valued communication of the 18th instant and thank you for the information therein contained concerning the expectation of the United States to take part in the international conference on Moroccan affairs.

I have also read with interest the programme agreed upon between France and Germany, of which you have been good enough to send me a copy. May I submit to you that it would be very desirable if our government can see its way to do so, that, now that the Moroccan situation is to be made the subject of international discussion, the United States insist that in any protocol which shall be adopted there be inserted a condition of proper treatment of Moroccan subjects of other faiths than the Mohammedan? While the Jew is, in Morocco, subject to particular iniquities, I am informed that Christians and all other sects are great sufferers, in Morocco, from Mohammedan iniquities, and as was the case in the Berlin and other congresses when the participating powers insisted that the status of religious sects need be regulated by treaty, it appears to be most desirable that a similar course be followed in the coming international congress on Moroccan affairs.

\* \* \* \* \*

For your information I take the liberty to inclose herein a statement of the restrictions against Jews now existing in Morocco, which has been sent to me from Europe, which restrictions, when read by an American, appear almost grotesque.

Thanking you in anticipation for giving this consideration, I am, with assurances of high esteem,

Most faithfully, yours,

JACOB H. SCHIFF.

[Subinclosure.]

JEWISH RESTRICTIONS IN MOROCCO, ESPECIALLY IN THE INTERIOR.

*A.—Restrictions in lodging and dress.*

1. Moroccan Jews, with the exception of those living in harbor towns, must live in ghettos (mellah), the doors of which are closed at night.

2. Jews are compelled to wear a special garb, consisting of a heavy cap and heavy shoes. They are not allowed to wear any dress that could cause them to be taken for Mohammedans.

3. Outside of the mellah they must, as a sign of submissiveness, go barefooted and bare-headed. Where there are no mellahs, they must at least take off head gear and shoes in front of the moshees.

4. Outside the mellahs they must go on foot and may not use animals to convey them. Neither may they carry canes. Even the old and sick may use a reed only for support. Humiliating and brutal indignities by Mohammedans are of daily occurrence. The Moorish part of the population often, as a pastime, throw burning coal, broken glass, old tinware, etc., on the places which the Jews have to pass, and then enjoy the sight of the wounds, burns, and pains to which the naked feet of the Jews are subjected. All this goes unpunished. In the Moorish quarters the Jew may not pass any side streets in order to avoid a road that is not easily passable, but must use a street which the Arabs do not frequent. In passing the natives the Jews must go to the left, and if they do not do that they must retrace their steps and make way in the manner prescribed. To such and similar vexatious practices the Jews have to submit every day in the week.

5. Jews who are found outside the ghetto after sunset are, unless they have a permit, considered as outlawed and liable to the grossest maltreatment, for which there is no redress.

6. Jews can travel or move only with special permission from the sheik. Jews traveling may not be accompanied by their wives and children, who are kept back as a sort of hostage for the husband's return. Jews who emigrate, if they can get permission at all to do so, must pay large sums as quit money. Emigrating women must pay twenty times as much as men, so that it is made impossible for families to remove.

7. Jews are not allowed to build their houses above a certain height.

8. As Jews are considered unclean by Mohammedans, they may not drink from public fountains or springs, nor get water from there. Neither may they make use of public baths; even bathing in the ghetto is not always permitted them.

#### *B.—Restrictions in trade and commerce.*

1. Jews may not own real estate outside of the ghetto.

2. They can not have stores or shops in the Moorish quarters of the town where goods are sold to the Moorish population, such as clothing, shoes, silk, etc. Jews who are in these industries are therefore compelled to have their goods sold through native Mohammedans, which often entails considerable loss.

3. In case the government warehouses, where grain and other articles are stored, are overcrowded, or if their contents is spoiled through being stored there too long, the Jews are compelled to buy such goods at the price at which the undamaged article sells.

4. Jewish provision dealers—as butchers, grocers, bakers, etc.—are forced to furnish their goods to officials gratis; if they refuse to do so they are hampered in their business or ruined altogether.

#### *C.—Tributes in money and labor.*

1. Jews and their wives and daughters are forced to work for all public officials at all times, even on the Sabbath and holy days, and the pay they receive in return is far below the common wages. Women are often compelled during such work to have their heads uncovered, which orthodox Jews consider as sinful, as unchastity.

2. Jews are forced to perform labors which the Mohammedans think beneath them, such as the cleaning of closets and sewers, or flaying, etc. Frequently they are forced by the governors to act as executioners.

3. When the heads of rebels are sent to a town to be placed on exhibition at the public gate, the Jews are forced to salt such heads before they are exhibited; even on the Sabbath such labors are imposed upon them, and they lay themselves open to great cruelties if they refuse the work on account of the Sabbath.

#### *D.—Legal restrictions.*

1. A Jew may not testify in court; therefore a case of a Jew against a Mussulman is lost from the start. Consequently, in cases of dispute the Jew must be satisfied to do what the Mussulman demands.

2. As a Jew can not intrust his case against a Mohammedan to a Jewish counsel, he is obliged either to conduct his own case or to engage a Mohammedan lawyer or to lose on account of not being represented in court at all. No Jew may act as counsel for a Mohammedan.

3. Moreover, it is in the power of the Mohammedans to bring suit against a Jew and to have him convicted and severely sentenced by false testimony; and even if hundreds of Jews were ready to swear to the innocence of their coreligionist not one of them would be allowed to testify.

4. If a Jew is murdered by a Mohammedan, it is considered a sufficient punishment if the murderer pays a sum equal to about 1,000 marks (\$250). No other punishment awaits the slayer. He is simply imprisoned until this blood money is paid, and the authorities pocket the larger part of the amount, while the family of the victim gets only a trifling sum. Often the murderer goes entirely free. A Moorish saying is: You may murder with impunity up to seven Jews.

5. The mere charge of religious desecration is punished by death; the charge of immoral intercourse with a Mohammedan woman, even if this be a prostitute, is punished by unlimited imprisonment; and it is permitted to beat the accused until he confesses; if, thus tortured, he confesses or if Mohammedan witnesses testify against him, he is punished by death.

6. A Jew who is condemned to imprisonment or corporal punishment must pay the fee of all officials who are employed in this punishment, and if unable to do so he must, after he has served his term, remain in prison until this money is paid.

7. In prisons Jews are not kept in the ordinary prison cells, but in moist, underground holes.

8. If it should occur to a Mohammedan to maintain that a Jew has sworn off his faith the Jew must become a Mohammedan, and if this Jew later is found to live according to the Jewish ritual death by stoning or by fire awaits him.

*E.—Other political and social restrictions.*

1. Jews are not allowed to follow liberal professions.

2. They are not permitted to bear arms; when they travel, therefore, they are exposed to robbery and murder without being able to defend themselves or their property.

3. Jews pay a head tax, to be dispensed for military service; when paying this money they have to suffer all manner of humiliations. The most frequent one is that they are struck on the head.

4. Jews can not hold any official or public position. (Some exceptions to this have occurred without this, however, aiding the bulk of the Jews.)

*The Secretary of State to Minister Gummeré.*

DEPARTMENT OF STATE,  
Washington, November 28, 1905.

SIR: I confirm my telegram of the 23d instant, reading as follows:  
You will be associated with Ambassador White, Rome, at Moroccan conference. Credentials by first mail.

I inclose herewith your commission, together with typewritten copy thereof for your files.

I am, etc.,

ELIHU ROOT.

*Minister Collier to the Secretary of State.*

[Telegram.]

MADRID, December 4, 1905.

Have been informed by under secretary of state Morocco conference postponed until first week in January.

COLLIER.

*The Spanish Chargé to the Secretary of State.*

[Translation.]

LEGATION OF SPAIN,  
Washington, December 30, 1905.

MR. SECRETARY: I have the honor to advise your excellency, by order of His Majesty's government, that the Sultan of Morocco adhering to his desire that the conference relative to the affairs in his Empire should be held at Algeiras, the cabinet of Madrid has

notified the foreign representatives accredited to the courts of Don Alfonso, that it will receive the delegates to that conference in that city with great pleasure, and do everything in its power to procure accommodations for its personnel within the slim facilities offered at that place. It is further my duty to inform your excellency that, at the request of all the foreign representatives invited to the conference, who are to attend the wedding of Her Royal Highness Infanta Doña Maria Teresa and Prince Ferdinand of Bavaria, the meeting of the conference has been postponed until the 16th of January next.

I renew, etc.,

L. PASTOR.

**ARREST OF A SERVANT OF A NATIVE PROTÉGÉ IN VIOLATION  
OF THE TREATY OF MADRID.**

*Minister Gummeré to the Secretary of State.*

No. 47.]

AMERICAN LEGATION,  
Tangier, September 26, 1905.

SIR: I beg to report the following matter to the Department: Some time ago, as is my custom, I ordered some fowls to be sent to me by Thamy Slawee, of Alcazar Kebir, for many years under American protection, for "signal services." On the 23d instant the fowls were delivered to me by Allal Ben Kasem, a servant of the said Slawee, who has been in his employ for a long time and has often been employed in the same manner. On the 25th instant I was informed that this said Allal Ben Kasem had been arrested by the basha of Tangier and was held in prison. Thinking some mistake had been made I sent to the basha and requested the man's release. The basha expressed his regret at not being able to release him, as he had been arrested by the direct order of the acting minister of foreign affairs. On hearing this I sent my interpreter to the acting minister with an explanation of who the man was and that he had been sent to me, and pointed out that I was sure a mistake had been made; \* \* \* that under Article IX of the treaty of Madrid such an arrest was illegal and could not be tolerated, and that in view of such explanation I was sure he would release him. To this he replied that he refused to release him under any circumstances. Thinking that there must be some misunderstanding I thereupon requested an interview with the acting minister, when I again explained all the circumstances and pointed out that as the man was in the employ of Thamy Slawee, who is under my protection, and had been sent to me on my personal business \* \* \* under Article IX of the treaty of Madrid, the man could not be arrested without notification to the American authorities, and that therefore I must request his immediate release. To this request Hadj Hamed Torres, the acting minister of foreign affairs, again replied at once that under no circumstances would he release the man, who had been arrested by the request of his kaid near Alcazar, who charged that some years ago the man had been a tax collector and still owed the government money. I replied that as the man had been for a long time in the employ of Slawee and his kaid had only been in that office for a month the charge was at least vague, but that I would not discuss that matter, which was quite outside the real subject, that being the illegal manner of his arrest. \* \* \* Whereupon the act-

ing minister declined to discuss the matter further and again refused absolutely to release the man. I thereupon informed him that I would at once lay the matter before my own government and that of His Shereefian Majesty, to which he made the reply that that would make no difference to him. I have accordingly written a letter to the grand vizier, Ben Sliman, stating the whole case, as I have reported it, and requesting that the man be released and that the acting minister of foreign affairs be directed to apologize to me for the illegal arrest of the man. \* \* \* This letter I have dispatched to Fez by Mr. Abrines, my interpreter, for personal delivery to the vizier. \* \* \*

I feel sure that my request to the grand vizier will meet with a favorable response, and that the matter will soon be settled.

In submitting this matter I beg to request the approval and support of the Department as to my actions therein.

I am, etc.,

T. R. GUMMERÉ.

*Minister Gummeré to the Secretary of State.*

No. 51.]

AMERICAN LEGATION,  
Tangier, October 20, 1905.

SIR: In further confirmation of my number 47 of September 20, 1905, I beg to report that I have received a report from my interpreter, Mr. Abrines, informing me that on his arrival at the court at Fez he was immediately received by the grand vizier, Ben Sliman, to whom he delivered my letter setting forth my complaint against Hadj Hamed Torres, acting minister of foreign affairs. The vizier informed Mr. Abrines that he was already aware of the matter and expressed the deepest regret and condemnation of the action of his subordinate. He also informed him that His Majesty the Sultan was very angry about the matter and that orders would be given at once to the acting minister of foreign affairs to release the imprisoned man and to make a personal apology to me for his rudeness and for having infringed the treaty. Mr. Abrines further reports that on the following day he received a notice that the Sultan would receive him, and on presenting himself to His Majesty he was received with marked cordiality. The Sultan told him that he had sent for him to express to me through him his deep personal regret of the behavior of his servant and to beg me to overlook the same at his request, and at the same time to inform me that he would give personal orders to the grand vizier to send a strong letter to the acting minister of foreign affairs (who had already been severely reprimanded) to proceed at once to me and make an apology for his impertinence to myself and action in illegally arresting the servant of Thamy Slawee, and to release the said servant at once. The Sultan further expressed himself in most cordial terms as to the great nation which I have the honor to represent, as well as toward myself personally. Mr. Abrines further reports that he was to have an interview with the grand vizier on the following day, when the Sultan's orders were to be carried out and the letter to the acting minister of foreign affairs delivered to him.

The Department will understand my pleasure at the successful issue of my reference to the court in this matter. The affair in itself was not of such great importance, but the action on the part of the acting minister for foreign affairs was so unusual \* \* \* that I

felt it was impossible to overlook it without great loss of prestige and endangering the whole of American interests and property in Morocco. I have communicated to His Majesty the Sultan and to the grand vizier, through Mr. Abrines, my satisfaction and thanks for their action. Mr. Abrines on the receipt of the Sultan's letter will return to Tangier and I will then make a further report to the Department.

I am, etc.,

T. R. GUMMERÉ.

*The Secretary of State to Minister Gummeré.*

No. 17.]

DEPARTMENT OF STATE,  
Washington, October 23, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 47 of the 26th ultimo, by which you advise the Department of the arrest, contrary to article 9 of the treaty of Madrid, of Allal Ben Kasem, a servant of Thamy Slawee, a person under American protection.

Your statement that the arrest was made by direction of the acting minister for foreign affairs while Kasem was employed in your service, and that the acting minister has refused to order his release at your request, has been duly noted.

Your contention that the arrest of Slawee's servant Kasem without notifying the consul-general was illegal is justified by the terms of the treaty. Paragraph 2, article 9, provides that "the local authorities shall not arrest an employee or servant of a native officer \* \* \* or of a foreign subject or protected person without having notified the authority upon whom he is dependent."

The Department approves your action in addressing a statement of the case to the grand vizier, and presumes that your request in connection therewith that Kasem be released and that the acting minister for foreign affairs be directed to apologize to you for his action will be granted.

I am, etc.,

ELIHU ROOT.

*Minister Gummeré to the Secretary of State.*

No. 59.]

AMERICAN LEGATION,  
Tangier, November 24, 1905.

SIR: In further confirmation of my No. 51 of October 20, 1905, I beg to inform you that notwithstanding my favorable report therein contained, regarding the condemnation by the Sultan and his grand vizier of the action of the acting minister of foreign affairs in arresting the servant of the American protégé, Thamy Slawee, contrary to treaty rights, and his rudeness to myself and their promise to at once accede to my demands for the release of the prisoner and an apology to myself, it is only at this date that I am able to report the fulfillment of the said promises and the closing of the incident. \* \* \*

The departure of the French, British, and German missions, one after the other, from Fez, the farewell entertainments to them and press of final business incident to their departure; the advent of Ramadan, the great Mohammedan fast were each used in turn as excuses for delay in the matter. My dragoman, Mr. Abrines, who has acted very cleverly in conducting the affair, was met with fair promise and

delays without end. Another item of delay was the difficulty of my speedy communication with him, as we have had torrential rains, and the mail couriers now take from seven to eight days for the journey between Tangier and Fez, and as much longer to return. Finally my patience was entirely exhausted, and after having received your approval of my action in demanding the release of the prisoner and an apology I wrote a peremptory letter to the grand vizier, saying that their delays would no longer be tolerated, and that if the Sultan's promises and orders in the matter were not at once carried out I should recall my dragoman and lay the matter before my government for such action as should be deemed fit; at the same time I directed my dragoman to give notice of his immediate recall by me. Upon the receipt of this letter the Sultan sent for my dragoman, Mr. Abrines, and asked him to inform me that he begged me, as a personal favor to himself, to modify my original demand (which was that the acting foreign minister should bring the imprisoned man himself to me at the legation and then and there apologize to me for his conduct) and to grant that the prisoner be released and sent to the legation, and then the following day the acting foreign minister would call on me and make his apologies. Mr. Abrines at first declared to the Sultan that his orders from me were very explicit as to what I demanded, and that the Sultan himself had some weeks before promised that all I asked should be granted, and that therefore he could not place the Sultan's request before me. The Sultan, however, persisted in his request, promising that if I would grant it to him as a personal favor everything else I might ask would be immediately granted and that such indemnity as I might exact in the case should be paid at once. Thereupon my dragoman yielded to his majesty's entreaties and forwarded his request to me.

As I considered that all I had been contending for was really covered by what the Sultan offered, \* \* \* I at once sent him word that I acceded to his request with pleasure and was sure my government would approve my action in so doing. On receipt of my message his majesty expressed the greatest pleasure and gratitude and immediately gave orders that letters should be sent to Tangier ordering that the terms agreed upon be carried out. On the night of the 21st instant I accordingly received, through Mr. Abrines, my dragoman, a Shereefian letter addressed to the acting minister of foreign affairs, which I at once dispatched to him. Within an hour later I was informed that the imprisoned man had been released and sent to the legation, and on the following day I received a request from the acting minister of foreign affairs to receive him this morning at the legation, to which I acceded. This morning, therefore, Hadj Hamed Torres, the acting minister of foreign affairs, came to the legation and apologized for his actions in the matter, and said he had acted under a misapprehension, and promised that nothing of the kind should ever occur again. I accepted his apology and told him that the matter would be forgotten between us, but at the same time I pointed out to him that the consequences of his action might have been very serious, and that in receiving him as I was doing I was acting at the direct personal request of his master, the Sultan, and that the incident is closed. As I have been to considerable expense in supporting the prisoner for over two months (if not fed by their own people they are left to starve), as well as for the expenses of Mr. Abrines at



Fez, with one of my soldiers and a servant, as well as in supplying his place temporarily at the legation, for the same period of two months, I have thought it only just to accept the offer to pay an indemnity, or rather to exact a small sum sufficient to pay most of my expenses. I have therefore directed my dragoman to accept the sum of \$400 Moorish money, which amounts to about \$225 American money. This amount will about pay the expenses incurred and leave a small margin, which I shall pay to the wretched prisoner as a slight compensation. I trust in this, as in my other actions in this matter, I may have your approval.

I have directed my dragoman to return at once from Fez.

I am, etc.,

T. R. GUMMERÉ.

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*The Secretary of State to Minister Gummeré.*

No. 22.]

DEPARTMENT OF STATE,  
Washington, December 15, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 59 of the 24th ultimo, by which you advise the Department that the servant of the American protégé, Thamy Slawee, who was arrested by order of the acting minister for foreign affairs, contrary to treaty rights, has been released, and the apology demanded by you has been made by the acting minister. Your statement that a small sum has been requested and granted in this connection is also noted.

The Department acquiesces in this settlement (which appears to be rather a reimbursement of expenses than exemplary damages) and desires to express its satisfaction that the incident is at last closed.

I am, etc.,

ELIHU ROOT.

## NETHERLANDS.

### PROTOCOL BETWEEN GREECE AND THE NETHERLANDS RELATING TO THE RIGHTS OF COMMERCIAL, INDUSTRIAL, AND FINANCIAL ASSOCIATIONS.

*Minister Newel to the Secretary of State.*

No. 836.]

AMERICAN LEGATION,  
*The Hague, The Netherlands, January 25, 1905.*

SIR: I have the honor to inclose herewith two copies, with translation, of a law of December 30, 1904, proclaiming the ratification of a protocol annexed to the copies of the law inclosed, with translation, signed at Athens, October 15, 1903, between the Netherlands and Greece, to regulate the condition of limited liability and other companies in the two countries.

I have, etc.,

STANFORD NEWEL.

[Inclosure.—Translation.]

No. 281. Law of the 30th of December, 1904, containing the ratification of the protocol signed at Athens on the 15th of October, 1903, between the Netherlands and Greece respecting the regulation of the condition of limited liability and other companies in the respective countries.

We, Wilhelmina, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc.,

To all whom these presents shall concern, greeting: We do proclaim

That, whereas we having deemed it desirable that the protocol signed at Athens on the 15th of October, 1903, between the Netherlands and Greece, regulating the condition of limited liability and other companies in the respective countries should be legally recognized;

In observance of the second clause of article 59 of the constitution;

Hence we, having heard the council of state and with the general consent of the states general, have agreed and resolved, as we do hereby resolve and decree:

#### ONLY ARTICLE.

The annexed protocol, signed at Athens on the 15th of October, 1903, between the Netherlands and Greece regulating the condition of limited liability and other companies in the respective countries is hereby ratified.

Do order and command that this shall be inserted in the Official Gazette and that all ministerial departments, authorities, corporations, and officials concerned shall strictly observe the same.

Given at The Hague this 30th day of December, 1904.

The Minister of Foreign Affairs,

WILHELMINA.

The Minister of Justice,

R. MELVIL VAN LYNDEN.

Issued this fourteenth day of January, 1905.

J. A. LOEFF.

The Minister of Justice,

J. A. LOEFF.

#### PROTOCOL.

The Government of Her Majesty the Queen of the Netherlands and the Government of the King of the Hellenes, desiring, in the interest of the commerce of the two countries, to regulate in a reciprocal manner the position of Dutch and Greek limited liability com-

panies in each of the contracting countries, the undersigned, in virtue of the authorization conferred upon them, have agreed upon the following:

Limited liability and other commercial, industrial, or financial associations that are or that may be formed and authorized in accordance with the local laws of one of the contracting countries shall be mutually recognized in such manner that these societies and associations may exercise all their rights of going to court either to bring an action or to defend one in the state of the other party without other condition than that of conforming to the laws of the country.

The present protocol shall take effect in each of the two contracting states from the date of its promulgation in the official journal and shall remain in force until the expiration of one year from the day on which either of the contracting governments shall have denounced it.

In faith of which the undersigned, P. C. van Lennepe, chargé d'affaires of Her Majesty the Queen of the Netherlands, and D. G. Rhallys, president of the council, minister of foreign affairs of His Majesty the King of the Hellenes, have signed and sealed the present protocol under reserve of the consent thereto by the Netherlands Chambers.

Done in duplicate original at Athens the twelfth/fifteenth October, one thousand nine hundred and three.

(SEAL.) P. C. VAN LENNEPE.  
(SEAL.) D. G. RHALLYS.

### RATIFICATIONS AND ADHERENCES TO THE CONVENTIONS AND DECLARATIONS OF THE HAGUE PEACE CONFERENCE OF 1899.

*Chargé Garrett to the Secretary of State.*

No. 843.]

AMERICAN LEGATION,  
*The Hague, The Netherlands, February 11, 1905.*

SIR: I have the honor to inclose herewith duplicate copies of a royal order of January 23, 1905, announcing the names of the powers that, up to December 31, 1904, have ratified or adhered to the conventions and declarations of the Peace Conference of 1899, together with the dates on which the several acts of ratification were deposited or on which the adherence was made.

I have the honor, etc.,

JOHN W. GARRETT.

[Inclosure.—Translation.]

[From the Staatsblad of the Kingdom of the Netherlands.]

No. 29 Order of the 23d of January, 1905, announcing the names of the powers who up to the 31st of December have ratified or adhered to the conventions and declarations of the Peace Conference.

We, Welhelmina, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc.,

In observance of our order of the 19th of September, 1900 (Official Gazette, No. 163), providing for the announcing in the Official Gazette of the conventions and declarations signed at the Peace Conference on the 29th of July, 1899:

Whereas it is desirable that the names of the powers who have subsequently ratified or adhered to the said conventions and declarations should be made known;

Whereas the names of all the powers who have ratified or adhered to these acts are mentioned in the list annexed to this order;

At the advice of the minister of foreign affairs of the 3d of January, 1905, No. 178, protocol bureau;

Have resolved and decreed:

That the said list shall be published by placing this order in the Official Gazette.

Our ministers, chiefs of government departments, are charged, each for so far as he is concerned, with the carrying out of whatever may be required in this matter.

The Hague, the 23d of January, 1905.

WILHELMINA.

The Minister of Foreign Affairs,

R. MELVIL VAN LYNDEN.

Issued this second day of February, 1905.

The Minister of Justice,

J. A. LOEFF.

List of the names of the powers in regard to which the conventions and declarations signed on July 29, 1899, were obligatory on December 31, 1904.

A.—POWERS WHICH HAVE RATIFIED.

[The dates mentioned indicate the day on which the several acts of ratification were deposited.]

	I. Convention concerning the pacific settlement of international disputes.	II. Convention concerning the laws and customs of war on land.	III. Convention concerning the adaptation to maritime warfare of the principles of the Geneva conference of August 22, 1864. (Article 10 is excluded from the ratification of the above convention.)	IV. 1°. Declaration prohibiting the throwing of projectiles from balloons or other analogous means.	IV. 2°. Declaration prohibiting the use of projectiles having as their sole object the diffusion of asphyxiating or deleterious gases.	IV. 3°. Declaration prohibiting the use of bullets which expand or flatten easily in the human body.
Austria-Hungary.	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Belgium.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Bulgaria.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
China.....	Nov. 21, 1904	(a)	Nov. 21, 1904	Nov. 21, 1904	Nov. 21, 1904	Nov. 21, 1904
Denmark.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
France.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Germany.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Great Britain.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	(a)	(a)	(a)
Greece.....	Apr. 4, 1901	Apr. 4, 1901	Apr. 4, 1901	Apr. 4, 1901	Apr. 4, 1901	Apr. 4, 1901
Italy.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Japan.....	Oct. 6, 1900	Oct. 6, 1900	Oct. 6, 1900	Oct. 6, 1900	Oct. 6, 1900	Oct. 6, 1900
Luxemburg.....	July 12, 1901	July 12, 1901	July 12, 1901	July 12, 1901	July 12, 1901	July 12, 1901
Mexico.....	Apr. 17, 1901	Apr. 17, 1901	Apr. 17, 1901	Apr. 17, 1901	Apr. 17, 1901	Apr. 17, 1901
Montenegro.....	Oct. 16, 1900	Oct. 16, 1900	Oct. 16, 1900	Oct. 16, 1900	Oct. 16, 1900	Oct. 16, 1900
Netherlands.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Persia.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Portugal.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	(a)
Roumania <sup>b</sup> .....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Russia.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Servia <sup>c</sup> .....	May 11, 1901	May 11, 1901	May 11, 1901	May 11, 1901	May 11, 1901	May 11, 1901
Siam.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Spain.....	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Sweden and Norway.....	Sept. 4, 1900	(d)	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900	Sept. 4, 1900
Switzerland.....	Dec. 29, 1900	(d)	Dec. 29, 1900	Dec. 29, 1900	Dec. 29, 1900	Dec. 29, 1900
Turkey.....	(d)	(d)	(d)	(d)	(d)	(d)
United States <sup>e</sup> .....	Sept. 4, 1900	Apr. 9, 1902	Sept. 4, 1900	Sept. 4, 1900	(a)	(a)

<sup>a</sup> Neither signed nor ratified.

<sup>b</sup> Under reservation in respect to articles 16, 17, and 19 of the proposal laid before the committee of inquiry, entered in the minutes of the third committee of July 20, 1899.

<sup>c</sup> Under the reservation mentioned in the minutes of the third committee of July 20, 1899.

<sup>d</sup> Signed but not ratified.

<sup>e</sup> Under the reservation made at the general meeting of the conference, July 25, 1899.

B.—ADHERING POWERS.

[The dates mentioned indicate the day of adherence.]

Guatemala.....			Apr. 6, 1903			
Korea.....		Mar. 17, 1903	Feb. 7, 1903			
Peru.....		Nov. 24, 1903	Nov. 24, 1903			
Salvador.....		June 20, 1902	June 20, 1902			

**ARBITRATION OF THE CONTROVERSY BETWEEN FRANCE, GERMANY, GREAT BRITAIN, AND JAPAN RELATING TO THE HOUSE TAX IN JAPAN.**

[For previous correspondence see Foreign Relations, 1902, p. 687 et seq.]

*Minister Newel to the Secretary of State.*

No. 790.]

AMERICAN LEGATION,  
*The Hague, Netherlands, October 3, 1904.*

SIR: I have the honor to state that the secretary-general of the Permanent Court of Arbitration informs me that according to a communication from the president of the arbitration tribunal instituted in virtue of the protocols signed at Tokyo, August 28, 1902, concerning the question of perpetual leases in the former foreign concessions in Japan, the first meeting of the tribunal above mentioned will be held at The Hague on Monday, November 21, 1904, at 11 o'clock a. m.

The secretary-general also informs me that the Imperial Japanese Government has appointed Mr. Tsunejiro Miyaoka, minister resident of his Majesty the Emperor of Japan, and Baron Descamps, minister of state and professor of international law at Louvain, respectively, agent and counsel before the said tribunal. The appointments of agent and counsel of the other parties have not yet been notified to the international bureau.

I have, etc.,

STANFORD NEWEL.

*Chargé Garrett to the Secretary of State.*

No. 800.]

AMERICAN LEGATION,  
*The Hague, Netherlands, November 2, 1904.*

SIR: Referring to Mr. Newel's No. 790, of October 3, in connection with the meeting of the arbitral tribunal in the Japanese house-tax case, I have the honor to state that the secretary-general of the Permanent Court of Arbitration informs me that the first meeting of the tribunal will take place at The Hague on the 21st instant; and, further, that the Governments of France, Germany, and Great Britain have collectively designated the following gentlemen as their agents to form a joint delegation to appear before the tribunal, viz:

The Government of France: Mr. Fromageot, LL.D., advocate at the court of appeal at Paris.

The Government of Germany: Mr. Weipert, unattached consul.

The Government of Great Britain: Mr. Ambrose B. Walford.

I have, etc.,

JOHN W. GARRETT.

*Chargé Garrett to the Secretary of State.*

No. 886.]

AMERICAN LEGATION,  
*The Hague, Netherlands, May 25, 1905.*

SIR: Referring to Mr. Newel's No. 808, of November 24, 1904, (<sup>a</sup>) in connection with the Japanese house-tax arbitration, I have the honor to inclose herewith duplicate copies of the minutes of the meeting of

the tribunal held on the 15th instant and of the sentence pronounced on the 22d instant.

The tribunal met to pronounce its sentence on the 22d instant. The sentence was read by the secretary-general.

In accordance with the provisions of paragraph 1 of Article LII of The Hague convention the sentence is preceded by a statement of the reasons that led the majority to reach its decision. The sentence reads as follows:

The provisions of the treaties and other engagements mentioned in the protocols of arbitration exempt not alone the lands held in virtue of the perpetual leases granted by the Japanese Government, or in its name, but they exempt the lands and buildings of all kinds constructed, or that may be constructed, on these lands from all dues, taxes, charges, contributions, or terms whatsoever other than those expressly stipulated in the leases in question.

In accordance with the second paragraph of Article LII above mentioned, the Japanese member of the tribunal signified his dissent from the reasoning and conclusion of the majority in the following words:

At the moment of proceeding to the signature of the present arbitral sentence, using the privilege conferred on me by Article 52, paragraph 2 of the convention for the pacific settlement of international disputes, concluded at The Hague July 29, 1899, I wish to record my absolute dissent from the majority of the tribunal in as far as concerns both the reasons and the conclusion of the sentence.

It is interesting to note that this is the first dissenting opinion of a tribunal under the terms of The Hague convention, the awards in the Pious fund case and in the Venezuela preferential treatment case having been unanimous. After duly certified copies of the sentence had been distributed to the agents of the respective parties, the tribunal adjourned.

\* \* \* \* \*

I have, etc., JOHN W. GARRETT.

**ARBITRATION TREATIES CONCLUDED BY THE NETHERLANDS  
WITH DENMARK, FRANCE, AND GREAT BRITAIN.**

*Minister Newel to the Secretary of State.*

No. 901.]

AMERICAN LEGATION,  
*The Hague, The Netherlands, June 30, 1905.*

SIR: I have the honor to inclose herewith duplicate copies of a Netherlands-British arbitration treaty <sup>a</sup> which has been ratified by the States-General and received the royal sanction on the 7th of June last. The inclosed copy appeared in the Netherlands Official Gazette of the 27th of June, 1905.

I have, etc., STANFORD NEWEL.

[Inclosure.]

Her Majesty the Queen of the Netherlands and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, signatories of the convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899:

<sup>a</sup> Similar treaties between the Netherlands and France and the Netherlands and Denmark were forwarded by Mr. Newel in his 899 and 900, of June 30, 1905.

Taking into consideration that by Article XIX of that convention the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment, have named as their plenipotentiaries to conclude the following arrangement:

Her Majesty the Queen of the Netherlands, Karel Willem Paul Frans Baron Gericke van Herwijnen, her envoy extraordinary and minister plenipotentiary at London, chamberlain extraordinary; and

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Most Honorable Henry Charles Keith Petty-Fitzmaurice, Marquess of Lansdowne, His Majesty's principal secretary of state for foreign affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

#### ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the high contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states and do not concern the interests of third parties.

#### ARTICLE II.

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure.

#### ARTICLE III.

The present convention, which shall be ratified, is concluded for a period of five years, dating from the exchange of the ratifications, which shall take place at London as soon as possible.

Done in duplicate at London the 15th day of February, 1905.

# NICARAGUA, COSTA RICA, AND SALVADOR.

## CONCESSIONS (MONOPOLIES) GRANTED BY NICARAGUA.

*The Acting Secretary of State to Minister Merry.*

No. 613.]

DEPARTMENT OF STATE,  
Washington, January 13, 1905.

SIR: It is represented to the Department by Mr. Selden Bacon, acting as attorney for some American citizens engaged in business at Bluefields, Nicaragua, that his clients are seriously injured by reason of the following conditions, which, as he informs the Department, now prevail at Bluefields, viz:

1. That by virtue of a series of executive decrees promulgated by the Nicaraguan Government, dated, respectively, November 12, 1902, October 4, 1903, and May 14, 1904, customs duties and various other governmental dues are estimated in gold at a ratio of five to one throughout Nicaragua; that at interior points the payment of such duties and dues is permitted to be made in the paper currency of Nicaragua, which is worth less than half as much as the silver coin in which payment of the dues and duties is required to be made at Atlantic coast points, including Bluefields. The Department is further informed by Mr. Bacon that on the Atlantic coast of Nicaragua substantially all business, and particularly all business of importing and exporting, is conducted by foreigners, many of them American citizens; while at all points in the interior of the country commerce is conducted almost exclusively by native business houses. The discrimination, on its face merely a local one, would seem, if these representations are correct, to be substantially a discrimination against the foreign merchants, who are largely Americans.

2. Mr. Bacon further represents to the Department that in October, 1899, an act was passed by the national assembly of Nicaragua, which was approved on November 4, 1899, by the President of that Republic, authorizing the Nicaraguan executive to establish *aduanas de revision* at Bluefields, Granada, and Leon, one for each of three districts into which the country was correspondingly divided, in which said *aduanas de revision* all imports into the respective districts should be reexamined and the duties thereon reassessed, after having been once assessed in the regular custom-house. It is particularly pointed out that this reassessment is not confined to cases of appeals, but applies to all imports.

3. Mr. Bacon further represents to the Department that the Nicaraguan executive has recently, by virtue of this act, established one such *aduana de revision* at Bluefields, on the Atlantic coast, for that district, but has not as yet established any *aduana de revision* at Leon or Granada, and it is urged that therefrom results a like discrimination against American merchants and in favor of native merchants.



4. Mr. Bacon further represents to the Department that such double customs examination, in itself a burden on commerce, is made even more burdensome by the requirement that the two examinations at Bluefields be made at different points, separated by the width of the bay and sufficient to necessitate extra packing and transportation charges. It is further represented to the Department that the *aduana de revision* at Bluefields was established by executive decree dated February 25, 1904, in connection with the grant of the wharfage "concession" mentioned below.

5. Mr. Bacon further represents to the Department that the Nicaraguan executive, by virtue of alleged authority conferred by the said act of November 4, 1899, approved by an executive decree dated February 25, 1904, a concession granted by him to one T. M. Solomon, a citizen of Louisiana, and his successors, of the right to construct and maintain one or more wharves at Bluefields. This decree and concession contained also the following provisions, namely:

That as soon as one of these Solomon wharves, with accompanying warehouse, should be completed, the government would undertake to establish the Bluefields *aduana de revision* provided for by the act of November 4, 1899, on that wharf; that thereafter all merchandise exported or imported by any person through Bluefields should be loaded and unloaded on such wharf or wharves, and every schooner or vessel of whatever kind arriving at Bluefields or Rama (a port twenty miles up the Bluefields River from Bluefields) should be required to anchor at the Solomon wharf and pay the wharfage charges established by the concession; that all merchandise imported for the Pearl Lagoon district should also be required to pay the Solomon wharfage dues as fixed by the concession.

The Department is further informed by Mr. Bacon that this concession and decree of February 25, 1904, goes on to make the following provisions:

That all merchandise which, after being assessed in the *aduana de revision*, shall not be withdrawn from the private warehouses (to be erected by Mr. Solomon in connection with his wharf) within two days shall be subject to whatever storage charges Solomon or his successors may fix.

That should imported merchandise be heavy and bulky, as iron safes, boilers, et cetera, it may be assessed by the officers of the *aduana de revision* within the ship, permission having been previously obtained from the proper authority; but where such permission is granted Mr. Solomon or his associates shall be advised of this fact in order that they may demand and receive the whole amount of the wharfage charges precisely as if the merchandise had been unloaded on the Solomon wharf.

That all the steamships and all other vessels arriving in the Bay of Bluefields, either with passengers, in ballast, or otherwise, shall land at the Solomon wharf and pay the regular wharfage charges fixed by him.

That these regulations shall be in force for twenty-five years, and during that term all merchandise exported as well as imported shall pass over the Solomon wharf and pay for the mere right of transit or wharfage 15 per cent less than the tariff established by the Corinto wharfage concession.

That the chiefs of the regular custom-house at the Bluff and of the *aduana de revision* at Bluefields shall not permit the exportation of merchandise or produce of any kind from the port of Bluefields unless the exporter produce a receipt from Solomon for the payment of his wharfage charges thereon.

That Mr. Solomon, his successors and associates, shall enjoy the fiscal privileges for the collection of the charges so authorized, and may collect such charges as provided by the police law.

That canoes belonging to creoles who transport wood, fish, bananas, and necessaries from their own properties within the jurisdiction of Bluefields shall be exempt from these wharfage dues, even though compelled to come alongside the wharf.

It is further represented to the Department that the Corinto tariff referred to includes the following rates, payable in United States currency: On general freight, \$1.60 per ton and \$1.10 per half ton, with a minimum charge of 60 cents per package; 25 cents per piece for baggage; 85 cents per ton for lumber; 25 cents each for passengers, and 25 cents a head for cattle.

Mr. Bacon further represents to the Department that Mr. Solomon has recently completed the contemplated wharf, and, according to the terms of the concession, the Bluefields *aduana de revision* is now established thereon, and consequently all imports to and exports from the port of Bluefields are now required to be examined at the regular Bluefields custom-house at the Bluff, then to be transported some miles across Bluefields Bay to the Solomon wharf at Bluefields, and there reexamined by the officers of the *aduana de revision*, paying Solomon the specified wharfage dues, and that by this means Mr. Bacon's clients are practically debarred from the use of their own wharves at Bluefields, on which for many years they have been accustomed to land their goods after the examination in the custom-house at the Bluff.

It is further represented to the Department that on the Bluefields side of the bay, where the Solomon wharf has been erected, the water is so shallow that vessels drawing over 6 or 8 feet can not approach the Solomon wharf, but that by the terms of the concession they are none the less required to pay the Solomon wharfage dues.

6. Mr. Bacon further represents to the Department that on April 30, 1904, the Nicaraguan Government, by legislative act, approved a twenty-five year concession to Mr. Charles Weinberger, a citizen of Louisiana, and his successors for the exclusive right of navigating by steam, naphtha, gasoline, electricity, or alcohol the Escondido, or Bluefields River and its tributaries, and that this concession contains express provision that its recession, in consequence of diplomatic representations, shall afford Mr. Weinberger no ground for complaint against the Nicaraguan Government.

It is further represented to the Department that attempts have already been made to put this monopoly in force and to prevent steam navigation of the Bluefields River by any persons other than Mr. Weinberger and his licensees.

Your attention is called to the provisions of Article VII of the Anglo-Nicaraguan treaty of Managua, of January 28, 1860, requiring as one of the conditions of the surrender of the alleged British protectorate over the Mosquito Reserve that the Nicaraguan Government declare Greytown a free port, at which no duties or charges shall be imposed

upon vessels arriving in or departing therefrom except those specified in the treaty.

Your attention is especially called to the correspondence between this government and that of Nicaragua, conducted in 1892 through the American minister, Mr. Shannon, and the Nicaraguan minister of foreign affairs, Señor Jorge Bravo, and to the position then taken by the Nicaraguan Government that these provisions concerning Greytown were equally applicable to all ports and waters of the former Mosquito Reserve, and particularly to Bluefields (see U. S. Foreign Relations, 1893, pp. 163-174), a position out of which grew the negotiations at the Court of St. James, which resulted in the de facto incorporation of the Mosquito Reserve into the territory of Nicaragua.

The foregoing facts, if substantially true as reported, seem to justify the parties in their complaint and to entitle them to the good offices of this government, to the end that the Nicaraguan Government be requested not to enforce the wharfage and river monopolies complained of.

It is hoped, too, if the nature of the provisions has been correctly stated, that the Nicaraguan Government will find it possible entirely to dispense with the *aduana de revision*, as an unnecessary burden on commerce between Nicaragua and other states; at the least it would seem possible, without prejudice to any interests of the Nicaraguan Government, to provide that the officers of the *aduana de revision* should make their examination of merchandise at the place where the goods are subjected to the ordinary customs examination, and without delay.

It can not be doubted that the Nicaraguan Government, on its attention being called to the practical discriminations alleged to be made against foreign merchants, both in the requirements of payment in silver on the coast and in the establishment of an *aduana de revision* at Bluefields, while none is established at either Leon or Granada, will remove any cause for dissatisfaction.

You will communicate the contents of this dispatch to the Nicaraguan Government and supply the Department with full advices in regard to the matters of fact in question and with copies of all documents, acts, and concessions necessary to a full understanding of the matter.

I am, etc.,

FRANCIS B. LOOMIS.

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*Minister Merry to the Secretary of State.*

No. 1009.]

AMERICAN LEGATION,  
*San José, Costa Rica, January 28, 1905.*

SIR: I have the honor to acknowledge receipt of your No. 613, dated January 13, and have carefully noted instruction therein. I shall address a dispatch to the Nicaraguan Government covering the representations of Mr. Seldon Bacon, attorney for American citizens at Bluefields, by mail leaving here on 1st of February.

The Nicaraguan Government has lately made several contracts with our citizens, for which it has been paid in United States gold approximately one million dollars. \* \* \*

The assertion of Mr. Bacon that the wholesale business on the Nicaraguan Atlantic coast is mostly conducted by foreigners is correct,

but the assertion that in the interior it is conducted almost exclusively by native firms is misleading, inasmuch as there are many foreign firms located in western Nicaragua, so that the discrimination alluded to, while applicable to locations, is only in a restricted sense a discrimination against foreigners.

The establishment of *aduanas de revision* appears to be an unwise and onerous tax on commerce that no active commercial nation would consider practicable, and, as hereafter explained, there is good reason to doubt if the law will ever be enforced. The Solomon wharf concession at Bluefields appears to be in restraint of trade, and its enforcement will unavoidably create much friction. \* \* \* It appears an unjust absurdity that merchandise landed at Pearl Lagoon shall be required to pay Solomon's wharf dues at Bluefields, but that is one of the requirements in Act 10.

That steamships and all other vessels arriving at Bluefields Bay shall use Solomon's wharf is an impossibility, for the reason that there is a depth of 13 feet on the bar, and at Solomon's wharf there will not be over 6 to 7 feet depth at high water. On the contrary, Act 2 provides that the wharf is to be constructed of sufficient depth to accommodate any vessel that "can cross the bay and arrive at Bluefields" (*que puede cruzar la bahia y llegar a Bluefields*). \* \* \*

I note your allusion to article 7 of the Anglo-Nicaraguan treaty of 1860 as establishing a free port at Greytown, or San Juan del Norte. It may interest you to know that such merchants as remain there have petitioned the British chargé d'affaires now at Managua to permit it to become a duty-paying port.

The numerous complaints recently received at Managua in regard to the concessions alluded to in your dispatch have caused the Managua Government to send a special commission thence to Bluefields, consisting of Dr. Isidro Oviedo, supreme court justice, and Don J. Ramon Seville, subsecretary of foreign relations and public instruction. These gentlemen should have arrived there at this date, and it is hoped that their investigation of the friction developed on the Atlantic littoral of Nicaragua by the attempted working of these exclusive concessions may be at least diminished through their modification, which I have no reason to presume will be objected to by the Nicaraguan Government, provided no return of funds is demanded. \* \* \*

Meanwhile the fact that your attention has been called to the onerous impediments placed upon the commercial interests of our people on the Atlantic Nicaraguan coast through these exclusive concessions should induce official action beneficial to the complainants.

I have, etc.,

WILLIAM LAWRENCE MERRY.

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*Minister Merry to Acting Secretary of State Loomis.*

No. 1040.]

AMERICAN LEGATION,  
San José, Costa Rica, April 27, 1905.

SIR: I have the honor to forward herewith copy and translation of the reply from the Government of Nicaragua to the various inquiries made in your No. 613 of January 13 on representations of Seldon

Bacon, esq., attorney for American merchants at Bluefields, Nicaragua, and answering my dispatch of January 30 to that government.

I am informed that the revisionary custom-house at Bluefields is likely to be abandoned as impracticable and that the Weinberger contract for the exclusive navigation of the Escondido River will be modified. Both were in restraint of commerce, and providing it is not required that the government shall repay any part of the money received for the concessions I do not think it will be difficult to establish a status that will better permit the protection of all parties in interest.

\*            \*            \*            \*            \*            \*            \*

The assurance that it is intended to conciliate the interests involved and the fact that changes are already being made in that direction warrant the expectation that in this connection there will be less friction hereafter.

I have, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Merry.*

NATIONAL PALACE,  
Managua, March 28, 1905.

MR. MINISTER: I have had the honor of receiving the very courteous and important note of your excellency, dated January 30 last past, referring to the various subjects of fiscal administration and navigation on the Atlantic coast of Nicaragua.

The President of the Republic has fully informed himself with much affability of the subjects of your excellency's note, and with his instructions I have the pleasure to reply in the following terms:

I state to your excellency in the first place that by virtue of the executive decrees of November 12, 1902, 4th of October, 1903, and 14th of May, 1904, the customs and other duties also collected by this government shall be paid in gold or its equivalent value in public treasury notes at 500 per cent in all the Republic, and that while in the interior these duties are collected in paper money, silver is demanded on the Atlantic coast, although the note has a value less than half that of silver. On this point permit me to express to your excellency that, in conformity with article 6 of the decree of May 14, cited, its terms do not include the customs of the Atlantic coast. The treasury note not circulating in this region and the government having to pay all its expenses of administrative service in silver, the customs duties are collected in the same money, as is just and natural, in conformity with the decree of October 4, also cited to your excellency, and thus also for this motive the mentioned decree does not apply to the customs of the coast the mentioned decree of November 12, which established the duty in gold owing to the depreciation of the notes.

For said reason the customs duties, as is seen, are paid on the Atlantic coast simply in silver without regard to any equivalent in relation to gold and this is perfectly just and regular.

In regard to the custom-houses of revision at Bluefields, Leon, and Granada, the establishment of these had the object of an exact and effective control in the introduction of merchandise and payment of customs duties. Notwithstanding, before having received your excellency's note, and having in mind the inconveniences which the two entry practices presented, one at the Bluff and the other at Bluefields, and to the solicitation of some merchants, my government decided that while it accords with convenience in the matter, the formalities of two custom-houses shall be complied with in one only. And if it be true that at present there is alone installed the revision custom-house at Bluefields this is because it is not now considered necessary in Leon and Granada; but they will be installed by virtue of the said law if found necessary. Although in the contract of Mr. Solomon is included the merchandise destined to Pearl Lagoon for the revision and payment of duties and wharfage, subsequently, by the decree of January 29 last, it is fixed that the concession should be understood as applicable to the merchandise in the extension of the river Escondido, excluding consequently the merchandise destined to that district which has been introduced by free

sea, consequently only the articles that arrive at Pearl Lagoon by the way of river Escondido are subject to such regulations.

With regard to the contract celebrated with Mr. Weinberger, by which is conceded the navigation of the river Escondido and its affluents, I should show your excellency that this does not prejudice acquired rights, and thus it is clearly provided in article 6 of said contract. If any person considers himself damaged in his rights prior to that, he can make the reclamation to which he has right in due form before the competent tribunals, which until now has not been done.

Although, supposing that in 1892 this ministry, by medium of correspondence, directed to the United States minister, has manifested that the privileges of the port of San Juan del Norte are applicable to the remainder of the Atlantic coast, that circumstance has no present force, because the incorporation of the old Mosquito Reserve to this Republic in 1894 and the absolute renouncement of the economic autonomy in 1898 have left without value the treaty of 1860 between England and Nicaragua. And it is to be noted that this has been foreseen in the same treaty.

Until now I have not had the satisfaction of replying to the estimable note of your excellency, because this ministry awaited the report of the commissioners that the government sent to the Atlantic coast, who have just arrived at this capital, to proceed with more certainty in these matters.

Your excellency can entertain the assurance that my government finds itself in the best disposition to agree to all the facilities necessary to reciprocal commerce on our eastern coast between the United States and Nicaragua in such manner that will conciliate the interests of the citizens of that and this Republic, mutually respecting the rights which belong to each.

I approve of this occasion to reiterate to your excellency, etc.,

ADOLFO ALTIMIRANO.

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*Minister Merry to Acting Secretary of State Adee.*

No. 1072.]

AMERICAN LEGATION,  
*San José, Costa Rica, August 21, 1905.*

SIR: Referring to your No. 613 of January 13, 1905, and to my reply No. 1009, dated January 28, I have the honor to state that the commercial conditions complained of by Mr. Seldon Bacon, attorney for American citizens at Bluefields, Nicaragua, have materially changed since the date of his complaint, through the effect of later decrees by the Managua Government before alluded to. The *aduana de revision* [revisory custom-house] at Bluefields has been abolished, and instead thereof 5 per cent has been added to the customs duties at that port, the reason alleged therefor being the expense incurred by the contractor in construction of the custom-house and wharf for which he claims reimbursement.

The exclusive contract for the navigation of the Escondido River by the Bluefields Steamship Company, against which strong protests were made, has been modified in such manner that the planters can load an independent steamer with bananas at the Bluefields Bluff every ten days. The Bluefields Steamship Company agrees to transport to this steamer and to load the bananas at 10 cents gold per bunch. Whether these concessions to the planters and merchants will be entirely satisfactory remains to be seen, but so far there has been no united protest against the new regulations above stated.

\* \* \* \* \*

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

**SETTLEMENT OF THE CLAIM OF P. S. R. HUGO FARRINGTON  
AGAINST SALVADOR.**

*Minister Merry to the Secretary of State.*

No. 1028.]

AMERICAN LEGATION,  
*San José, Costa Rica, March 23, 1905.*

SIR: My No. 334 of November 15, 1899, with inclosures, placed before the Department of State the complaint of Mr. P. S. R. Hugo Farrington, an American citizen, against the Government of El Salvador. I have now the honor to advise the deposit in the national treasury at San Salvador of twenty-seven thousand seven hundred and one eighty-one hundredths (\$27,701.81) silver dollars, subject to the demand at sight of Mr. Farrington, settling his claim in full for \$15,000 with interest at 10 per cent per annum and some legal charges credited him in contesting the case in the local courts before appealing to the Department of State.

Mr. Farrington, who now resides at Esquintla, Guatemala, was by me advised on 14th instant that the amount above stated is subject to his order as notified by the Government of El Salvador to our consul-general in that Republic. This claim was a peculiar one in that the higher court sustained Mr. Farrington's claim for payment of a foreclosed real estate mortgage while the lower court refused to recognize the order of its superior to place Mr. Farrington in possession.

With assurances, etc..

WILLIAM LAWRENCE MERRY.

*The Acting Secretary of State to Minister Merry.*

DEPARTMENT OF STATE,  
*Washington, April 3, 1905.*

SIR: The Department is gratified to learn by your No. 1028 of the 23d ultimo that the Government of Salvador has agreed to pay the sum of \$27,701.81 silver dollars, in full settlement of the claim of Mr. P. S. R. Hugo Farrington.

I am, etc.,

ALVEY A. ADEE.

**TREATY BETWEEN GREAT BRITAIN AND NICARAGUA RELATING  
TO THE "MOSQUITO RESERVE."**

*Minister Merry to Acting Secretary of State Loomis.*

No. 1044.]

AMERICAN LEGATION,  
*San José, Costa Rica, May 12, 1905.*

SIR: I have the honor to forward herewith copy and translation of treaty signed at Managua on April 19 between representatives of Great Britain and Nicaragua relating to the Atlantic coast of the latter, same being intended to definitely settle the old Mosquito question. I have taken the copy from El Diario de la Tarde, semiofficial journal published at Managua, as the official publication may be delayed. You will note that the treaty of Managua, 1860, is abrogated by the first section of the new treaty. \* \* \*

I have, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—Translation.]

[From El Diario de la Tarde, April 24, 1905. Mosquito treaty.]

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Sea, Emperor of India, etc., and His Excellency the President of Nicaragua, desiring to settle in an amicable way the pending questions in relation to the Mosquito Reserve, have decided to celebrate the present treaty, designating as their plenipotentiaries: His Majesty the King of the United Kingdom of Great Britain, etc., the Hon. Herbert William Broadley Harrison, companion of the highly distinguished order of St. Michael and St. George, chargé d'affaires of His Britannic Majesty in Nicaragua, and His Excellency the President of Nicaragua Dr. Don Adolfo Altamirano, minister of foreign relations, who, having communicated to each other their respective full powers and the same having been found in proper form, have agreed to the following articles:

ARTICLE 1. The high contracting parties agree that the treaty of Managua of January 28, 1860, is abrogated and will so remain.

ART. 2. His Britannic Majesty recognizes the absolute sovereignty of Nicaragua over the territory that formed the old Mosquito Reserve which is referred to in the treaty of Managua before cited.

ART. 3. In consideration that the Mosquito Indians were some time under protection of Great Britain and attentive to the interest that the Governments of His Majesty and Nicaragua have shown in their favor, the Government of Nicaragua agrees to grant them the following concessions:

A. The government will propose to the national assembly the enactment of a law for the term of fifty years, counted from the ratification of this treaty, exempting all the Mosquito Indians and the creoles born before the year 1894 from military service and all direct impost upon their persons, goods, possessions, animals, and means of subsistence.

B. The government will permit the Indians to live in their hamlets, enjoying the privileges granted by this convention and according to their own customs, provided they do not oppose the laws of the country or public morality.

C. The Government of Nicaragua will concede an extension of two years that they may legalize their rights to the property which they have acquired in conformity with the regulations which reigned in the reserve before the year 1894. The government will not collect anything for the lands or their measurement nor for the granting of the titles. The government will give each family in the location of its residence 3 manzanas (16 acres) of land if the members of the family do not exceed 4 and 2 manzanas for each person exceeding this number.

D. There shall be assigned public lands for breeding for the use of the inhabitants in the vicinity of each Indian hamlet.

E. In case that any Mosquito Indian or creole proves that the lands which he had in conformity with the regulations ruling before the year 1894 have been preempted or adjudicated to other persons, the government will indemnify, conceding to him public lands of approximate value and as near as possible to the place of habitation.

ART. 4. The Government of Nicaragua will permit the ex-chief of the Mosquito Indians, Robert Henry Clarence, to reside in the Republic and to enjoy its complete protection, providing he does not infringe the laws and while his acts do not tend to excite the Indians against Nicaragua.

ART. 5. The Mosquito Indians and all the inhabitants of the old reserve shall enjoy the same rights guaranteed by the laws of Nicaragua to Nicaraguan citizens.

ART. 6. The present treaty will be ratified and ratifications exchanged in London within the term of six months, counted from the date of its signatures.

In faith of which the respective plenipotentiaries have signed the present treaty and sealed it with their seals.

Done at Managua on the 19th of April, 1905.

ADOLFO ALTAMIRANO,  
*Minister of Foreign Relations, etc.*

HERBERT HARRISON,  
*His British Majesty's Chargé d'Affaires.*



**COMMERCIAL TREATY BETWEEN GREAT BRITAIN AND NICARAGUA. (ABOLISHMENT OF THE FREE PORT OF SAN JUAN DEL NORTE.)**

*Minister Merry to Acting Secretary of State Loomis.*

No. 1045.]

AMERICAN LEGATION,  
*San José, Costa Rica, May 12, 1905.*

SIR: I have the honor to forward herewith copy and translation of an excerpt from the treaty of commerce and navigation recently signed at Managua by the representatives of Great Britain and Nicaragua. You will note that when it becomes operative San Juan del Norte will cease nominally to be a free port. This is a matter of no possible consequence to our interests and will not unfavorably affect our commerce with Nicaragua. The excerpt of the treaty, translation of which accompanies this, is from *El Diario de la Tarde*, semiofficial daily journal published at Managua, and is sent in preference to awaiting publication in the Official Gazette, which may be delayed.

I have, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—Translation.]

[*El Diario de la Tarde*, Managua, April 24, 1905.]

EXCERPT FROM A TREATY OF COMMERCE AND NAVIGATION.

\* \* \* \* \*

His Britannic Majesty and the Government of Nicaragua have agreed upon the following: "There shall be reciprocity of commerce and navigation between the dominions and possessions of the contracting parties. The subjects or citizens of both shall have full liberty to enter with their vessels and cargoes to all the ports of the dominions or possessions of the other party, in which shall be permitted the entry of the subjects or citizens of the most favored nation, and shall enjoy the same rights, privileges, favors, immunities, and exemptions of these.

"The privileges of the free port of San Juan del Norte are annulled. The port will continue open to commerce, the facilities of navigation will be maintained and improved, and there shall be established a sufficient number of warehouses for the deposit of merchandise in transit. The port will be under the same conditions as the others of the Republic in respect to the duties and imposts and regulations regarding navigation and foreign commerce and municipal taxes. It is declared that in all cases under the treaty there shall be granted the rights of the most favored nation, being excepted the Republics of Central America. It is declared that the stipulations arranged in regard to the port of San Juan del Norte shall have the character of perpetuity."

The remainder of the treaty that follows is more or less the same that is conceded in all the commercial treaties of the world.

**IMMIGRATION LAW OF COSTA RICA.**

*Minister Merry to the Secretary of State.*

No. 1115.]

AMERICAN LEGATION,  
*San José, Costa Rica, December 5, 1905.*

SIR: I have the honor to advise that the Government of Costa Rica has enacted a law patterned largely after that of the United States of which a copy had previously been obtained from this legation. The Costa Rica law, however, requires no cash in possession of the immigrant entering the Republic.

The recent action of the Nicaraguan Government in contracting with the Nicaragua Contract and Finance Company of California for the introduction of five thousand Chinese coolies, which number it is feared may be increased, has attracted governmental attention to the question of immigration, it being apprehended with reason that it will be difficult to prevent these coolies entering Costa Rica overland. Consequently the Chinese now in this Republic are being required to obtain local government passports, without which they will not be permitted to remain.

Costa Rica has none too many laborers, and at crop seasons suffers more or less on this account. The labor coming in from abroad is mostly that of Jamaica negroes, but very few of these are employed in the interior, while the labor on the seacoast including the rapidly increasing banana industry, could not be developed without them, as the natives of the elevated interior are not able to endure the heat and malaria of the low lands on the coast even as well as our people, and avoid going there to any extent.

The law above alluded to was passed by the permanent commission of Congress and promulgated by executive decree on the 24th of November last. The constitution requires that it shall be approved by the next Congress, although it becomes effective at once. This permanent commission of the Costa Rica Congress is peculiar to this Republic, being elected by that body from its membership prior to adjournment with full power to legislate in the interval, subject to the qualification noted. The five members of Congress constituting it are always acceptable to the President and under his political control. While there are instances of minor amendments being made by Congress there is no record known to me of any action by the permanent commission being rejected thereby, it being understood that all its acts are approved by the executive. In the other Central American Republics there are no permanent commissions, the executive decree being the law of the country immediately effective but nominally subject to the approval of Congress. \* \* \*

I have, etc.,

WILLIAM LAWRENCE MERRY.

## PANAMA.

### SANITARY CONDITIONS ON THE ISTHMUS OF PANAMA.

*Minister Barrett to the Secretary of State.*

No. 91.]

AMERICAN LEGATION,  
*Panama, January 24, 1905.*

SIR: I have the honor to inclose for the Department's information, and as a matter of record, copies of correspondence exchanged between this legation and the Panama foreign office in regard to the treaty stipulations on the question of the proper sanitation of Panama. \* \* \*

It is gratifying to note that my letter to the foreign office, which was supported by a personal interview, resulted in immediate action by the Panama Government in compliance with my suggestion.

I have, etc.,

JOHN BARRETT.

[Inclosure 1.]

*Minister Barrett to the Minister of Government and Foreign Affairs.*

AMERICAN LEGATION,  
*Panama, January 19, 1905.*

MR. MINISTER: Your excellency's government is doubtless fully aware of the importance of carrying on the sanitation of the city of Panama as rapidly as possible in order to prevent the spread of yellow fever and the increase of malaria. Inasmuch as my government is greatly concerned in seeing no delay for which the American people may censure it and which may react unfavorably upon the health of the large number of employees of the Canal Commission, I have the honor to request that your excellency's government, with its characteristic courtesy, will see fit to make answer at the very earliest moment to the letter addressed by Governor Davis of the Canal Zone to your excellency on January 11:

In this he lays the situation before you, in part, in the following terms:

"Section 7 of the canal convention, and especially the second paragraph of the said section, contemplates the doing of certain work by the United States Government, and the incurring of certain expenses in Panama in a possible contingency. That contingency, as I understand it, would arrive if the Government of Panama should be unable or fail to carry out the sanitary measures which are deemed by the Isthmian Canal Commission to be essential to safeguard the health of the canal workmen. If your excellency should advise me of the fact by sending me a notification such as it would seem was contemplated by the second paragraph of article 7, or should inform me that it was impracticable for the Republic of Panama to carry out the works of sanitation which have been projected as necessary to safeguard the health, then in that event it is my understanding that the Government of the United States would proceed with this work and that the Government of Panama would enforce the rules set down in the sanitary regulations before referred to."

Trusting that the Panama Government will appreciate the urgency of my recommendation, especially in view of the considerable time that has elapsed since the discussion of this subject first began many months ago between the Panama and Zone governments, I beg to express the hope that you will favor Governor Davis with a definite answer within the next few days. I then shall be able to advise my government that every precaution is being taken, both by Panama and the United States, to prevent the further spread of yellow fever.

I beg, etc.,

JOHN BARRETT.

[Inclosure 2.—Translation.]

*The Minister of Government and Foreign Affairs to Minister Barrett.*

PANAMA, January 21, 1905.

MR. MINISTER: I have the honor to answer your excellency's esteemed note of the 19th instant and to embody herewith a copy of the communication which I addressed to the governor of the Canal Zone in respect to the question of sanitation:

*"The Governor of the Canal Zone.*

SIR: Sanitary matters are by decree referred by the secretary of state to the secretary of improvements.

However, His Excellency the President of the Republic can authorize any action for the public services through one or other of the secretaries, even should the action not come directly under the jurisdiction of the secretary in question.

I make this explanation because I am treating of the matter of sanitation, which does not come completely under my jurisdiction. I have conferred with the secretary of improvements and he has declared himself willing that I should decide the matter, as I am better informed about the situation.

Therefore, in accordance with the desire of my colleague, and duly authorized by His Excellency the President of the Republic, I have the honor to inform you that in conformity with article 7 of the canal treaty, I consider that the time has arrived to declare that the Government of Panama does not find itself in the proper condition to carry out the sanitary regulations of the Isthmian Canal Commission which you have submitted for the consideration of my government, but they are approved in every way, subject to modifications made, following suggestions from this office, and it is hoped that these regulations will be put into force immediately.

I shall issue an order to this effect and publish it in the Official Gazette.

I thus had the honor to answer the governor's favor of the 11th instant.

With the assurance, etc.,

SANTIAGO DE LA GUARDIA.

*Minister Barrett to the Secretary of State.*

No. 92.]

AMERICAN LEGATION,  
Panama, January 24, 1905.

SIR: I have the honor to inclose for the Department's information, and as a matter of record, a copy of a circular letter which I have recently addressed to the foreign representatives in Panama, in response to their official inquiries in regard to yellow fever on the Isthmus of Panama.

I have, etc.,

JOHN BARRETT.

[Inclosure.]

*Minister Barrett to the Foreign Representatives in Panama.*AMERICAN LEGATION,  
Panama, January 20, 1905.

SIR: In view of the constant inquiries made at this legation and in order to supplant uncertain and harmful rumors with the truth, I have the honor to give you definite information in regard to yellow fever on the Isthmus of Panama.

Since July 1, 1904, when the United States authorities took charge of the sanitary work, up to this date, January 20, 1905, or during six and one-half months, there have been officially reported by Col. W. C. Gorgas, chief of the United States sanitary staff, 18 cases of yellow fever, as per inclosed list.<sup>a</sup>

There are now 4 cases in hospital, included in the above total, but these are all confined to laborers of the sanitary staff, who apparently contracted the disease while preparing houses and grounds for disinfection and fumigation, and they are also recovering. I have personally visited the hospital myself and confirmed these facts.

<sup>a</sup> Not printed.

Of the above 18 cases, however, it is gratifying to note that there have been only 3 deaths, while only one case in the last three and one-half months has resulted fatally. This favorable condition is due first to good nursing and treatment in the hospital, and second, to the light form of the disease prevalent.

It can be distinctly stated that yellow fever is not epidemic and that every effort is being made by the sanitary corps to limit its spread. It is now to be classed only as endemic. Each case, moreover, is carefully isolated at the hospital and every house where a case is found is immediately fumigated.

There is no occasion for general alarm and no reason why ships should not be dispatched with clean bills of health, as far as the presence of yellow fever in epidemic form is concerned. As the disease is not epidemic, the United States shipping officials hold that they have been and are complying with the regulations of the United States as to clean bills of health.

As the figures quoted cover the city of Colon on the Atlantic as well as Panama city and the intermediate country of the Canal Zone, with a total population of 50,000, the showing is not discouraging. Only 18 cases and 3 deaths in seven months in a population of 50,000 is not a cause for excited fear. The danger to Americans and other foreigners in Panama from yellow fever is no greater than in New York and Paris from pneumonia and grippe.

There might, however, be grave cause for alarm if the sanitary corps were not extending its operations to the fullest degree of practical efficiency. The force of men under Colonel Gorgas and his assistants, Doctors Le Prince and Balch, is being greatly enlarged by order of Governor Davis, and no effort and expense will be spared first to limit and second to stamp out yellow fever.

It is, moreover, expected that within a few days, negotiations as stipulated in the treaty, now being carried on by Governor Davis and myself with the Panama Government, will result in a definite plan for the complete, thorough, and systematic cleaning of the streets, alleys, yards, and houses of every part of the city of Panama.

I have, etc.,

JOHN BARRETT.

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*Supplementary note, Wednesday, January 25.*

At this writing, five days after this formal letter was dispatched, the 4 cases described as in hospital have all been discharged fully recovered, and there are no new cases, leaving a clean slate for the first time in many weeks. The negotiations mentioned in the closing paragraph have also been completed and the work outlined inaugurated.

J. B.

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**PROTECTION OF CHINESE INTERESTS IN PANAMA BY AMERICAN  
DIPLOMATIC AND CONSULAR OFFICERS.**

*The Acting Secretary of State to Minister Barrett.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, April 7, 1905.*

(Mr. Loomis instructs Mr. Barrett to ask the Government of Panama whether our diplomatic and consular representatives may exercise their good offices, when occasion requires, in behalf of Chinese subjects as requested by the Chinese Government.)

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*Minister Barrett to the Secretary of State.*

No. 131.]

AMERICAN LEGATION,  
*Panama, April 17, 1905.*

SIR: Referring to recent correspondence in regard to American diplomatic and consular officers exercising their good offices, when necessary, in behalf of Chinese subjects, I have the honor to inclose a trans-

lation of an order just issued by the Panama Government and communicated to me by the foreign office.

I have, etc.,

JOHN BARRETT.

[Inclosure.—Translation.]

*Republic of Panama National Executive Power.*

No. 23. OFFICE OF THE SECRETARY OF GOVERNMENT AND FOREIGN AFFAIRS,  
DEPARTMENT OF FOREIGN RELATIONS,  
*Panama, April 12, 1905.*

At the request of the Government of the United States of America, made in the name of the Chinese Government, permission is hereby given to the American diplomatic and consular officials to lend their good offices, should they be required, in favor of the Chinese subjects resident on the Isthmus. Communicate to the envoy extraordinary and minister plenipotentiary of the United States in this capital as the result of his esteemed note of the 7th instant, as also to the governors for the information of the authorities within their jurisdiction. Copy and publish.

Sealed by His Excellency the President.

SANTIAGO DE LA GUARDIA,  
*The Secretary of Government and Foreign Relations.*

**DIFFICULTY BETWEEN THE POLICE OF PANAMA AND JAMAICAN CANAL LABORERS.**

*Minister Barrett to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Panama, April 28, 1905.*

(Mr. Barrett reports that a difficulty occurred between 200 Jamaican waterworks laborers and 50 policemen at Panama on the 27th instant, and that a number of them were wounded. The trouble originated by the laborers objecting to the food they had received, and refusing to work. The aid of the police was invoked by the American foreman. The laborers are to blame for forcibly resisting the police and the latter for attacking the laborers when they were not offending. A recurrence of the trouble is being prevented by the coöperation of the Panama Government and the legation.)

*Minister Barrett to the Secretary of State.*

No. 139.]

AMERICAN LEGATION,  
*Panama, May 8, 1905.*

SIR: Referring to my telegram of April 29 in regard to the clash between the Panama police and Jamaican laborers in the employ of the Canal Commission, I have the honor to inclose copies of self-explanatory letters written, respectively, to the Panama minister of foreign affairs and the British consul, together with a copy of a letter written by Captain Shanon, of the Zone police, to Governor Davis. As soon as I receive the report of the Panama Government on the incident I will forward it to the Department.

I have, etc.,

JOHN BARRETT.

[Inclosure 1.]

*Minister Barrett to the Minister of Government and Foreign Affairs.*AMERICAN LEGATION,  
Panama, May 8, 1905.

MR. MINISTER: Referring to our different conversations in regard to the incidents that occurred on Thursday, April 26, when there was an apparent clash between the police of Panama and a certain number of Jamaican laborers in the employ of the Isthmian Canal Commission, I have the honor to request that your excellency will provide me as soon as convenient with a copy of the report of the investigation of the incident which you assured me as being conducted.

As both the United States and Panama are actuated with the mutual desire to make the Isthmus attractive for labor in order that the great work of the canal may go forward without delay, I think that I express the truth when I say that it behooves both the Canal Commission and the Panama Government to do everything in their power to prevent a repetition of these incidents. While I appreciate greatly the cooperation manifested by the Panama Government in directing its police to assist the American officials, if necessary, I also recognize the necessity of the police exercising caution and coolness in dealing with any situation that may arise. Such conditions must characterize the police of every country, the United States as well as Panama, when a crisis occurs, or a general riot may be precipitated.

There is no question that the cause of the trouble on the 26th did not originate with the Panama police and they are absolved from all blame in that respect. There is no doubt, moreover, that the responsibility for the first incident at the Chiriqui Barracks rests with the American foremen and the laborers and not with the Panama police. In view of this fact both this legation and the Canal Commission took steps immediately to see that there was not a recurrence of the troubles and to reprimand and punish those who were to blame, showing a readiness on the part of the Canal Commission and the United States to do what is expected in the circumstances.

As to the second incident that occurred near the Canal Building, I must say in all frankness that I saw the police there act in a way which would have caused me to censure any police whether they were in Panama, the United States, or Europe. They certainly seemed to lose their heads and to ruthlessly attack many men who were in no way annoying them. There were numerous other witnesses who were even closer to the scene than I was and whose opinion coincides with my own. There is no doubt in my mind that the police intended to do what was right, but at the same time they appeared to lose control of themselves at a critical moment. Had I seen the police of the Zone acting in the same way I should have demanded that an investigation should be held immediately and the responsible men punished.

Your excellency will understand, as I emphatically stated in my conversation with His Excellency the President and yourself, that I am making no complaint whatever against the Panama Government and am finding no fault with the police as Panamans, while at the same time I recognize fully the responsibility of the American foremen and the Jamaican laborers, but I am simply inspired with a desire to prevent a recurrence of such an incident and to develop conditions here in the employment of labor which will be of advantage to the United States and Panama alike.

I take, etc.,

JOHN BARRETT.

[Inclosure 2.]

*Minister Barrett to the British Consul.*AMERICAN LEGATION,  
Panama, May 8, 1905.

MY DEAR SIR: Referring to your note of recent date, I beg to submit to you the following memorandum of what I have done in the matter of the clash that occurred between the Panaman police and certain Jamaican laborers last Thursday, April 26.

Immediately after seeing part of the unfortunate incident, which occurred not far from the legation at the corner of the canal building and the Plaza, I immediately repaired to Government House and made an earnest protest in person to President Amador and Minister Guardia against the tactics of the police in dealing with Jamaican laborers who were acting peaceably at the time. I stated to the President and the minister of foreign affairs that while I did not excuse the blame that might be attributed to the American foremen and laborers for what occurred first at Chiriqui Barracks, I was sure from the sight of my own eyes that the police had acted beyond their authority in what occurred near the canal building, and that I hoped the government would promptly hold an investigation to inquire into who was responsible, and that they would punish or severely reprimand those that were to blame.

Both the President and his minister informed me that I could be sure that if the police had done anything which was not justified they would take steps at once to look into the matter. I also emphasized the bad effect that a recurrence of such an incident would have and stated that both the United States and Panama should strive in harmony to prevent clashes of this kind.

Recognizing, moreover, that there might be blame resting upon certain officials of the Canal Commission for their treatment of the laborers, I summoned the chief of the department and several of his assistants who were in charge of these laborers and told them that they must use the utmost care in the future in dealing with the Jamaican laborers and see that they were not treated harshly, that they received proper food, and that in case differences arose in the future, steps were to be taken in the proper way to settle them without calling on the police. I am further aware that the commission officials in charge of this kind of labor are exceedingly anxious to prevent any recurrence of an incident of this kind and that it is their desire to make it an object for Jamaican laborers not only to remain on the Isthmus but to come here in greater numbers. If there is any fault with the commission officials I can assure you steps will be taken to remedy the evil.

It must be remembered that these men are somewhat difficult to deal with and that they complain, no matter how good provision is made for them. You and I by our visit to the barracks at Chiriqui observed this fact, and consequently there must be a certain amount of charity in judging stories about the treatment of laborers by their American employers. The fact that it is for the interest of the Canal Commission, even more than the laborers, to see that they are well cared for should be a guaranty against a repetition of these troubles.

I called again yesterday at Government House and had a long talk with the President and Minister Guardia on this subject. They informed me that a very careful investigation was being made along impartial lines and that if the police were found guilty of exceeding their authority they would be severely punished or reprimanded. Minister Guardia promised to provide me with a copy of the report of the investigation and said he would also deliver one to you.

If you have any correspondence with the authorities in Jamaica or with your home government, I would ask you to suggest that they bear in mind that in the inauguration of a great work of this kind there must be a certain amount of difficulties and troubles of this kind and that the future treatment of the laborers must not be judged by some unforeseen incident, such as this, resulting from the acts of a few hot-headed persons. The desire of the Canal Commission is to make the Isthmus attractive for laborers.

Hoping that this memorandum covers your wishes, and extending to you my expression of high esteem,

I remain, etc.,

JOHN BARRETT.

[Inclosure 3.]

*The Chief of Police to the Governor of the Canal Zone.*

ISTHMIAN CANAL ZONE,  
HEADQUARTERS POLICE DEPARTMENT,  
Ancon, C. Z., April 27, 1905.

SIR: I have the honor to report that to-day, about 1.50 p. m., as I was coming from the Hotel Central to my office in the canal administration building, I saw about 60 or 70 Jamaicans, apparently contract laborers, come running up the street in a very excited condition from the direction of the Chiriqui reservation and prison.

I immediately stopped them and found that they were contract laborers employed by the department of waterworks and sewers. They told me that several Panamanian police had shot at them, and six of them were more or less bruised up, some having bruises on their heads, wrists, and arms. Others were bleeding from wounds which apparently had been made by being stuck with some sharp instrument.

After a great deal of talking and trouble I managed to quiet and pacify them, and they told me that they had been ordered by the policemen to go to work at about 12.45 p. m., and that the policemen had gotten behind them with their bayonets and had beat them and inflicted a great deal of personal injury on the six men, whom I proceeded to pick out and arranged on one side of the street.

They also complained that they could not get enough to eat and about twenty had refused to go to work because they had no dinner. Several of the men had their dinners in small buckets which they were going to show to the British minister.

I told them that I would take their representatives, being the six men I had selected that were injured, and that I would go with them to the minister, and if possible adjust their difficulties; also that I would find Mr. Davis, engineer of waterworks and sewers, and have him assist me in adjusting their troubles. I started with the others, about 80 of them, to place



them back on their work, as they seemed willing to allow me to adjust their difficulties and were willing to go to work.

At that moment a detachment of about 25 Panamanian police, under the command of a lieutenant, came up on double-quick time, armed with rifles and fixed bayonets, halted, came to an "Order arms," and for about a minute stood still and seemed to be awaiting orders.

I immediately held up my hand and pointed to the six men standing against the canal building and said in English: "There are the six wounded men." I do not know whether my remark was understood by the lieutenant or not. Just at that moment one of the wounded men referred to started to go by the police and come to me, and with that the commander of the detachment drew his saber and struck him over the head with it, knocking him down. I called out to them to "Hold! hold!" but seemingly the actions of the commander started the entire detachment, and some with drawn bayonets, others clubbing their guns, they charged into the Jamaicans, hitting right and left. The Jamaicans ran in all directions, followed by the police.

Mr. Barrett, the United States minister, saw the whole occurrence, as he was standing on the balcony of the legation at the time. Immediately upon seeing the riot he ran downstairs and asked me to at once accompany him to President Amador's residence. I did so, and related to President Amador, at the minister's request, the entire occurrence, as I saw it.

On leaving the minister I returned to the scene of the scrimmage and from there went to the police station, met Mr. Davis, engineer of waterworks and sewers, and he turned over to me 20 Jamaicans with request that I should take them to the hospital and have their wounds treated, which I did.

These men were all suffering more or less from stabs, cuts, and bruises. I got them to the hospital, and they are at present being treated.

I wish to say that the Jamaicans, as far as I could see, up to and after the time of the arrival of the detachment of police, were very peaceful and quiet, and at no time did I see one Jamaican make any attempt to fight or strike policemen or anybody else.

I know nothing of the occurrences at the Chiriqui Barracks; all I know is what I have related in this report, which I respectfully submit.

Very respectfully,

GEO. R. SHANTON.

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*Chargé Sands to Acting Secretary of State Loomis.*

No. 10.]

AMERICAN LEGATION,  
Panama, June 10, 1905.

SIR:

\* \* \* \* \*

In a conversation with the minister for foreign affairs, Don Santiago de la Guardia, relating to certain matters pending between the legation and the Panama Government at the time of Mr. Barrett's departure, his excellency informed me that there was no doubt that the police had placed themselves in the wrong and had allowed themselves to be carried away by anger at the sight of their wounded comrade, confounding the innocent with the guilty in a general attack upon all Jamaicans wherever found in the streets.

He told me that the officer in command of the police at the time would be severely punished, and an ample apology and expression of regret transmitted to the British consul, by which he hoped to close the incident.

His excellency added that having engaged a very capable instructor and adviser in police matters (Mr. Samuel Davis, an American formerly employed, I understand, in the police service of Mexico City), the Panama Government hoped for and expected a great improvement in the efficiency of the police force, which, he acknowledged, leaves much to be desired at present.

I have, etc.,

W. F. SANDS.

**TREATY BETWEEN THE UNITED STATES AND PANAMA FOR  
THE MUTUAL EXTRADITION OF CRIMINALS.**

*Signed at the City of Panama, May 25, 1904.*

*Ratification advised by the Senate, January 6, 1905.*

*Ratified by the President, January 20, 1905.*

*Ratified by Panama, May 25, 1904.*

*Ratifications exchanged at City of Panama, April 8, 1905.*

*Proclaimed, May 12, 1905.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS a Treaty between the United States of America and the Republic of Panama providing for the mutual extradition of fugitives from justice was concluded and signed by their respective Plenipotentiaries at Panama on the twenty-fifth day of May, one thousand nine hundred and four, the original of which Treaty, being in the English and Spanish languages, is word for word as follows:

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA, PROVIDING  
FOR THE EXTRADITION OF CRIMINALS.

The United States of America and the Republic of Panamá, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the United States of America and the Republic of Panamá, and have appointed for that purpose the following Plenipotentiaries:—The President of the United States of America, William W. Russell, Chargé d'Affaires ad interim of the United States in Panamá, and the President of the Republic of Panamá, Tomás Arias, Secretary of Government of Panamá.

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:—

ARTICLE I.

The Government of the United States and the Government of the Republic of Panamá mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, that this shall only be done upon such evidence of Criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime or offense had been there committed.

ARTICLE II.

Extradition shall be granted for the following crimes and offenses:—

1. Murder, comprehending assassination, parricide, infanticide and poisoning; attempt to commit murder; manslaughter, when voluntary.
2. Arson.
3. Robbery, defined to be the act of feloniously and forcibly taking from the person of another money, goods, documents or other property by violence or putting him in fear; burglary.
4. Forgery, or the utterance of forged papers; the forgery or falsification of official acts of Government, of public authorities, or of courts of justice, or the utterance of the thing forged or falsified.
5. The counterfeiting, falsifying or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, or municipal governments, or of coupons thereof, or of bank notes or the utterance or circulation of the same; or the counterfeiting, falsifying or altering of seals of state.
6. Embezzlement by public officers; embezzlement by persons hired or salaried, to the detriment of their employers; where in either class of cases the embezzlement exceeds the sum of two hundred dollars; larceny.
7. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries and the amount of money or the value of the property misappropriated is not less than two hundred dollars.
8. Perjury; subornation of perjury.

9. Rape; abduction; kidnapping.

10. Willful and unlawful destruction or obstruction of railroads which endangers human life.

11. Crimes committed at sea.

(a) Piracy, by statute or by the laws of nations.

(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(c) Wrongfully sinking or destroying a vessel at sea, or attempting to do so.

(d) Assaults on board a ship on the high seas with intent to do grievous bodily harm.

12. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

13. Bribery, defined to be the giving, offering or receiving of a reward to influence one in the discharge of a legal duty.

Extradition is also to take place for participation in any of the crimes and offenses mentioned in this Treaty, provided such participation may be punished, in the United States as a felony, and in the Republic of Panamá by imprisonment at hard labor

#### ARTICLE III.

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting parties, or in the absence of these from the country or its seat of government, may be made by the superior Consular Officers.

If the person whose extradition is requested shall have been convicted of a crime or offense, a duly authenticated copy of the sentence of the court in which he was convicted, or if the fugitive is merely charged with a crime, a duly authenticated copy of the warrant of arrest in the country where the crime has been committed, and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the Republic of Panamá, respectively, in conformity with the laws regulating extradition for the time being in force in the state on which the demand for surrender is made.

#### ARTICLE IV.

Where the arrest and detention of a fugitive are desired on telegraphic or other information in advance of the presentation of formal proofs, the proper course in the United States shall be to apply to a judge or other magistrate authorized to issue warrants of arrest in extradition cases and present a complaint on oath, as provided by the statutes of the United States.

When, under the provisions of this article, the arrest and detention of a fugitive are desired in the Republic of Panamá, the proper course shall be to apply to the Foreign Office, which will immediately cause the necessary steps to be taken in order to secure the provisional arrest or detention of the fugitive. The provisional detention of a fugitive shall cease and the prisoner be released if a formal requisition for his surrender, accompanied by the necessary evidence of his criminality has not been produced under the stipulations of this Treaty, within two months from the date of his provisional arrest or detention.

#### ARTICLE V.

Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this Treaty.

#### ARTICLE VI.

A fugitive criminal shall not be surrendered if the offense in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character. No person surrendered by either of the high contracting parties to the other shall be triable or tried, or be punished, for any political crime or offense, or for any act connected therewith, committed previously to his extradition. If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the government on which the demand for surrender is made, or which may have granted the extradition, shall be final.

#### ARTICLE VII.

Extradition shall not be granted, in pursuance of the provisions of this Treaty if legal proceedings or the enforcement of the penalty for the act committed by the person claimed has become barred by limitation, according to the laws of the country to which the requisition is addressed.

## ARTICLE VIII.

No person surrendered by either of the high contracting parties to the other shall, without his consent, freely granted and publicly declared by him, be triable or tried or be punished for any crime or offense committed prior to his extradition, other than that for which he was delivered up, until he shall have had an opportunity of returning to the country from which he was surrendered.

## ARTICLE IX.

All the articles seized which are in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offense charged, or being material as evidence in making proof of the crime or offense, shall, so far as practicable and in conformity with the laws of the respective countries, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to such articles shall be duly respected.

## ARTICLE X.

If the individual claimed by one of the high contracting parties, in pursuance of the present Treaty, shall also be claimed by one or several other powers on account of crimes or offenses committed within their respective jurisdictions, his extradition shall be granted to the State whose demand is first received: Provided, that the government from which extradition is sought is not bound by treaty to give preference otherwise.

## ARTICLE XI.

The expenses incurred in the arrest, detention, examination, and delivery of fugitives under this Treaty shall be borne by the State in whose name the extradition is sought: Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers of the government from which extradition is sought as receive a fixed salary; and, provided, that the charge for the services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

## ARTICLE XII.

The present Treaty shall take effect on the thirtieth day after the date of the exchange of ratifications, and shall not operate retroactively. The ratifications of the present Treaty shall be exchanged at Washington or at Panamá as soon as possible, and it shall remain in force for a period of six months after either of the contracting Governments shall have given notice of a purpose to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the above articles, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Panamá on the twenty fifth day of May in the year of our Lord nineteen hundred and four.

W. W. RUSSELL. [SEAL.]  
TOMAS ARIAS. [SEAL.]

And whereas the said Treaty has been duly ratified on both parts and the ratifications of the two governments were exchanged in the City of Panama on the eighth day of April, one thousand nine hundred and five;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington, this twelfth day of May in the year of our Lord one thousand nine hundred and five, and of the Independence of the United States of America the one hundred and twenty-ninth.

[SEAL.]

By the President:

FRANCIS B. LOOMIS

*Acting Secretary of State.*

THEODORE ROOSEVELT

**ATTITUDE OF THE UNITED STATES TOWARD THE REPUBLIC OF PANAMA IN ITS INTERNAL AFFAIRS.**

*Minister Magoon to the Secretary of State.*

No. 21.]

AMERICAN LEGATION,  
*Panama, November 10, 1905.*

SIR: I have the honor to inform you that on Sunday, November 5, the leaders of the Liberal party of the Republic of Panama met at the residence of the governor of the Canal Zone in order to present to the Secretary of War, Mr. Taft, a memorial on the subject of a possible or, as they claimed, probable interference with the ballot at the coming elections by the party now in power.

The representatives of the Liberals, Dr. Pablo Arosemena, vice-president of the Republic, Dr. Belisario Porras, Mr. Eusebio Morales, and General Domingo Diaz, after reciting the wrongs and injustice which they allege to have suffered at the last election, requested the Secretary of War to give them an unequivocal answer to the following four questions:

1. Does the American Government guarantee public order and constitutional succession in this Republic?
2. Is a government which violates the constitution and laws and attacks the first right of the citizens—that of free suffrage—within the pale of such protection?
3. Granted the possibility—to us an absolute certainty—that in the coming elections all manner of outrages will be committed against the people, will the Government of the United States look on with indifference at the spectacle of a defenseless people at the mercy of those who trample on their rights?
4. Is it not preferable for the United States to adopt while there is yet time such a course as to avoid appearing before the eyes of the world as the champions of outrage and oppression?

These gentlemen laid all stress on the danger of unfair means being taken by the Conservative party to remain in power in spite of a majority of voters on the side of the Liberals, but returned favorable answers to all questions concerning the honesty of the administration in other matters.

I have the honor to inclose translation of this memorial, which appeared in the Panama Journal of November 8.

I have, etc.,

CHARLES E. MAGOON.

[Inclosure.—Translation.]

[From the Panama Journal, November 8, 1905.]

IMPORTANT CONFERENCE.

Yesterday between the hours of 5.30 and 7 p. m. the directors of the Liberal party, composed of Messrs. Pablo Arosemena, B. Porras, Eusebio A. Morales, and General Domingo Diaz, together with the secretary of the directorate, Dr. Francisco Filos, held an important conference with the Hon. William H. Taft, Secretary of War of the United States. The object of this conference was the presentation to the distinguished representative of the American Government of a memorandum (treatise, memorial), which we hereinafter publish for the benefit of our readers.

The directorate was received with the greatest geniality, and after some conversation on topics affecting the country in general, in which the Hon. Chas. E. Magoon, governor of the Zone and minister of the United States to Panama, took an active part, Mr. Taft received and read the memorial.

He stated in concise terms that no government which, in order to remain in power, needed to have recourse to fraud and violence at the polls had the right to exist, and that the Amer-

ican Government will not uphold systems of government which are based on such unlawful practices.

He expressed his intention to personally present the memorial to President Amador and to also submit the same to President Roosevelt, feeling absolutely sure that the latter entertains opinions identical with his own and will do his best to give us a square deal.

He volunteered the opinion that this memorial should be widely published.

The Liberal directorate found themselves in the presence of a man who merits his fame; a man of absolute integrity; frank, of a clear intelligence, which at a glance grasps the most complicated questions; a patriot, and fearless in his political convictions. Secretary Taft is a man well capacitated to rise to the highest position in the gift of his country and to honor it, as it was honored by Washington and Lincoln, and as it is honored to-day by Theodore Roosevelt.

MEMORIAL PRESENTED TO THE HON. WILLIAM H. TAFT, SECRETARY OF WAR OF THE UNITED STATES, BY THE NATIONAL DIRECTORATE OF THE LIBERAL PARTY OF PANAMA, TREATING OF THE POLITICAL RELATIONSHIP AND TIES BETWEEN THE REPUBLIC OF PANAMA AND THE UNITED STATES.

The diplomatic correspondence, which toward the end of 1903 was exchanged in Washington between Secretary Hay and Gen. Rafael Reyes, envoy extraordinary of Colombia, on account of the attitude assumed by the Government of the United States with regard to the separation of the department of Panama and its transformation into an independent republic, demonstrates that the American Government considered itself bound to maintain the established order of things and to prevent that interoceanic traffic should be suspended or impeded by military operations which might convert the territory of the Isthmus into a battlefield. The position taken by Secretary Hay was summarized in the following conclusions:

1. That by the treaty of 1846 the American Union guaranteed the sovereignty of Colombia over the territory of the Isthmus in case of attack by another nation.
2. That this guaranty of neutrality could not be applied in case of an internal movement on the part of the guaranteed section, and that if this latter, by its own efforts, constituted itself into an independent nation she became the beneficiary of that guaranty as successor in sovereignty of the territory.

The treaty celebrated on November 18 of that same year (1903) contains the above doctrine, although in a more concrete form. The United States thereby guarantees the sovereignty and independence of Panama. This treaty, whose principal object is to facilitate the construction of a canal across the Isthmus, was also bound to make provision for the preservation of public order, so that universal traffic might not suffer disturbances; and, in fact, this faculty was allotted to the United States, as shown in the latter part of Article VII of said treaty, which says:

"Equal right and equal authority is granted to the United States for the maintenance of public order in the cities of Panama and Colon and their surrounding territories and bays in the event that in the judgment of the United States the Republic of Panama should not be able to maintain it."

According to this clause the United States is under no obligation whatever to maintain public order, even in the cities of Panama and Colon. The treaty gives them the faculty and authority to do so, but does not impose it upon them as a duty, the fulfillment of which might be exacted by the other party to the treaty.

Correlative to this clause of the treaty there exists in our constitution an article—No. 136— which says thus:

"The Government of the United States of America may intervene anywhere in the Republic of Panama for the reestablishment of constitutional peace and order if this should be disturbed, provided that by virtue of public treaty said nation should assume or have assumed to guarantee the independence and sovereignty of this Republic."

This article, as a constitutional provision in the fundamental charter of a free country, is not worth the paper it is written on, because it is plain that a constitution can only contain internal organic rules of state, but not regulations and orders for a foreign country to comply with.

Nevertheless, and although after a careful analysis made of the canal treaty and the above constitutional clause we may not arrive at the conclusion that it be the duty of the United States to maintain order in this Republic, there are in this country neither citizens nor political parties who fail to understand that it is the interest of the United States that public order remain undisturbed at the terminals of the interoceanic waterway now being constructed, and, in fact, all through the country.

This in the general consensus of opinion being the accepted situation, it gives rise to a different line of thought.

II. Public order in a country is the harmonious working of its institutions. It is the normal state which results from the respect shown by the government to the individual rights of the people and from the submission of the latter to the existing laws.

A government which violates the constitution or the laws, which attacks or ignores the rights of the citizens, or which in any manner, directly or indirectly, favors or tolerates such violations on the part of unscrupulous underlings is not within the bounds of constitutional order.

If, therefore, to-morrow it should happen that a government should violate in a flagrant manner the free suffrage, is this or is it not an act which constitutes an infraction against lawful and constitutional order?

Should, in the opinion of the illustrious Government of the United States, the violation of free suffrage on the part of the Panama Government not be considered an attempt against constitutional order, what remedy remains there for the people of the Isthmus to protect their rights and to prevent usurpation of their sovereignty?

The present government of the country was formed most auspiciously, with a cabinet composed of members of both political parties, but since then the Liberal members of the cabinet have joined the ranks of the other party, so that the government to-day is solely in the hands of the Conservatives.

Following Colombian customs, the government is getting itself in readiness to take a hand in the coming elections for congressmen, and through agents and its own employes it is circulating in the towns of the interior the threat that it will stop at nothing and spare no means in order to gain the elections; that it has the support of the United States and that it will, if necessary, use high-handed means and force in order to attain its ends. On the other hand, it has also given notice that if the people of Panama should resist this usurpation American troops will come to maintain order and to shoot them down without mercy.

Thus the government wants to place the people of Panama before an alternative: Either they permit the coming elections to be a farce, or they offer resistance and thus provoke the intervention of the United States to maintain order.

We represent the Liberal party, which has an overwhelming majority all through the country, and as its leaders we deem the time opportune to state to the government which your excellency represents that we do not approve of the recourse to arms as a remedy for political wrongs, but still less do we approve of that system of violation of free suffrage which it is intended to impose upon us, invoking the support of the great American nation for this purpose.

Already in the last elections, held on December 16 last, which were only of minor importance, we realized to what length the agents of the government would go.

There are fifty-five municipal districts in the Republic. In some of them no vote was cast because the mayors (alcaldes) prevented the notices of the appointment of election juries from reaching their destination; in others the Liberals were attacked and shot at to prevent them from casting their ballots; in others the lists of voters were altered on the night preceding the elections and the names of the Liberals were stricken out therefrom; in others the people of the rural districts were intimidated by the police and forced to cast a vote contrary to their convictions.

The Liberal party won the elections in Panama, the capital, in Arraijan, Chorrera, Chepo, Pinogana, San Miguel, San Carlos, Capira, Chame, Anton, Penonome, Nata, Ola, La Pintada, Aguadulce, Chitre, Poci, Guarare, Santiago, Canazas, Calobre, Montijo, Rio de Jesus, Santa Fe, David, Alanje, Bugaba, San Lorenzo, Portobelo, Chagres, Donoso, and Bastimentos.

After the elections had been won in all these districts the authorities prevented the counting of the votes in some of them, withholding the election returns so that they might not, perchance, fall into the hands of the election committee; in others, after the results of the election had been declared and the new municipal councilmen had entered into office, the election judges, without any lawful grounds on which to base their action, and in the most outrageous manner, declared the elections null and void, such as the elections held in the capitals of the Provinces of Cocale, Veraguas, and Chiriqui, or, in other words, in the towns of Penonome, Santiago, and David, and, furthermore, those of the districts of Aguadulce, Chitre, La Pintada, and Poci.

If the agents of the government made use of all kinds of artifices, deceits, violence, and frauds in order to triumph or to avert our triumph in municipal elections in which only minor interests were at stake, what would they not be capable of doing when it comes to the election of congressmen to the National Assembly, the only body that has the power to pass upon the acts of the ruling government?

III. The fact that public order must not be disturbed, and that in order to maintain it the Government of the United States may intervene, being accepted in its principle, by us and by the entire country, we have deemed it prudent and opportune to present to your excellency this memorial, which is intended to clearly state the ideas of the Liberal party of the Isthmus, and the hope it bases on the spirit of justice and of the equity of the American Government.

In truth, if the Government of the United States guarantees public order in the territory of the Republic of Panama, and insures the constitutional succession of the national officeholders, it is strictly logical and just that it should also guarantee the existence of an absolutely lawful system of government, which shall respect the right of free suffrage, a right which forms the foundation of the Republic. To admit that the American Government

guarantees public order and at the same time indorses the existence of a governing system of frauds and violence would be to offer unmerited offense to the country that has held out to us a generous hand, and which with singular disinterestedness contributes to our progress.

The several questions which we hereby present to your excellency may be summarized as follows:

1. Does the American Government guarantee public order and constitutional succession in office in this Republic?

2. Is a government which violates the constitution and laws and attacks the first right of the citizens—the right of free suffrage—within the pale of such a protection?

3. Granted the possibility—to us an absolute certainty—that in the coming elections all manner of outrages will be committed against the people, will the Government of the United States look on with indifference at the spectacle of a defenseless people being cast at the mercy of those who trample on their rights?

4. Will it not be preferable for the United States to adopt, in time, such a course as would prevent their appearing before the eyes of the world as the champions of outrage and oppression?

The directorate of the Liberal party requests your excellency to favor them with a frank answer to these questions and beg to respectfully point out that a reply expressing the repugnance of the United States to meddle in the internal affairs of a friendly nation could not be considered by us in the light of an answer, since our constitution confers upon your government the right to intervene for purposes of maintaining constitutional order, and if such faculty is given to avoid the evils of war it is natural that it also should be used to suppress the causes which, even contrary to our wishes, might produce them.

PANAMA, November 5, 1905.

PABLO AROSEMENA.  
B. PORRAS.  
EUSEBIO A. MORALES.  
H. PATINO.  
D. DIAZ.  
F. FILOS, *Secretary*.

*The Secretary of State to Minister Magoon.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, December 4, 1905.*

SIR: The Department has given further consideration to the subject presented in your dispatch No. 21 of the 10th ultimo, heretofore acknowledged, communicating the text of a memorial as published in the Panama Journal of November 8, presented to the Secretary of War by the national directorate of the Liberal party of Panama on the occasion of the recent visit of the Secretary of War. Mr. Taft has also handed to me a copy in translation of the memorial.

In this memorial the political relations and ties between the Republic of Panama and the United States are discussed with especial reference to the attitude of the United States in respect to the forthcoming elections in the Republic.

After expressing the apprehensions of the Liberal party that fair and free election may be prevented by the actual Government of Panama, four concrete questions are submitted for answer, to which you particularly refer, as follows:

First. Does the American Government guarantee public order of this nation and assure the constitutional succession of its public powers?

Second. Can a government be within the limits of that protection when it violates the constitution and the laws and when it tramples underfoot the essential right of citizens—the right of suffrage?

Given the possibility—which to us is an absolute certainty—that in the next elections all imaginable assaults against citizens will be committed, will the Government of the United States look upon this situation with indifference, a situation which delivers an unarmed people into the hands of those who trample upon their rights?

Fourth. Would it not be preferable for the United States to express beforehand the line of conduct which it will adopt to prevent itself appearing before the world like a knight of abuse and oppression?



The first of these four questions is to be answered in the negative. This practically disposes of the remaining three questions and of much of the arguments of the statement presented.

The Liberal party should be informed that the Government of the United States, while guaranteeing the independence of the Republic of Panama, does not purpose to interfere with that independence. It is the earnest wish of the United States that there shall be a fair, free, and honest election in Panama, because it considers such an election necessary to the peace and prosperity of the country and the stability of its government. As between the two parties, the United States stands in an attitude of perfect impartiality and will do nothing to help either the party in power or the party of opposition. The United States will exercise its rights under the treaty for the maintenance of order in Panama, Colon, and upon the canal strip, and will not permit any interference with the peace and order of either of those cities or of that territory which can be prevented by the exercise of its treaty rights, and it will not go beyond its treaty rights.

You will communicate a copy of this instruction to the Government of Panama, with the statement that the Government of the United States thus answers the Liberal party in such a way as it is hoped will correct any misapprehension which they may have regarding the conduct of the United States and without for a moment entertaining the thought that the Government of Panama will fail in any respect to secure to the people a perfectly fair, free, and honest election. You will at the same time suggest to the Government of Panama that, in view of the charges made in advance by the Liberal party, which are liable to be reiterated after the election, it is desirable to secure the most unimpeachable and satisfactory evidence of the fairness of the election by means of observation of competent witnesses during the conduct of the election.

I am, etc.,

ELIHU ROOT.

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*Minister Magoon to the Secretary of State.*

No. 24.]

AMERICAN LEGATION,  
*Panama, December 18, 1905.*

SIR: I have the honor to acknowledge receipt of your instruction No. 19 of December 4 on the subject of a memorial presented by the directorate of the Liberal party of Panama to the Secretary of War upon the occasion of his recent visit to the Isthmus.

I have informed the secretary of state for foreign affairs of that part of the contents of your dispatch which refers to the attitude of the Government of the United States in respect to the approaching elections in the Republic, and inclose for your information copy of my note to him.

\* \* \* \* \*

I have, etc.,

CHARLES E. MAGOON.

[Inclosure.]

*Minister Magoon to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
*Panama, December 16, 1905.*

EXCELLENCY: In obedience to instructions from the State Department of the Government of the United States, I have the honor to advise you that, in response to my dispatch of the 10th ultimo, communicating the text of a memorial presented to Hon. William H. Taft, Secretary of War, by the national directorate of the Liberal party at Panama, in which memorial the political relations and ties between the Republic of Panama and the United States are discussed with especial reference to the attitude of the United States in respect to the forthcoming elections in the Republic, a copy of which memorial was also handed to Secretary Root by Secretary Taft. After consideration of said memorial, the Secretary of State directs me to communicate to you the following:

"The Liberal party should be informed that the Government of the United States, while guaranteeing the independence of the Republic of Panama, does not purpose to interfere with that independence. It is the earnest wish of the United States that there shall be a fair, free, and honest election in Panama, because it considers such an election necessary to the peace and prosperity of the country and the stability of its government. As between the two parties, the United States stands in an attitude of perfect impartiality, and will do nothing to help either the party in power or the party of opposition. The United States will exercise its rights under the treaty for the maintenance of order in Panama, Colon, and upon the canal strip, and will not permit any interference with the peace and order of either of those cities or of that territory which can be prevented by the exercise of its treaty rights, and it will not go beyond its treaty rights."

I am also directed to further advise the Government of Panama "that the Government of the United States thus answers the Liberal party in such a way as it is hoped will correct any misapprehensions which they may have regarding the conduct of the United States, and without for a moment entertaining the thought that the Government of Panama will fail in any respect to secure to the people a perfectly fair, free, and honest election."

I am also directed to suggest to the Government of Panama that, in view of the charges made in advance by the Liberal party, which are liable to be reiterated after the election, it is desirable to secure the most unimpeachable and satisfactory evidence of the fairness of the election by means of observation of competent witnesses during the conduct of the election.

I take, etc.,

CHARLES E. MAGOON.

*The Secretary of State to Minister Magoon.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 18, 1905.*

(Mr. Root instructs Mr. Magoon that Department's instruction No. 19 of the 4th instant may be communicated to the directorate of the Liberal party as answer to their memorial.)

## PERSIA.

### MURDER OF REV. BENJAMIN W. LABAREE, AN AMERICAN MISSIONARY IN PERSIA.

NOTE.—For previous correspondence see Foreign Relations, 1904, pp. 657-677 and 835-836.

*Minister Pearson to the Secretary of State.*

No. 98.]

AMERICAN LEGATION,  
*Teheran, January 9, 1905.*

SIR: Since the date of my dispatch of December 6,<sup>a</sup> the status of the Labaree case has completely changed. From its then confused and critical plight, the case has emerged into a definite and a measurably satisfactory condition.

After receiving the authorization of the Department to demand an indemnity and to press for settlement, I made on the 29th of November a formal and unequivocal presentation of our demands, requiring a categorical answer within five days and the payment of the indemnity in cash in gold within thirty days. The Persian Government at first refused, but at the end of fifteen days accepted all our demands, and at the end of thirty days the indemnity payment is in hand.

The murderer is in jail for life and a special commissioner sent by the Shah is in the field with orders to capture the accomplices, dead or alive.

I inclose a memorandum presented by me on December 20, which sets forth the conditions on which the indemnity was reduced from \$50,000 to \$30,000.

And also copy and translation of the reply of the minister for foreign affairs.

Also copies of letters from Mrs. Labaree, \* \* \* which explain fully the proceedings, the conditions, the arguments, and the motives which led to the result.

I am sure that the President and the Secretary of State will share in my regret that perplexing and conflicting conditions made it expedient to accept less than the full \$50,000, which the Persian Government agreed to pay in cash and had set apart at the time for the purpose.

I knew that my government expected an indemnity that would be at once exemplary and deterrent, and that it would concur in my belief that the higher the indemnity the greater the security of our citizens in foreign lands.

But under my instructions I felt obliged to defer in a measure to the urgent wishes of the widow and her advisers, though I took care that the \$20,000 abated should not be thrown away, but should serve as a

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<sup>a</sup> Not printed.

guaranty for the performance of the conditions in regard to punishment and as a guaranty against the usual methods of taxation and torture.

As it is, after being reduced by two-fifths, the indemnity is still three times greater than the maximum ever heretofore paid by the Persian Government for the murder of a private person. \* \* \*

My difficult task was to obtain the concession that "the amount of the indemnity should not be recovered by special tax or by other device or pretext enacted from the innocent inhabitants of the province."

In this, finally, I succeeded, and this satisfied Mrs. Labaree's scruples and removed the foundation of her fears. \* \* \*

\* \* \* \* \*

I am, etc.,

RICHMOND PEARSON.

[Inclosure 1.—Translation.]

MEMORANDUM.

In the matter of the murder of Benjamin W. Labaree, an American citizen.

The Persian Government having agreed to the demands of the American Government requiring—

1. The imprisonment for life of Mir Ghaffar, the principal murderer.
2. The arrest and punishment according to the measure of their guilt of his accomplices in the murder.
3. The payment in cash for the benefit of the widow and orphans of the deceased of an indemnity in the sum of \$50,000 gold.

And the President of the United States desiring to set a salutary example to prevent similar crimes rather than to exact harsh and inconvenient terms of the Persian Government, and considering the unbroken friendship that has subsisted between the two governments in the past has instructed Richmond Pearson, envoy extraordinary and minister plenipotentiary of the United States, to accept the sum of \$30,000 instead of the sum of \$50,000, the full amount of the indemnity conceded by the Persian Government on the following express conditions, to wit:

1. If Mir Ghaffar shall be permitted to escape from prison by the negligence or connivance of Persian officials.
2. Or if the leading accomplices, notoriously identified as participants in the crime and living within the jurisdiction of Persia, shall not have been captured and punished according to the measure of their guilt before March 9, 1906.
3. Or if the amount of the indemnity or any part thereof shall be levied by special tax, or by other device or pretext exact it from the Christian population residing in Urumia or elsewhere in Persia, then and in any such event, so much of the indemnity as is hereby remitted, to wit, the sum of \$20,000, shall immediately become due and payable just as if no reduction had been made in the total amount conceded by the Persian Government, it being the purpose and intent of both governments in concluding this form of settlement to prevent as far as possible the recurrence of similar crimes.

Signed on behalf of the United States by Richmond Pearson, envoy extraordinary and minister plenipotentiary, the 20th day of December, 1904, corresponding to the 12th of Shavval A. H. 1322.

[Inclosure 2.—Translation.]

*The Minister for Foreign Affairs to Minister Pearson.*

MINISTRY FOR FOREIGN AFFAIRS,  
26th of Shavval, 1322.  
3d of January, 1905.

YOUR EXCELLENCY: I have considered the draft memorandum, which you presented to me several days ago, containing the conditions for bringing to a conclusion the case of the murder of Mr. Labaree.

In order to settle the question of the indemnity of \$30,000, which the Government of the United States has demanded for the support of the widow and orphans of Mr. Labaree, I have now to place in your hands a draft on the Imperial Bank of Persia for this amount.

With regard to the imprisonment of Mir Ghaffar and the punishment of the persons implicated with him in the crime, the Persian Government will, after the necessary inquiries, in accordance with this draft memorandum keep Mir Ghaffar in perpetual confinement.

With respect to the other persons implicated in this murder, whoever of them shall be found residing within the government and jurisdiction of Persia shall, by the 9th of March, 1906, be arrested and brought to trial and punished according to the measure of their guilt.

With reference to the demand, contained in your memorandum, that the Persian Government should not, either as a tax or on any other pretext, collect the sum of the indemnity to be paid to the heirs of the late Mr. Labaree from the Christians resident in Urumia, I beg to inform your excellency that the Persian Government never had and has not thought of taking this sum by force from persons innocent of the crime. It is, however, only consistent that should it be proved, that Christians were implicated in this murder, they will not be held exempt from the punishment which the necessities of justice may demand.

I avail, etc.,

MUSHIR-ED-DOWLAH.

[Inclosure 3.]

*Mrs. Labaree to Minister Pearson.*

URUMIA, PERSIA, December 6, 1905.

SIR: Two days ago a telegram was received from you by Doctor Cochran stating that, backed by our government, an indemnity of fifty thousand dollars [had been demanded] for the widow and children of Mr. Labaree. Being the person most interested in this matter, I beg leave to state to you, as the representative of our government, my views in regard to the case. This has not been done earlier simply because in all communications between the missionaries of this station and the representatives of both the American and British Governments no suggestion or reference has hitherto been made to a money indemnity, and so far as we in Urumia are concerned no request for such an indemnity has been made.

As my opinion differs somewhat from that of my fellow missionaries and of Captain Gough, the British consul at present in Urumia, on account of the recent disturbances, I feel that I have a right to be heard on the subject. At the same time if the mission of which I am a member, and the Presbyterian Board of Foreign Missions, as well as our own government, feel that my judgment in the matter is wrong, I shall submit my judgment to theirs, wishing, however, to have my protest recorded.

I fully believe, of course, that when an American citizen has been ruthlessly murdered and that murder was possible because of criminal laxness in government, as was the case in the death of my husband last March, those dependent on him for support are entitled to receive a sum of money from the guilty government that will suffice for such support. I believe, however, that the great mission cause to which my husband and I dedicated our lives—and which has become even dearer to me because of the terrible sacrifice I have been called upon to make for it—I believe that this may receive serious injury if my children and I accept an indemnity for this murder. The matter would not be understood by the great mass of the people in this district who would inevitably know of it, as the Persian idea of "blood money" is so different from our civilized understanding of an indemnity. Thus serious and lasting injury might be done to the mission cause for which we have already sacrificed so much, that I prefer to waive my rights as an American citizen rather than to see this cause suffer.

If, however, as Captain Gough and the gentlemen of our mission station claim, I have not the right to refuse such an indemnity for myself and my children, I wish, in the strongest terms, to enter two protests.

First. The amount demanded of the Persian Government is too large—not too large when one tries to measure the awful suffering and distress caused by the crime, and the value of the noble life so ruthlessly sacrificed; but too large in proportion to indemnities paid under similar circumstances by the Chinese Government, and too large in proportion to the prevailing customs and ideas of this country. It would, of course, be arrant nonsense for us or our government to conform to the rules here, by which the "blood money" paid for a Christian life is 33 tomans and the highest possible indemnity for a Moslem life is 1,000 tomans. But the disproportion between these sums and also between sums paid by other governments under similar circumstances and the sum of \$50,000 asked for in this case is such that all the American missionaries agree with me in urging that the amount be very considerably diminished.

Second. The Persian custom of raising such a sum is so unjust and cruel that the suffering and injustice produced thereby would be vastly out of proportion to the relief and help afforded by the indemnity. If the government officials themselves, guilty because of their criminal carelessness and those who directly and indirectly took part in the awful crime—if these could be made to feel the full force of the consequences of their misdeeds by the payment of a large sum of money, there would be nothing more to say in the matter. But, according to the customs of the land, the money will in all probability be levied on certain landowners, who will in turn force it in the most cruel manner from their poor, distressed eyats, and the suffering and distress, especially in this district where the murder was committed, will be awful beyond description. This will be more than likely to fall with cruel force upon many of the people who are most closely connected with us and who share with us the dangers, anxieties, and sorrows of our exposed position. I therefore most earnestly protest that, if it be right and necessary to press the demand for an indemnity, the very strongest measures possible be taken by our government to see that this money should not be extorted from the innocent and already distressed and suffering population, Moslem and Christian.

I am, etc.,

MARY SCHAUFFLER LABAREE.

[Inclosure 4.

*Notes of an interview on the 28th of December, 1904.*

[In response to an invitation Mr. Pearson called, at 2 o'clock this afternoon, upon the minister for foreign affairs at his private residence.]

After the usual informal remarks, the minister said: "I have troubled you to come to see me to-day that we may talk over the arrangements which have been made to bring the Labaree case to a conclusion. I have shown the memorandum which you presented to me at our last interview to His Majesty the Shah, who has been graciously pleased to accept the therein proposed." Continuing, he said that the government considered that, in view of the necessity for a thorough investigation into all the circumstances connected with the murder, it had given orders that Mir Ghaffar should be brought to Teheran, and that he was now on the way from Tabriz and would arrive in three or four days, and when the other criminals were arrested they would also be brought to Teheran, put upon their trial, and if found guilty be punished. His excellency, moreover, added that if in the course of the investigation it should be proved that any Christian had incited or been in any way implicated in the murder he would be placed in the same position, tried as others, and if found guilty be punished.

Mr. Pearson, in replying to these remarks, said there could be no objection to the trial taking place in Teheran, or that if there were sufficient evidence to prove the complicity of a Christian in connection with the commission of the crime, he saw no reason why he should not be, as others, put upon his trial.

He then asked the minister whether in conformity with his request, made on the 24th instant in writing, instructions had been sent to the authorities in Tabriz and Urumia to recognize the official position of Mr. Norton as the special representative of the American Government sent to Persia to investigate the circumstances of this case and to help to bring it to a satisfactory conclusion, for it was important that Mr. Norton's position should be clearly understood.

The minister replied that up to the present no instructions had been sent, and asked when Mr. Norton arrived and where he was at the present time.

Mr. Pearson replied that Mr. Norton had been in Persia three weeks and was now in Urumia. He further asked whether the new governor of Urumia had yet reached his post, and if not when he might be expected to take up his new duties.

In reply to this the minister said he had no more information than that he was nominated about a fortnight ago. Continuing, he said the condition contained in Mr. Pearson's memorandum formulating the terms on which a settlement could be effected, that the indemnity or any part thereof should not by any special tax be collected from the Christians in Urumia or any part of Persia, the government accepted; but it would not by this admission bind itself not to levy any tax for special or ordinary income on either Christian or Moslem, which might be necessary in the future.

To this Mr. Pearson replied that in such case the government was within its right in collecting the ordinary revenue of the country, and that he had no desire to interfere with that; but his object was to prevent the burden falling on people who were innocent of any participation in the crime.

His excellency asked if Mr. Norton would come to Teheran after the accomplices were arrested.

To this Mr. Pearson replied that it was only now that he heard the trial was to take place in Teheran, consequently he had not thought about such a contingency, but it was probable

that before these accomplices were arrested he would have time to take the matter into consideration and communicate with Mr. Norton.

Mr. Pearson then asked when his excellency thought the indemnity would be paid, for it was possible that Mrs. Labaree might wish to take her children to America. In reply he said that they were now in agreement on the three points, viz., that Mir Ghaffar should be imprisoned for life, that the accomplices should, if within Persian territory, be arrested and brought to trial at Teheran, and that the indemnity of \$30,000 should be paid. He would, moreover, in replying in two or three days' time to my memorandum containing these terms, state when the indemnity would be paid.

Mr. Pearson then expressed his satisfaction at this favorable termination of the case, and said that it would be a source of gratification to his government.

Before leaving, the minister wrote a telegram to be sent to the crown prince at Tabriz, instructing him to recognize the official position of Mr. Norton, and render him any assistance he might require in making his investigations, and assisting in bringing the case to a conclusion, and asking him to communicate such instructions to the authorities in Urumia. His excellency said he would send off the telegram at once.

JOHN TYLER,  
*Interpreter of the American Legation, Teheran.*

[Inclosure 5.—Telegram.]

*Minister Pearson to Consul Norton.*

AMERICAN LEGATION,  
*Teheran, December 14, 1904.*

Telegram received. Persian Government has agreed to our demands unconditionally. Special commissioner with plenary powers and stringent order from Shah to capture accomplices, should arrive in Urumia within ten days.

Most important that you ascertain and report effective steps to be taken to this end, and that you identify and locate and collect uncontrovertible evidence to prove guilt of accomplices. If you have no Department cipher, Major Gough will encipher your telegrams and send accounts here for payment. Telegram here for you; shall I mail or wire it?

PEARSON.

[Inclosure 6.—Telegram.]

*Minister Pearson to Mrs. Labaree.*

AMERICAN LEGATION,  
*Teheran, January 3, 1905.*

Sterling equivalent to \$30,000 indemnity for yourself and children was paid to me to-day. Execute power of attorney agent here to receive amount. Agreement expressly provides against any special tax or other device or pretext to reimburse government and requires swift punishment of all guilty. Your letter received; am answering fully.

PEARSON.

[Inclosure 7.—Telegram.]

*Minister Pearson to Mrs. Labaree.*

AMERICAN LEGATION,  
*Teheran, January 4, 1905.*

Imperial Bank will pay you \$30,000 gold, or draft for face value on New York or 38,400 tomans; 6 per cent interest if deposit remains one year. Your option must be made known within thirty days from this day.

PEARSON.

[Inclosure 8.—Telegram.]

*Minister Pearson to Mrs. Labaree.*AMERICAN LEGATION,  
*Teheran, January 5, 1905.*

Received to-day from Department following telegram:

“PEARSON, *Minister, Teheran:*

“The indemnity should be remitted to the Department. An administrator must be appointed in the locality and state where Mr. Labaree was domiciled. Probate court there will make distribution and will appoint guardian of infant children with bond and approved security to protect estate of children.

“LOOMIS.”

Suggest that you write fully to Secretary necessary facts and your preference for legal guardian. Assume your portion will be paid according to your directions. Inform Secretary whether your husband left will naming executor.

PEARSON.

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*The Acting Secretary of State to Minister Pearson.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 11, 1905.*

(Mr. Loomis instructs Mr. Pearson to inform Consul Norton that he may return as soon as he wishes, as the Labaree matter has been settled.)

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*Minister Pearson to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Teheran, February 6, 1905.*

(Mr. Pearson reports that protest against the terms of the settlement has been made by Consul Norton, who declares that the demands of the United States are satisfied only to a small degree.

Reports that six accomplices have been condemned to imprisonment at Teheran and in the event of any further outrage by the Kurd tribe they will be hanged.)

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*The Secretary of State to Minister Pearson.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, February 7, 1905.*

(Mr. Hay advises Mr. Pearson that Consul Norton's special functions ceased when the Department telegraphed to the legation on January 11 that he might return to his post. Instructs him that full compliance with the terms of the settlement must be insisted upon.)



*Minister Pearson to the Secretary of State.*

No. 113.]

AMERICAN LEGATION,  
*Teheran, April 20, 1905.*

SIR: I have the honor to inclose copies of further correspondence bearing on the Labaree case, and I wish to direct special attention to the following statements in a letter addressed to me by Dr. J. P. Cochran and dated March 22, 1905. Doctor Cochran is considered the leading spirit among the missionaries at Urumia. He says:

There never was a time in the history of this mission when we were in so great and constant danger as at the present. To hold in Teheran two or three of those (Kurds) who have fallen into the net or even to execute them is exasperating their comrades here to a most dangerous degree.

I fail entirely to grasp the logic of this conclusion. The chief murderer and five of his most prominent accomplices are incarcerated here, and their clansmen in Urumia have been made to understand that the lives of these prisoners are dependent upon the good behavior of the Kurdish tribes in Urumia. In the light of common sense and of the common principles of human nature this condition would seem to be a guaranty of security rather than a cause of danger to the Christians in Urumia. I deem it prudent not to press for the final punishment of these criminals until at least two others of the ringleaders shall have been captured, and until the excited mental state of the Christian population shall have resumed its normal calm. But as my views are so radically different from those of Doctor Cochran and his associates, I feel obliged to ask for further and specific instructions as to the particular steps that I should take in the premises. I can readily understand the complaints of the missionaries and their protests against steps which they have opposed; but how and why they should complain of steps which they have urgently advised and which after long and arduous efforts this legation has finally accomplished I fail utterly to comprehend.

The correspondence in this case shows that the missionaries asked for the removal of the governor of the province of Urumia. That has been done and a man of energy and courage has been put in his place.

They asked for the removal of the mudjtabad—the chief Moslem ecclesiastic of Urumia—represented as the instigator, the head and front of all the troubles, and after a year's persistent and urgent demands by the American and British ministers this \* \* \* Moslem bishop has been removed.

The missionaries asked for the arrest of the murderer and his accomplices. All except two of the chief participants in the crime are now in jail at Teheran. Seven of the men implicated are servants, and a Persian servant has no independence or sense of personal responsibility; and I have repeatedly impressed upon the Persian Government that we desired the punishment of the guilty masters rather than of the ignorant servants.

The correspondence further shows that the missionaries asked me to protest to the Persian Government against the presence in Urumia of Madjd-es-Sultaneh, the agent sent from Tabriz to capture the accomplices. I declined to comply with this request, and it turned out that this Madjd-es-Sultaneh, instead of being a man of "evil influence," was successful in entrapping by various ruses the most prominent and influential chiefs among the guilty Kurds:

Finally, I was asked to obtain the revocation or postponement of the order removing the Moslem bishop; this I declined to do for the reasons set forth in my letter to the British minister.

After working for a year to secure the removal of this bad Mullah, I was unwilling when success was in sight suddenly to reverse my steps and stultify my previous representations.

From all this the Department will see the necessity of giving me positive and precise instructions which I shall not fail to execute with promptness and energy.

I am, etc.,

RICHMOND PEARSON.

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[Inclosure 1.]

*The British Minister to Minister Pearson.*

FEBRUARY 5, 1905.

DEAR MR. PEARSON: I inclose to you herewith a copy of a telegram I have just received from Mr. Stevens at Tabriz, together with the reply which I would propose to send if you should approve.

Believe, etc.,

ARTHUR H. HARDINGE.

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[Subinclosure.—Telegram.]

*Mr. Stevens to the British Minister.*

TABRIZ, February 3, 1905.

At last audience granted by the Valialed detailed in my dispatch of February 1, prince promised United States consul and myself to arrest remainder of Kurds implicated in murder. I pointed out to his highness that Mullah was still at Urumia, and that no measures had been taken to remove him, notwithstanding positive promise and engagement to do so. His imperial highness said that question was a difficult one to deal with, but that he would send me his final decision on the subject in a few days.

At an unofficial gathering at the Karguzari the Shah's envoy told the United States consul that if the removal of the Mullah were postponed remaining Kurd accomplices in murder would be immediately arrested.

We both respectfully request your excellency's approval of above compromise.

STEVENS.

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*Proposed answer to Mr. Stevens (by British Minister), February, 1905.*

I approve compromise proposed by you, but I am strongly of opinion that removal of Mullah if postponed should not be shirked, and that he should if possible leave before Moharren.

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[Inclosure 2.]

*Minister Pearson to the British Minister.*

TEHERAN, February 5, 1905.

MY DEAR SIR: I have just received your note inclosing a telegram from His Britannic Majesty's Consul Stevens and a draft of the reply which you would send "if I should approve." This is very courteous on your part, but I can not presume to approve or disapprove the instructions which you deem expedient to send to your consul.

However, we have been so closely associated with such unreserved mutual confidence in the conduct of this case that I feel warranted in saying that while I joined in demanding the removal of this Mullah the definite promise to remove him is due to your own energetic and efficient action.

This man has been represented by your people and mine as the head and front of all the offending.

To relinquish or defer the advantage which you have gained in this regard without any correlative benefit, it seems to me is to accept a new promise instead of the one outstanding without the payment of interest and without additional security.

Faithfully, yours,

RICHMOND PEARSON.

[Inclosure 3.]

*Minister Pearson to Doctor Cochran.*

AMERICAN LEGATION,  
*Teheran, April 14, 1905.*

DEAR SIR: I have to acknowledge the receipt of your letter of March 22. I note that you say: "To hold in Teheran two or three of those who have fallen in the net or even to execute them is exasperating their comrades here to a most dangerous degree."

I fail to see the logic of your conclusion or the process by which you arrive at it. On the contrary the tribe knows that the lives of their comrades imprisoned at Teheran depend upon the good behavior of the Kurds in Urumia. It would seem that this fact, coupled with the removal of the mudjtabad and the energetic action of the new governor, should diminish rather than increase your sense of danger.

If your reasoning be correct it would lead to the conclusion that you would feel a greater sense of security if these culprits were released and allowed to go scot-free.

In any event it would be better for you and your associates to formulate in specific terms your demands upon the American Government.

Yours, truly,

RICHMOND PEARSON.

[Inclosure 5.]

*Extracts from a letter of the Rev. B. Labaree, of Urumia, dated March 23, 1905.*

In my relation of father-in-law to Mrs. Labaree I have naturally seen the correspondence which has passed between yourself and her, and I have highly appreciated the energy and ability with which you have managed the indemnity question; also your generous offer of personal assistance to her in case of necessity. In spite of Mrs. Labaree's strong conscientious convictions against accepting such an amount of money from the Persian Government, or in fact of any sum whatever, her friends are profoundly gratified that she is now liberally provided for as regards the future needs of herself and her children. \* \* \*

We have simply asked that it should take such steps as it might find necessary to reestablish us in the security which we have enjoyed in the past seventy years while engaged in our legitimate work, and in the absence of such security we have thought ourselves entitled to make a loud appeal on the matter to our government through you, its accredited representative to the Persian Government, even to the point of uttering a protest against action on the part of our government, which, however wisely intended, increased rather than diminished the dangerousness of our position.

[Inclosure 6.]

*Minister Pearson to Reverend Labaree.*

AMERICAN LEGATION,  
*Teheran, April 14, 1905.*

DEAR SIR: I beg to acknowledge the receipt of your letter of March 23, which I have carefully considered.

For practical purposes and results it would seem that you and your associates should state precisely and specifically your demands upon the American Government. Such demands will receive the prompt and earnest consideration of this legation.

Sincerely, yours,

RICHMOND PEARSON.

*Minister Pearson to the Secretary of State.*

No. 115.]

AMERICAN LEGATION,  
*Teheran, April 29, 1905.*

SIR: I have the honor to inclose copy of a letter from Dr. I. P. Cochran, dated April 17, 1905. I request special attention to the following statement in said letter:

In this connection may I also put on record my belief that it is not wise nor best to execute any of the Kurds arrested, even though we are sure they are the criminals, because of the blood feud that these savages would have to observe.

This deliberate expression of belief coming from the recognized leader of the American missionaries at Urumia, and urging not a postponement, but a permanent and radical modification of the terms of agreement with the Persian Government, emphasizes the necessity of giving the positive instructions which I have heretofore requested for my guidance.

I am, etc.,

RICHMOND PEARSON.

[Inclosure.]

*Doctor Cochran to Minister Pearson.*

TABRIZ, April 17, 1905.

SIR: Having come to this city to escort Mrs. Labaree and her children and my daughter thus far on their way to America, I find His Britannic Majesty's consul-general, Wratisslaw, has reached the same conclusion that we Americans have in regard to the Kurds of Dasht, and I wish to report the same to the legation.

What we would choose as the very best thing for the interests of our own case, as well as for all the population on the border, would be to have the Dasht Kurds very thoroughly punished—absolutely broken—and after that several of their chiefs be held in the service of the Shah or Valiaed in Teheran or Tabriz as security for the good behavior of the rest.

The next best thing and the only alternative is to come to terms with them for the present at least. So far as we can judge there is no hope that the Persian Government will or can be made to carry out the former, and since the present condition of affairs is intolerable we would respectfully recommend your excellency to consider the wisdom of the alternative and to initiate the steps necessary to the accomplishment of some terms of peace with them. I am inclined to believe that Mr. Wratisslaw would undertake to carry out such a proposition if instructed to do so from Teheran. The daily and nightly danger that we and the English missionaries have to live in is becoming quite intolerable, as I have said, and as time goes on conditions are assuming a worse state rather than a better one.

The retention of the chiefs in Teheran has made the rest desperate, and all who know the Kurds know that they will not hesitate to take revenge if they are allowed any chance to do so. In this connection may I also put on record my belief that it is not wise nor best to execute any of the Kurds arrested, even though we are sure they are the criminals, because of the blood feud that these savages would have to observe. The indefinite retention of some of them in Teheran or Tabriz might very wisely be one of the conditions of the terms of peace proposed. \* \* \*

Respectfully,

J. P. COCHRAN.  
W. S. VANNEMAN.*The Secretary of State to Minister Pearson.*

No. 56.]

DEPARTMENT OF STATE,  
*Washington, June 23, 1905.*

SIR: I have to acknowledge the receipt of your dispatches Nos. 113 and 115, of April 20 and 29 last, respectively, transmitting copies of recent correspondence concerning the settlement of the Labaree case, and controverting the contention of the Rev. Dr. Cochran that to hold

in custody the Kurds now imprisoned at Teheran increases the danger to the missionaries in Urumia.

If the fact is, as the correspondence seems to show and as the Department understands, that these prisoners were arrested at the request of the missionaries, the Department agrees with your views. The holding of the prisoners would appear to be a guaranty of security rather than a menace to the Christians at Urumia.

Being on the scene and familiar with all the facts, you should be able to continue to handle the case with the firmness and judgment necessary for the best protection of the American missionaries.

I am, etc.,

JOHN HAY.

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*Minister Pearson to the Secretary of State.*

[Telegram.—Paraphase.]

AMERICAN LEGATION,  
Teheran, October 4, 1905.

(Mr. Pearson reports that unless protection of the American Government is guaranteed to the Persian witnesses they will refuse to testify in the Labarre case, as they are afraid. The religious war in the Caucasus is aggravating the difficulties. Asks whether such guaranty shall be granted notwithstanding article 7 of the treaty.)

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*The Acting Secretary of State to Minister Pearson.*

[Telegram.—Paraphase.]

DEPARTMENT OF STATE,  
Washington, October 4, 1905.

(Mr. Loomis advises Mr. Pearson that no effective guaranty that this government will protect Persian subjects can be given, but demand may be made upon the Persian Government to give the necessary protection if there be ground to fear miscarriage of justice through intimidation of the native witnesses in the Labaree case.)

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*Minister Pearson to the Secretary of State.*

No. 121.]

AMERICAN LEGATION,  
Teheran, October 7, 1905.

SIR: I have the honor to confirm my telegram of the 4th instant \* \* \* and to acknowledge the Department's reply received the next day. \* \* \*

The language of the treaty is too plain to admit of misconstruction, but I felt justified in asking instructions for the following reasons:

\* \* \* \* \*

The British consul-general, who by the generous offer of the British legation, is representing the American Government at the trial of the Kurds implicated in the murder of Mr. Labaree, telegraphed on the 2d instant as follows, through his legation:

"I must decline to suggest the names of witnesses unless an undertaking be given by the American minister that these unfortunate peo-

ple will not be subsequently persecuted. I believe as a matter of fact that unless they are assured of protection they will go back on their depositions" (taken before the consul-general last winter).

The missionaries have expressed the fear and the belief that the trial will be a failure unless the American Government assumes protection to the witnesses. These missionaries complain and assert that the British Government renders them more assistance than does their own; that the British consul-general is now protecting the former governor of Urumia, who has been illtreated and fined, as they claim, for no other reason than that he has been a true friend to American missionaries, and they can't understand why their government can not protect Persian subjects as fully as the British Government protects such Persians. I have assured them, to no purpose, that the treaty expressly forbids such protection, and therefore I desired the ruling of the Department in order to set this question at rest once for all.

I had anticipated the Department's instructions and before receiving the telegram above recited I handed in person to the Persian minister for foreign affairs the note, a copy of which is inclosed herein, and am glad to report that he immediately telegraphed instructions commanding the governor of Urumia to give public notice to the effect that all witnesses called to testify in this case shall be fully protected and saved harmless by the Persian Government.

I have felt all along that a government of high ideals, like our own, should observe its treaty obligations toward a weak power as promptly as if it were dealing with a strong power able to enforce such performance; and I have felt assured that the actual President of the United States would be, if possible, even more strict and scrupulous in this regard in dealing with a weak rather than with a strong power, for the same reason that a gentleman will discharge a debt of honor more promptly than a debt which is amply secured.

At the risk of being tedious I have felt that I should make this position clear, and I am pleased to know that the Department sustains my views.

I am, etc.,

RICHMOND PEARSON.

[Inclosure—Translation.]

*Minister Pearson to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
Teheran, October 4, 1905.

SIR: In the matter of the approaching trial of the Kurds implicated in the murder of Mr. Labaree, the British consul-general at Tabriz informs me that witnesses are afraid to testify against the Kurds unless guaranteed protection. I have therefore to ask, with all urgency, that you telegraph instructions to the governor of Urumia to the effect that he give public notice that he will protect and save harmless the witnesses who are required to testify at the trial. In the event that you can not guarantee adequate protection to such witnesses will you waive any objection to my government's making such guaranty and taking the necessary steps to enforce the same?

Your excellency is aware that since we reached a basis of settlement in this case on January 3, 1905, I have not troubled you about trifles or formalities, but this question is vital and goes to the heart of the matter. It means the success or failure of the trial; and you will allow me to recall the words in which, on January 3, you pledged the honor and good faith of your government, to wit: \* \* \*

"With respect to the other persons implicated in this murder, whoever of them shall be found within the government and jurisdiction of Persia shall, by the 9th of March, 1906, be arrested and brought to trial and punished according to the measure of their guilt."

I have been led to believe that the Kurdish tribes in sympathy with the accused are willing to pay to the widow of Mr. Labaree the \$20,000 which was conditionally rebated from the amount of the indemnity and that the prisoners expect release on such terms; but I now notify your excellency, in the most emphatic terms, that my government will never assent to or even consider such a disposition of the case. Gold can not atone for American blood. "Punishment according to the measure of their guilt" is the only reparation which my government will accept, and for this it relies upon the strict performance of the pledge above given forth in which you solemnly bind the honor and faith of Persia.

I avail, etc.,

RICHMOND PEARSON.

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*The Secretary of State to Minister Pearson.*

No. 62.]

DEPARTMENT OF STATE,  
Washington, November 6, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 121, of the 7th ultimo, in relation to the protection of witnesses in the Labaree case, and to commend the attitude taken in your note in which you requested the Persian Government to protect the said witnesses.

I am, etc.,

ELIHU ROOT.

NOTE.—Subsequent correspondence will be printed in Foreign Relations, 1906.

## PERU.

### CITIZENSHIP OF CHINESE BORN IN HAWAII.

*Minister Dudley to the Secretary of State.*

No. 119.]

AMERICAN LEGATION,  
*Lima, Peru, May 17, 1905.*

SIR: A Chinaman, giving his name as Chung Dai Yau, called yesterday at this legation and requested a passport. It appearing that he had arrived in Peru from Panama the day before, and was without any acquaintance to attest a formal application therefor, he was told that it could not be issued to him.

He was the bearer of a passport issued in due form under the territorial seal to Chung Dai Yau on February 5, 1903, by Sanford B. Dole, governor of the Territory of Hawaii; and he showed me also a copy of a certificate of his birth, certified on the same date at Honolulu, as correct by Alexander G. Hawes, jr., secretary to the governor. The birth certificate recited that Chung Dai Yau was born on July 14, 1879, of Chinese parents, in the district of Kona on the island of Oahu, in the Territory of Hawaii. The appearance of the young man before me tallied with the description of the passport, and his handwriting, when he wrote his name in my presence, was found to correspond satisfactorily to the signature, Chung Dai Yau, attached to the passport.

He also submitted to my inspection two testimonials as to his character; one signed by J. T. De Bolt, judge circuit court, 1st circuit, Territory of Hawaii, and the other by James L. Holt, deputy assessor 1st division, Island of Oahu, Territory of Hawaii. In the first it is stated that the bearer had been Judge De Bolt's Chinese clerk and interpreter before the judge went upon the bench; and in the second that the bearer was in the employ of the tax department at Honolulu during 1900 and 1901, as a Chinese interpreter and clerk, and that he was a citizen of the United States by virtue of having been born in Hawaii.

The request he made of me for passport was to enable him to land at Ancon, on the Canal Zone, or to be admitted into the United States or any American territory to which he might go.

It appears from his statement that he left Honolulu to better his fortunes in May or June of 1903. Consul-General McWade's visé on the passport shows that its bearer was in Canton July 8, 1903, and an indorsement thereon by W. E. Days, inspector of immigration, that he landed at Manila December 22, 1903. After various vicissitudes in those parts, he proceeded to Salinas Cruz, Mexico, where he also met with disappointment, but was advised that his knowledge of English and Chinese would assure him lucrative employment at the Isthmus. He therefore took the Pacific Mail steamship *City of Para*, at San José de Guatemala and sailed for Ancon where he arrived the 12th or 13th of last month and where his present troubles began. The



ship having come alongside the wharf at La Boca, he was preparing to disembark with the other passengers, when, in view of his obvious Chinese lineage, he was forbidden to do so by the purser of the ship and was prevented by a policeman at the end of the gang plank on the wharf. According to Yau's statement to me he produced the passport and the certificate of birth hereinabove referred to and they were submitted to some one on the shore; but whether to the proper American authority or to some one else, he was not able to inform me. At the end of several days, however, the papers were returned to him in a Pacific Mail envelope with the notification that as the passport had expired he could not be allowed to land. In consequence he has found his way down the coast to Peru, arriving at Lima without funds, and desirous of leaving for the Canal Zone or for the United States as soon as his finances again admit of his traveling. Though improper at present to issue him a passport, it seems quite clear that he is a citizen not merely of Hawaii but of the United States under section 4 of the act of April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii." If so, our Chinese exclusion law has no application to him, and I infer that he has the same right to enter the United States, or any territory or possession of the United States, or any place under their control, as any other American citizen. It is, however, impossible to distinguish by the outward semblance between individuals of the Chinese race who are citizens of the United States and those of them who are not; and I have the honor to inquire what evidence of personal identification and the fact of American citizenship would be exacted of one in the predicament of Chung Dai Yau to admit him into the United States, the Canal Zone, or one of our insular possessions; and whether he would be permitted to land pending the time necessary to secure from Hawaii such supplemental evidence, if any, as might be required.

I have, etc.,

IRVING B. DUDLEY.

*The Acting Secretary of State to Minister Dudley.*

No. 360.]

DEPARTMENT OF STATE,  
Washington, June 30, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 1119, of the 17th ultimo, in regard to the case of Chung Dai Yau, a native of Hawaii, of Chinese parentage, claiming American citizenship under the provisions of Section IV of the act of April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii."

In reply I have to inform you that as you are satisfied of the truth of the man's statements you may issue him a passport.

The question of his admission to territory of the United States is under the jurisdiction of another Department.

I am, etc.,

HERBERT H. D. PEIRCE.

MESSAGE OF THE PRESIDENT OF PERU TO THE PERUVIAN  
CONGRESS.

*Minister Dudley to the Secretary of State.*

No. 1151.]

AMERICAN LEGATION,  
*Lima, Peru, August 1, 1905.*

SIR: I have the honor to mention that the Peruvian Congress assembled in ordinary session on the 28th ultimo. The organization of the two chambers shows that in each the government continues to have a strong majority. The opening ceremonies, held in a joint session, were attended, as is the custom, by members of the executive and judicial branches of the government who reside at the capital and by the diplomatic and consular corps at Lima.

Under separate cover I inclose two copies of the message read by the President upon the occasion; and herewith inclose translation of extracts therefrom.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.—Translation.]

*Extracts from the message to Congress of the President of Peru of July 28, 1905.*

The Peruvian Government has given instructions to its representative in Buenos Ayres to express to the Argentine Government the consent of Peru to the request of the Bolivian Government for the extension of ten months in the time fixed for the presentation of all documents for its defense in the question of limits submitted to the arbitration of the President of the Argentine Republic. And His Excellency the President of the Argentine Republic has thought fit to accede to the request fixing the 15th of May, 1906, as the definite date up to which both parties must present their respective documents.

Our boundary questions with Brazil await the result of the protocol of July 12, 1904, which has been prorogued until the 31st of December of the present year.

The mixed commissions stipulated in the said protocol are at the present moment carrying out the duties intrusted to them.

On the 10th of May next there will convene at Rio the mixed arbitral tribunal charged with the settlement of the claims of Peruvians and Brazilians in consequence of the disturbances suffered by our citizens in the Perus and Yuruá.

His Holiness Pius X has won the gratitude of the Republic by kindly permitting the apostolic nuncio at Rio to preside over the tribunal, thus assuring its decisions the stamp of wisdom and justice appropriate to its high functions.

The representation of the Republic at Rio being newly provided for, my government is confident that within the extension agreed upon the final settlement of the boundary questions will be accomplished, or, in default thereof, that the arbitration agreed upon will be carried out.

Inspired by a high spirit of confraternity, I celebrated, while I was minister for foreign relations, an agreement with the plenipotentiary of Colombia, Señor Tanco, for arbitration and the modus vivendi of April, 1904, which has not had the approval of the Government of Colombia.

Various clauses of the recent treaty celebrated between Bolivia and Chile on October 20, 1904, gave rise to a protest of our foreign office, presented to both of those governments, in defense of the territorial rights of Peru in our provinces of Tacna and Arica, rights which were affected by the said treaty.

Both governments replied that the said clauses do not bind Peru, since it took no part in the arrangement, nor do they diminish her territorial rights in the said provinces, which are subject to the conditions of the treaty of Ancon.

But as the reply of the Chilean Government laid down doctrines which invoked rights that Chile does not possess over the aforesaid territories and at the same time invited us to open new negotiations in order to come to a definite settlement, my government, considering it a duty to continue the negotiations suspended since 1901, addressed another note to the Chilean Government, wherein after correcting those doctrines it accepted the invitation "to negotiate the execution of the treaty of Ancon as regards the provinces of Tacna and Arica, feeling at the same time convinced that nothing will contribute more to strengthen the cor-

dial relations which should unite American nations than the faithful fulfilment of their international engagements and the bonds of their respective interests."

My government has placed in charge of this mission our representative in Washington, Dr. Manuel Alvarez Calderón, whose competency and patriotism is well known.

In consequence of the arrangement made with Ecuador for submitting the definite solution of our questions of limits with that Republic to the arbitration of the King of Spain, His Majesty, the arbiter, has sent as his special commissioner to study the archives of Lima and Quito Señor Ramón Menéndez Pidal.

I have the satisfaction to inform you that our foreign office has concluded with the Government of Italy a general arbitration treaty, which will be submitted to you for your approval. Its conditions are more ample than those laid down in other treaties of a similar nature signed between the great powers and the South American nations.

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**TREATY OF COMMERCE AND CUSTOMS REGULATIONS BETWEEN  
BOLIVIA AND PERU.**

*Chargé Neill to the Secretary of State.*

No. 1213.]

AMERICAN LEGATION,  
*Lima, Peru, December 4, 1905.*

SIR: I have the honor to communicate for the information of the Department of State that a new treaty of commerce and customs regulations was signed on November 27, 1905, by the Peruvian minister for foreign relations and the plenipotentiary of Bolivia.

The clause of the most-favored nation and the free importation granted to the limited trade on the frontier place the commercial relations between both countries on a footing of equity and perfect reciprocity, which insures them peaceful development.

The Congress of Bolivia and that of Peru, both now in session, will approve and sanction this treaty as soon as possible.

I have, etc.,

RICHARD R. NEILL.

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[Inclosure.—Translation.]

*Treaty of commerce and customs regulations between Peru and Bolivia.*

The Governments of Peru and Bolivia, animated by the purpose of rendering closer their commercial relations and of subjecting them to rules which harmonize with the requirements of their respective countries, have resolved to celebrate a new treaty of commerce and customs regulations, and with this object have appointed as their plenipotentiaries His Excellency the President of the Peruvian Republic, Dr. Javier Prado y Ugarteche, minister of state for foreign relations, and His Excellency the President of Bolivia, Colonel Benedicto Goytia, envoy extraordinary and minister plenipotentiary in Peru.

Who, after having exhibited their full powers, which were found to be in good and due form, have agreed upon the following:

ARTICLE 1. Peru and Bolivia establish their commercial relations on the basis of the most complete reciprocity.

ART. 2. Both countries agree to the free commercial transit of all the natural and industrial products of each country and such foreign ones as are introduced by routes by Mollendo and Puno to La Paz and from Mollendo to Pelechuco via Cojata, and vice versa.

ART. 3. Peru and Bolivia are fully at liberty to levy import duties or local taxes on the natural industrial or manufactured products of one or the other country which may be introduced into their respective territories.

ART. 4. Both countries oblige themselves to grant reciprocally the same advantages or commercial immunities which they concede to the most-favored nation in such a manner that if one of the contracting parties should stipulate or may have stipulated with a third power that the natural industrial or manufactured products of the said country may be introduced into its respective territory free of import duties or local taxes or that those that they pay

shall be in a lesser degree or proportion than those which the goods of the other contracting party have to pay the latter shall de facto enjoy the same reductions, immunities, and concessions, because in no case can the articles of one of the contracting parties be charged in that of the other with heavier taxes, duties, assessments, or tariffs than those existing in those countries for the similar products of the most-favored nation, nor can they be placed in an inferior condition to those of any other country.

ART. 5. Cattle of any kind intended for the consumption of Peru or of Bolivia which may pass through the territory of the other country can not be charged with any tax except that of the tolls which are already established or which may be established hereafter for the transit of the cattle belonging to the country in which the tax is collected.

ART. 6. In view of the reciprocal conveniences of the taxpayers of the frontier zones of both republics the importation of the following articles, provided they proceed from one or other of the two countries, shall be free from every government or municipal tax in Peru or in Bolivia and exempt from all consular or custom-house documents, viz: Fresh fruits, fresh fish, fresh shrimps, fresh meat, cheese, milk, eggs, potatoes, corn flour, quinoa, cañagua, maize, barley in grain. No government or municipal tax shall also be collected between the two countries on the following articles within the limits already expressed: Jerked meat, up to 10 kilograms; dried meats and sausages, up to 23 kilograms; butter, up to 6 kilograms; sheep's wool, alpaca, or llama wools, up to 12 kilograms; coca, up to 12 kilograms; cocoa, up to 6 kilograms; coffee, up to 12 kilograms; and chocolate, up to 5 kilograms.

ART. 7. In order to prevent the clandestine and fraudulent introduction of merchandise to the respective territory of each of the high contracting parties, there shall be established a special protocol of the customs regulations, to which must be subjected the importation or exportation of goods in transit by the Mollendo route.

ART. 8. The treaty of June 7, 1881, is hereby annulled in all its parts, as also the complementary protocols originating therefrom.

ART. 9. The present treaty, once it is ratified and interchanged, shall commence to come in force on the 1st of July next, up to which date the present treaty of commerce of 1881 shall remain in force.

ART. 10. This treaty shall remain in force for a period of five years, which shall be understood to be prorogued indefinitely as long as its expiration is not declared by one of the two contracting parties, in which case the notice of the denouncement shall be given to the other party with one year's anticipation.

ART. 11. All the questions which may arise as regards the meaning and execution of the present treaty, and which can not be settled directly between the two parties, shall be submitted to arbitration, in accordance with the general treaty of arbitration between the two countries dated November 21, 1901.

In proof of which both plenipotentiaries have signed the present treaty, in duplicate, sealing it with their respective private seals, in Lima, November 27, 1905.

JAVIER PRADO Y UGARTECHE. [L. s.]  
BENEDICTO GOYTIA. [L. s.]

## PORTUGAL.

### COMMERCIAL TREATY BETWEEN PORTUGAL AND SWITZERLAND.

*Minister Bryan to the Secretary of State.*

No. 197.]

AMERICAN LEGATION,  
*Lisbon, Portugal, December 28, 1905.*

SIR: I have the honor to forward herewith copy, with translation, of the commercial convention concluded between Portugal and Switzerland and signed at Berne on the 20th of this month.

I have, etc.,

CHARLES PAGE BRYAN.

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[Inclosure.—Translation.]

Commercial convention between Switzerland and Portugal, the Federal Council of the Swiss Confederation and His Majesty the King of Portugal and of the Algarves equally inspired by the wish to regulate the commercial relations of the two countries, have resolved to conclude a special convention for that purpose, and have named as their plenipotentiaries: The Federal Council of the Swiss Confederation: Dr. Adolphe Deucher, a federal councilor, chief of the department of commerce, industry, and agriculture, and His Majesty the King of Portugal and of the Algarves: His Excellency Alberto Oliveira, his envoy extraordinary and minister plenipotentiary to the Swiss Confederation, who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

#### ARTICLE 1.

The contracting parties mutually guarantee to each other the treatment accorded to the most favored nation in all that concerns importation, exportation, and transit.

#### ARTICLE 2.

In consequence of the agreement contained in the preceding article, it is agreed that cheeses of Swiss origin shall enjoy, on their entry into Portugal, the same privileges accorded to the cheeses of Holland or of any other country.

#### ARTICLE 3.

The particular brands of Portuguese wines (that is to say, Port and Madeira) at their normal alcoholic test (23 maximum for Port and 21 for Madeira) will be admitted into Switzerland upon the same terms as the special Italian brands, Marsalia, Malvasia, Muscato, and Vernaccia, or of any other country whatever, without being subjected to any monopolizing tax, nor to any supplemental tax.

The same treatment will be accorded by Switzerland to the wines of Malvoisie and Muscat coming from Portugal, as well as to the Portuguese specialties called Carcavellos, Lavradio, Fuzeta, Borba, Dão, and Barraida, of no higher test than 18 of alcohol.

#### ARTICLE 4.

It is understood that the special concessions already granted or which may be granted in the future by Portugal to Spain and Brazil are not included in the most-favored-nation clause. However, if Portugal should extend these concessions to any other country whatsoever, they will be immediately extended to Switzerland.

## ARTICLE 5.

The terms of this convention are applicable, without exception, to the so-called adjacent Portuguese islands—that is to say, Madeira, Porto-Santo, and the Azores.

## ARTICLE 6.

The products of Portuguese colonies, reexported from Portugal to Switzerland, shall have, on entry into the latter country, the benefit of the treatment of the most favored nation.

## ARTICLE 7.

The present convention will come into force immediately after the exchange of ratifications and remain in force five years from that date.

In the event that either of the contracting parties fail to give notice twelve months before the end of this period, of its intention to annul this convention, the same shall remain in force until the expiration of a year from the day when one of the contracting parties shall have denounced it.

## ARTICLE 8.

The present convention will be ratified, and the ratifications shall be exchanged at Berne, as soon as possible.

In faith whereof, the plenipotentiaries have signed the present convention and have affixed thereto their seals.

Done in duplicate at Berne the twentieth of December one thousand nine hundred and five (1905).

Dr. A. DEUCHER. [L. s.]  
ALBERTO D'OLIVEIRA. [L. s.]

## RUSSIA.

### CONTRABAND OF WAR.

#### PRIZE COURT DECISIONS.

NOTE.—For previous correspondence see Foreign Relations, 1904, p. 727

*The Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 4, 1905.*

(Mr. Hay instructs Mr. McCormick to ascertain the status of the *Calchas*, whether the appeal by the Russian procurer was against the entire decision of the Vladivostok prize court covering vessel and cargo; and if appeal did not extend to the cargo to ascertain what disposition was made of the merchandise declared to be noncontraband.)

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*The Acting Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 5, 1905.*

(Mr. Adee advises Mr. McCormick that in conformity with Mr. Eddy's telegram of December 13, 1904, interested claimants have been informed that all appeals from decisions of the Vladivostok prize court must be filed in St. Petersburg; that his letter of December 20, 1904, states that appeals in the case of the *Arabia* and the *Calchas* must be filed at Vladivostok. Asks to be informed which statement is right, and whether Mr. Berline has received powers of attorney sufficient in form to enable him to effect appeals.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, January 6, 1905.*

Replying to telegram fourth, regarding *Calchas*, ship itself was liberated as well as 1,712 tons various goods. There were confiscated 13,300 sacks of flour, 36 bales of cotton, 472,420 pounds of timber, 77 pieces of electric machinery held over without definite decision.

Against this entire decision appeal was made by the Russian procurer. Have telegraphed to Greener, asking him for information regarding whereabouts liberated cargo.

EDDY.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, January 6, 1905.

(Mr. Eddy requests that a formal statement declaring that the Department of State has been unable to communicate direct with Vladivostok be sent to him as evidence in assisting the postponement of the prize cases before the admiralty court.)

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*The Acting Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, January 7, 1905.

(Mr. Loomis advises Mr. McCormick that the Department of State and the American claimants did not fail to appreciate the duty of prompt action in the matter of appeals from the decisions of the Vladivostok prize court, but that serious delays and difficulties were experienced in the efforts to communicate directly with Vladivostok. The Department decided to send its communications through the American embassy at St. Petersburg, and they were then transmitted to the United States commercial agent at Vladivostok, and as soon as instructions in regard to appeals were received by the Department they were immediately communicated to all interested American claimants. The American claimants endeavored to communicate directly with the commercial agent at Vladivostok, and complained to the Department that they had been unable to get into communication with him. The Department also sought advices from the Russian foreign office through the American embassy as to the procedure, and as soon as received these advices were immediately transmitted to the interested parties. Delays and misunderstandings arose as to whether appeals must be initiated from the Vladivostok prize court or the council of admiralty. The claimants were required to execute powers of attorney in the Russian language, to have them legalized by Russian consuls in the United States, and to have them transmitted by cable by the latter. The Department was advised by several claimants that they had been informed by Russian consuls that they had no instructions and declined to transmit the powers of attorney. Not until December 23 last was the Department advised by the American embassy at St. Petersburg that the Russian foreign office had instructed their consuls to telegraph powers of attorney in all contraband cases, and the American claimants were immediately advised to that effect. In consideration of the importance of the questions involved and the



difficulties incident to a state of war, the remote theater of operations, the differences in procedure of Russian and American courts, and the natural uncertainty of American claimants in that regard, and the prompt action taken by the Department and the American claimants, the Department earnestly hopes that all American claimants will be given an opportunity to be heard on the merits.)

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*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, January 7, 1905.

(Mr. McCormick states that in order to make the appeal in the case of the *Arabia* with any chance of success a sworn statement should be sent to Mr. Berline that the Department of State was unable to communicate directly with Vladivostok, which created delay, and similar sworn statements to that effect from the owners of the vessel sworn to before a Russian consul.)

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*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, January 11, 1905.

(Mr. McCormick reports that sworn statements from the owners only of the cargo on the *Arabia* relating to facts stated in Department's telegram of the 7th instant are required for formal presentation to the admiralty court.)

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*The Secretary of State to Ambassador McCormick.*

No. 177.]

DEPARTMENT OF STATE,  
Washington, January 13, 1905.

SIR: The Department has given careful consideration to the views of Count Lamsdorff, reported in your cablegram of September 17 last and in your dispatch No 186 of September 21,<sup>a</sup> with respect to contraband of war.

The positions taken by Count Lamsdorff, as thus reported by you, are that—

Articles of dual use addressed to private individuals in the enemy's country are not necessarily exempt from seizure and confiscation, as such persons might be employed as the agents or contractors of the military or naval authorities;

that—

To unconditionally accept as noncontraband all merchandise not universally accepted or described in their rules as such would open the door to contractors in Japan to import

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<sup>a</sup> Foreign Relations, 1904, p. 767.

foodstuffs and other merchandise without limit for account of the Japanese Government—that is, on account of or in destination of the enemy—that the Russian Government could not but consider as contraband a cargo of flour consigned to a port at which was quartered a large body of troops, and that extending this principle the ultimate destination of the cargo had to be taken into consideration although its direct consignment might be to a merchant in an open port; ↘

that—

Nobody would be so naive as to consign merchandise not prima facie contraband, although intended for the enemy, to the destination of the enemy, substituting therefor a middleman in the shape of a merchant in the open port;

that—

They would be compelled to take such steps as would be necessary to prevent supplies of any character ultimately intended for the use of the enemy from reaching their destination;

and that—

Coal and cotton were held to be absolutely contraband.

In Count Lamsdorff's note, a copy of which is inclosed in your dispatch, the minister says that—

It is only articles enumerated in section 10 of Article VI—horses and beasts of burden excepted—which have been recognized as conditionally contraband of war.

The articles referred to are described in section 10, Article VI, as follows:

In general, everything intended for warfare on land or sea; also rice, foodstuffs, horses, beasts of burden, and other animals which may be used in time of war, whenever they are transported for account of or in destination for the enemy.

It therefore appears that only rice and foodstuffs are to be deemed as conditionally contraband, while horses and beasts of burden mentioned in section 10, all kinds of fuel, such as coal, naphtha, alcohol, and such like, mentioned in section 8, and telegraph, telephone, and railway materials, mentioned in section 9 of the same article, are all to be considered as absolutely contraband.

In the memorandum accompanying Count Lamsdorff's note the minister says:

The American notes relative to the seizure of the steamships *Calchas* and *Arabia* treated simultaneously the questions of principle and fact. \* \* \* Down to the moment of the revision of the decrees of the Vladivostok court by the superior court, reclamations having relation to questions of fact are beyond the competence of the Imperial ministry of foreign affairs. \* \* \* In that which concerns questions of principle the ambassador of the United States was seasonably advised that a special commission, convoked by supreme order to the Imperial ministry of foreign affairs and presided over by Mr. De Martens, has submitted to a thorough examination the question of the interpretation of section 10, Article VI, of the order of the 29th of February upon contraband of war. The conclusions of this commission have been brought to the knowledge of the Russian cruisers and of the prize tribunals in order to be taken into due consideration by them in the future.

The Department is unadvised as to what the conclusions of the special commissioners were, and, consequently, has no information as to what instructions, if any, have been given by His Imperial Majesty's Government to the Russian cruisers and prize tribunals, and can only interpret its attitude in the light of the statements of Count Lamsdorff above mentioned.

It is unquestionably true that a merchant in an open port to whom a cargo of goods of dual use was consigned might be, in fact, an agent or contractor of the Japanese Government, and that the prize court might, therefore, treat such cargo as absolutely contraband of war, the same as if it had been shipped directly on account of the Japanese

Government. But it would seem to be contrary to the rules of prize law and to the practice of prize courts to seize and condemn or detain the cargo, either on mere suspicion, or without evidence to show that the consignee was in fact an agent or contractor of the Japanese Government, or simply because the cargo might possibly be disposed of by the consignee in the course of trade and eventually reach, in whole or in part, the Japanese military or naval forces. The opinion expressed in the case of the ship *Resolution* (2 Dall., United States Supreme Court Reports) was that—

If in this case the papers on board affirm the ship and cargo to be such property as is not prize, there must be an acquittal unless the captors are able by a contrariety of evidence to defeat the presumption which arises from the papers and can show just ground for condemnation.

It seems superfluous to argue that the recognition by His Imperial Majesty's Government of the principle that foodstuffs and other articles of dual use consigned directly to a merchant in an open port are not contraband of war would be completely nullified by nevertheless treating the goods as absolutely contraband for want of proof—impossible to be made—by the claimants that the goods consigned might not ultimately reach the military or naval forces of the enemy. Count Lamsdorff's statement that the Russian Government "would be compelled to take such steps as would be necessary to prevent supplies of any character ultimately intended for the use of the enemy from reaching their destination," would be unobjectionable if the steps contemplated were an effective blockade of the ports of the enemy; but it is obvious that the extensive object sought could be practically, completely, and lawfully accomplished in no other way. If the cargo were condemned on the ground that the neutral claimant had not offered proofs that no part of the cargo could eventually reach the enemy's forces, it would override the universal presumption in favor of innocence by demanding impossible proofs. If proof were required on the part of the neutral claimant to show that the cargo was destined only to pacific uses, to what extent must he adduce proofs? Must he show that none of the cargo would eventually reach the enemy's forces? If proof so comprehensive be wanting, would the whole cargo be condemned? If it were not shown by the captor that the consignee was an agent or contractor of the enemy's government, must proof be offered by the claimant that he will not sell to one who is such agent even though the purchaser might conceal his agency? The law of nations affords no answer to these questions, and it must therefore be presumed that it does not authorize any seizure and condemnation on the mere ground of the possibility of supplies reaching the military or naval forces of the enemy.

The criterion of decision in such cases was laid down by Lord Stowell, an eminent authority, in the case of the *Jonge Margaretha* (1 Robinson):

But the most important distinction is whether the articles were intended for the ordinary uses of life or even for mercantile ships' use, or whether they were going with the highly probable destination to military use. Of the matter of fact, on which the distinction is to be applied, the nature and quality of the port to which the articles were going is not an irrational test. If the port is a general commercial port, it shall be understood that the articles were going for civil use, although occasionally a frigate or other ships of war may be constructed in that port. On the contrary, if the great predominant character of a port be that of a port of naval military equipment, it shall be intended that the articles were going

for military use, although merchant ships resort to the same place and although it is possible that the articles might have been applied to civil consumption; for it being impossible to ascertain the final application of an article *incipitibus usus*, it is not an injurious rule which deduces both ways the final use from immediate destination.

The same judge, in the case of the *Neptunus* (3 Robinson), which involved a miscellaneous cargo taken on the voyage from Cronstadt to Amsterdam, decided that a portion of the cargo consisting of tallow should be restored to the claimant on the ground of its destination to Amsterdam, a great mercantile port as well as a port of naval equipment, and likewise decided that a portion of the cargo consisting of sailcloth should be condemned, on the ground that Amsterdam was a port both of great mercantile and military equipment.

The same criterion of decision is enounced by Kent, Halleck, and other authoritative publicists—that if the port be a general commercial one, it is presumed that the articles are intended for civil use, but if the great predominant character of the port is that of a port of naval equipment, it will be presumed that the articles were going for military use, and that the presumption of innocence exists in all cases when they are destined to a commercial port.

The Department deeply regrets to observe the disposition of His Imperial Majesty's Government to treat coal as absolutely contraband of war—a policy apparently inconsistent alike with the true and permanent interests of the United States and Russia. If this treatment were to be sanctioned by the law of nations, it would vastly increase the burdens and difficulties of maritime warfare for either of these states, inasmuch as the necessary corollary of the principle is, that neutral states could no more allow a belligerent ship to take coal in its ports than to take munitions of war. If coal is to be treated as absolutely contraband by belligerents, it must be so regarded by neutrals. The treatment must be equal, impartial, uniform, and constant—it could not be admitted as an exception—and therefore a neutral state could not, if the principle were admitted, permit the coaling of a belligerent ship in its ports without the most flagrant and culpable breach of neutrality. While the treatment of coal as absolutely contraband might seem to be to the temporary advantage of His Imperial Majesty's Government, yet, in the actual situation in which they are placed, it would, as a principle, work to the permanent and very serious disadvantage both of Russia and the United States, whether they should happen to be at peace or war with other nations.

Nor could the United States Government acquiesce in the treatment of raw cotton as absolutely contraband of war. While that product may enter to some extent into the manufacture of explosives and military clothing, the quantity of it used for such purposes is so far out of proportion to its uses in the arts of peace that the recognition of its treatment as absolutely contraband would, in principle, justify the same treatment of all forms of iron and steel, as well as wood, wool, all kinds of fuel, and all other materials which could be used in the manufacture of guns, carriages, or any other article of potentially military use, and would, therefore, be destructive of virtually all commerce of neutral states with the noncombatant population of belligerents. Cotton is one of the principal products of the United States. The crop for the year 1904 exceeds 12,000,000 bales. Its exportation from the United States is one of the principal items of its foreign com-

merce. To Japan alone the exportations of raw cotton during the periods specified were as follows:

*Raw cotton.*

	Bales.	Pounds.	Value.
Year ending December 31, 1903.....	83,434	44,651,240	\$4,510,580
Eleven months ending November 30, 1904.....	63,338	33,461,739	3,753,361

In view of the foregoing His Imperial Majesty's Government can not fail to perceive the deep concern with which the United States would view the establishment of precedents and the recognition of a principle which would work such disastrous consequences to its legitimate commerce with neutral states. According to the view of the United States Government expressed herein, and in its circular of June 10<sup>a</sup> and its instructions of August 30<sup>b</sup> and September 1<sup>c</sup> last, the seizure and condemnation of neutral ships and goods on the broad grounds enunciated by Count Lamsdorff would necessitate a radical change in the law of nations and in the procedure of prize tribunals, and would, if generally adopted, inflict incalculable injury upon great producing and exporting countries, like Russia and the United States, who are vitally concerned in the maintenance of the rights of legitimate commerce with the peoples of belligerent states.

You will express to Count Lamsdorff the deep gratification with which the President has received his assurances—in keeping with the firm and traditional friendship between the two governments—that in the future there will be less ground of complaint, and that it is far from the desire of His Imperial Majesty's Government to place any obstacles in the way of legitimate commerce with Japan.

You will communicate the substance of this instruction to Count Lamsdorff.

I am, etc.,

JOHN HAY.

*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, January 21, 1905.*

(Mr. McCormick states that the respective dossiers from Vladivostok, upon which the decisions rendered by the admiralty court are based, can furnish the Department with any detailed information. Asks whether he is to procure and forward translations.)

*The Acting Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 21, 1905.*

(Mr. Loomis instructs Mr. McCormick to forward translations of all decisions rendered by the admiralty court.)

<sup>a</sup> Foreign Relations, 1904, p. 730.

<sup>b</sup> *Ibid.*, p. 760.

<sup>c</sup> *Ibid.*, p. 763.

*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, January 28, 1905.*

(Mr. McCormick requests to be informed whether the affidavits mentioned in his telegram of the 11th instant have been forwarded.)

*Ambassador McCormick to the Secretary of State.*

No. 211.]

AMERICAN EMBASSY,  
*St. Petersburg, February 6, 1905.*

SIR: Referring to my cablegram of January 7 and to those of Mr. Eddy dated, respectively, January 3 and 6, in which it was requested that the owners of the cargo shipped on board the steamship *Arabia* should, with as little delay as possible, forward to this embassy full proof of their inability to communicate directly with Vladivostok, together with their affidavits to that effect, I have now the honor to inform you that, up to this day, I have received none of these documents, nor has Mr. Berline, counselor of the embassy, had any word from the owners on this subject.

I therefore beg to suggest that the attention of the owners may be called to the fact that since they have not seen fit to comply with this very reasonable requirement of the admiralty court neither the State Department, this embassy, nor Mr. Berline can be held responsible in case it should prove impossible to obtain a rehearing of the case.

I have, etc.,

ROBERT S. McCORMICK.

*The Secretary of State to Ambassador McCormick.*

No. 187.]

DEPARTMENT OF STATE,  
*Washington, February 24, 1905.*

SIR: Referring to your No. 211 of the 6th instant, I inclose copy of a letter from Messrs. Butler, Notman, and Mynderse,<sup>a</sup> stating that they forwarded the required affidavit for the appeal in the *Arabia* case on January 10 last.

I am, etc.,

JOHN HAY.

*The Acting Secretary of State to Ambassador Meyer.*

No. 4.]

DEPARTMENT OF STATE,  
*Washington, April 4, 1905.*

SIR: I inclose, for delivery to Mr. Berline, the counselor of your embassy, copy of a letter from Messrs. Ralston & Siddons,<sup>a</sup> giving a list of papers and letters sent to him in the matter of the appeals growing out of the seizure of the *Calchas*.

I am, etc.,

F. B. LOOMIS.

*The Acting Secretary of State to Ambassador Meyer.*

No. 33.]

DEPARTMENT OF STATE,  
Washington, May 26, 1905.

SIR: I have to acknowledge the receipt of your telegram of the 25th instant, stating that you await instructions concerning the Russian action on cotton in the *Calchas* case, and adding that the written decision will probably be printed in about two weeks.

In reply, I have to say that the Department desires you to procure and forward to it the full text of the decision of the council of the admiralty in the *Calchas* case, in order that it may consider the same in the light of a full and authentic copy of the decision.

I am, etc.,

F. B. LOOMIS,

*The Acting Secretary of State to Ambassador Meyer.*

No. 43.]

DEPARTMENT OF STATE,  
Washington, June 27, 1905.

SIR: I inclose copy of a letter from the Standard Oil Company of New York,<sup>a</sup> presenting a claim for the seizure and destruction by the Russian naval authorities of a cargo of petroleum shipped by the company from New York to Yokohama on board the English steamship *Oldhamia*.

Upon the facts stated it appears to the Department that the Russian Government is clearly liable to make compensation to the claimant for the value of the cargo, which is accordingly requested.

I am, etc.,

HERBERT H. D. PEIRCE.

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, July 18, 1905.

(Mr. Meyer advises that the Standard Oil Company should immediately bring suit for damages against the Russian Government. The signature of the telegram giving power of attorney to the lawyer with right of substitution should be legalized by a Russian consul with a statement that the act is made according to the laws of the country.)

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 19, 1905.

Referring to your cablegram of 18th, has Russian Government brought or will it bring *Oldhamia* case before prize court?

ADEE.

*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 20, 1905.*

Prize crew put on *Oldhamia* May 21, not since reported. Government no information. Lamsdorff promises to report when known.

MEYER.

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1905.*

(Mr. Adee instructs Mr. Meyer to urge the claim in the case of the *Oldhamia*, as directed in instruction No. 43, if the Russian authorities seized and destroyed the vessel and cargo and have not brought and will not bring the case before a prize court. If prize proceedings have been instituted, Department should immediately be informed in order to advise owners to employ counsel and exhaust judicial remedy before the claim is pressed diplomatically. Instructs him to ascertain and report in what court or tribunal suit for damages should be brought.)

*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 21, 1905.*

If Russian commander does not give notice to the prize court of capture of vessels, article 64, Russian naval prize regulations, the owner must act under article 88, same regulations. For that reason wired, as per cable 18th, to avoid repetition *Arabia* case. The embassy, according to Russian law of procedure, can not present itself as a party in the claim (article 60, same regulations). I am presenting the matter diplomatically to the foreign office, so as to give pressure to the legal procedures.

MEYER.

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 27, 1905.*

Standard Oil Company informs Department it has cabled necessary power of attorney to Berline pursuant to your suggestion, and requests that you be instructed to hand papers to Berline.

ADEE.



*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 29, 1905.*

British embassy informs me that Russian foreign office notified them that shells were found on board *Oldhamia*.

MEYER.

*The Acting Secretary of State to Chargé Eddy.*

No. 84.]

DEPARTMENT OF STATE,  
*Washington, September 25, 1905.*

SIR: I inclose duplicate copies<sup>a</sup> of a memorial filed with the Department on behalf of the Portland and Asiatic Steamship Company, an American corporation, for alleged losses occasioned by the seizure in July, 1904, and detention by Russian naval forces of the steamship *Arabia*, a vessel owned by the Hamburg-American Packet Company, but at the time of seizure under charter to the said Portland and Asiatic Steamship Company.

You will retain one copy of this memorial for the embassy files and you are instructed to present the other copy to the Russian minister for foreign affairs.

I am, etc.,

F. B. LOOMIS.

*Chargé Eddy to the Secretary of State.*

No. 279.]

AMERICAN EMBASSY,  
*St. Petersburg, November 18, 1905.*

SIR: \* \* \* Relative to the claim of the Portland and Asiatic Steamship Company for losses occasioned by the seizure, in July, 1904, of the steamer *Arabia*, I have the honor to transmit to you herewith a translation of a note from the Russian ministry for foreign affairs, dated October 29 (November 11), in reply to mine of October 14/27 on this subject. It is my intention to consult Mr. Berline, the embassy's legal adviser, as to what might be done in this case as soon as he returns from Odessa, where he is detained on account of the railway strike.

I further transmit to you, for your information, a copy of articles 30 and 87 of the Russian naval prize regulations,<sup>b</sup> of which mention is made in Count Lamsdorff's note.

I have, etc.,

SPENCER EDDY.

<sup>a</sup>Not printed.

<sup>b</sup>Printed in Foreign Relations, 1904, pp. 739 and 746.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Eddy.*

No. 10481.]

MINISTRY FOR FOREIGN AFFAIRS,  
SECOND DEPARTMENT,  
St. Petersburg, October 29, 1905.

MR. CHARGÉ D'AFFAIRES: In reply to your note of the 14/27th, relative to the claim of the Portland and Asiatic Steamship Company for losses sustained by that company through the seizure, in July, 1904, and the detention by the Russian naval forces of the steamer *Arabia*, I have the honor to inform you that the reimbursement of losses caused by the detention of vessels is foreseen in article 87 of the naval prize regulations. As to the right to a compensation for these losses article 30 of the same regulations only recognizes it when it is established that the detention of the vessel in question was effected without plausible reason or contrary to the provisions of law.

With regard to the legal right of the detention of the steamer *Arabia* this question has already been examined by the supreme court which resolved in a positive sense by sentence rendered on November 30, 1904.

For the above-named reasons the claim of the Portland company for the losses sustained by it through the detention of the steamer *Arabia* can not have a favorable result, as the detention has been considered legal.

Nevertheless, should the said company desire to bring a claim for damages, it is not deprived of the right to lodge a claim to that effect before the competent prize court.

Returning to you herewith the documents you inclosed with your note above mentioned,

I avail, etc.,

LAMSDORFF.

*Ambassador McCormick to the Secretary of State.*

No. 210.]

AMERICAN EMBASSY,  
St. Petersburg, January 21, 1905.

SIR: Replying to and in conformity with the Department's instruction No. 173 of the 27th of December and confirming my cablegram of this day,<sup>a</sup> I herewith inclose the decisions already rendered by the council of the admiralty in cases appealed from the Vladivostok prize court. The decision of the latter, I am informed by Mr. Berline, enters into details and would therefore be valuable for the Department's records, and I only await a reply to my cable to secure these translations, which I will forward with as little delay as possible.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure 1.—Translation.]

*Decision of the admiralty court, November 20, 1904, steamer Tea.*

1. The steamer *Tea* was not subject to arrest and confiscation.
2. The decision of the Vladivostok court relating to the arrest and confiscation of the steamer *Tea* to be reversed.
3. The decision of the prize court as refers to the cargo to remain in force, as appeal was not taken.

[Inclosure 2.—Translation.]

*Decision of the admiralty court, November 20, 1904, re steamer Arabia.*

1. To consider the steamer *Arabia* as having been arrested on sufficient ground.
2. The cargo, consisting of 500 sacks of flour, belonging to Messrs. Runge & Thomas, as well as 5,000 sacks belonging to Messrs. Dodwell & Co., to be considered as noncontraband. The decision of the Vladivostok prize court in this respect to be reversed and the said cargo to be set free.
3. The decision of the Vladivostok prize court as relates to the remainder of the cargo to remain in force, no appeal from it having been taken.

<sup>a</sup> Not printed.

[Inclosure 3.—Translation.]

*Decision of the admiralty court, October 9/22, 1904, steamer Allanton.*

1. The steamer *Allanton* and cargo, consisting of coal, to be considered as not subject to confiscation and to be set free.
2. The arrest of the steamer and cargo to be considered as having been made on sufficient ground.
3. The decision of the Vladivostok prize court in that part which relates to the confiscation of the vessel and cargo to be reversed.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, December 5, 1905.*

(Mr. Eddy reports that the decision in the case of the *Knight Commander*, rendered on Saturday, maintains the finding of the Vladivostok prize court in regard to condemnation of the vessel and cargo, that the protest of Mr. Berline concerning neutral goods was allowed, and that that matter was referred to the Libau prize court for revision under article 88, naval prize regulations.)

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**ALLEGED VIOLATION OF ARTICLE 27 OF THE HAGUE PROTOCOL  
OF 1899.**

RULES OF WAR.

*Memorandum from the Russian Embassy left at the Department of State  
January 6, 1905.*

[Translation.]

General Stoessel, aid de camp, communicates that the Japanese army, while bombarding Port Arthur, frequently directed its fire against the hospitals of this fortified city, as well as against the floating hospitals, causing serious damage to them. Thus on November 30 after the capture of Great Mountain the Japanese directed the fire of their 11-inch guns against our hospitals in which there were wounded persons. Hospital No. 9 suffered specially, and its chief surgeon, Doctor Krjivec, was killed. The Japanese shell some time afterwards destroyed Hospital No. 6 and damaged Hospital No. 11, wounding a surgeon therein, a Sister of Charity, and a large number of wounded persons who were there undergoing treatment. General Stoessel did not fail at the time to call the attention of General Nogi, in command of the besieging troops, to these positively wrongful acts.

Considering the above-mentioned procedure of the Japanese as constituting a flagrant violation of the elementary principles of the law of nations, and especially contrary to article 27 of the protocol of The Hague, by which the laws of land warfare were regulated, and of which Japan is also one of the signatories, the imperial government deems it its duty to protest against said procedure in a formal manner.

The imperial ambassador at Paris, by order of his government, has requested Mr. Delcassé to instruct the minister of France at Tokyo to take this step.

*Memorandum from the Department of State to the Russian Embassy,  
January 7, 1905.*

The Department of State has received the undated memorandum of the Russian embassy containing the statements made by General Stoessel regarding the alleged bombardment of hospitals by the Japanese forces at Port Arthur, and the protest of the Imperial Russian Government against the acts alleged as in violation of the elementary principles of international law, and in conflict with the stipulations of article 27 of The Hague protocol relating to the laws of war on land.

The Department of State takes due notice of the statements and protests thus made.

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*The Acting Secretary of State to Ambassador Meyer.*

No. 62.]

DEPARTMENT OF STATE,  
*Washington, August 1, 1905.*

SIR: I inclose, for communication to the Russian Government, copy of a note from the Japanese chargé d'affaires ad interim at this capital,<sup>a</sup> bringing to the attention of that government an infraction of article 6 of the Geneva convention, and of article 23 of the regulations respecting the laws and customs of war on land, annexed to The Hague convention of 1899, alleged to have been committed by Colonel Müller, in charge of the First Brigade of the Thirty-first Infantry Division of the Russian army.

You will transmit the papers to the Russian foreign office.

I am, etc.,

ALVEY A. ADEE.

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*Memorandum from the Russian Embassy left at the Department of State  
December 28, 1905.*

The Russian embassy is requested to obtain an exhaustive list of articles of the laws of the United States as well as of treaties contracted by the United States Government with foreign countries bearing upon the subject of—

1. The rights of belligerents toward each other, and
2. The rights and duties of neutrals in time of maritime war.

It would be also highly desirable to obtain copies of the texts of these laws and treaties (with the exception of such well-known documents as the Paris declaration of 1856 or that of The Hague of 1899), and particularly in extenso copies of the rules regulating maritime prizes.

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*The Acting Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
*Washington, January 11, 1906.*

MY DEAR MR. AMBASSADOR: In reply to the memorandum which your excellency handed to me on the 28th ultimo, I beg to inclose

herewith a list of the laws of the United States and the treaties concluded with foreign countries bearing upon the following subjects:

1. The rights of belligerents toward each other.
2. The rights and duties of neutrals in time of maritime war.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

*Memorandum.*

LAWS OF THE UNITED STATES.

I. Relating to prize:

The laws of the United States relating to prize are contained in Revised Statutes, 4613-4652, inclusive. (See vol. 3, U. S. Comp. Stat., pp. 3126-3139 and notes.) Sections 4616, 4620, 4630-4635, 4641-4643, 4648, and 4649 have been superseded or repealed in whole or in part by the act of March 3, 1899, chapter 413, section 13 (30 Stat., 1007), which abolished all provisions authorizing the distribution among captors of proceeds of vessels captured or sunk.

Sections 565, 695, 1006, and 1009 of the Revised Statutes (1 U. S. Comp. Stat., pp. 461, 567, 714, and 715) relate to appeals in prize cases. Revised Statutes 5441 (3 Comp. Stat., 3676) prescribes the punishment for delaying or defrauding or injuring the United States in connection with the prize property.

II. Relating to neutrality:

See Revised Statutes 4090 (2 Comp. Stat., 2770) and Revised Statutes 5281-5291 (3 Comp. Stat., 3599-3603, with notes).

TREATIES.

[References are to Treaty Volume, 1904.]

- Argentine Republic, July 10, 1853, article 6 (p. 23).
- Argentine Republic, July 27, 1853, article 12 (p. 28).
- Bolivia, 1858, articles 15-25, 28, 29 (pp. 92-96).
- Brazil, 1828, articles 8, 14-26 (pp. 108-114).
- China, 1858, article 26 (p. 143).
- Colombia (New Granada), 1846, articles 9, 15-28 (pp. 197-202).
- Costa Rica, 1851, articles 9, 11 (pp. 218-219).
- Greece, 1837, article 16 (p. 398).
- Honduras, 1864, article 11 (p. 443).
- Italy, 1871, articles 12-21 (pp. 453-456).
- Mexico, 1848, article 22 (pp. 524-525).
- Morocco, 1836, articles 2-6, 10-12, 16, 18, 24 (pp. 554-557).
- Paraguay, 1859, article 13 (pp. 620-621).
- Peru, 1856, articles 1, 3, 4 (pp. 627-628).
- Prussia, 1785 and 1828, article 12 (p. 638).
- Prussia, 1799, articles 13-17, 19-24 (pp. 638-643).
- Prussia, 1828, article 13 (p. 647).
- Russia, 1854, articles 1-3 (pp. 664-665).
- Sweden, 1783, articles 7-19, 21-23, 25 (pp. 746-751).
- Sweden and Norway, 1827, article 18 (p. 760).
- Tripoli, 1805, articles 4-7, 10, 16, 17 (pp. 785-788).

EXECUTIVE REGULATIONS.

1. Instructions to Blockading Vessels during the Spanish War. (Herewith.)
2. Naval War Code, 1900. (Herewith.) (Since revoked; see pp. 11 and 12.)

**NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.**

[NOTE.—For previous correspondence see Foreign Relations, 1904, p. 722.]

*The Russian Ambassador to the Secretary of State.*

[Translation.]

IMPERIAL RUSSIAN EMBASSY,  
*Washington, January 13, 1905.*

At the beginning of the war, being guided by humane considerations, the Imperial Government agreed to the proposition of the Washington Cabinet, having in view the localization of the military operations and the neutralization of the Chinese territory, and it made its decision known to the powers by circular telegram of February 5/18 of last year. As the essential conditions of said neutralization, Russia had laid down a strict observation on the part of China of the duties imposed by neutrality, as well as an honest attitude on the part of Japan with regard to this engagement, which was undertaken in principle.

An experience of eleven months, which have elapsed since the beginning of the war, has demonstrated in an obvious manner that China was neither capable nor desirous of living up to her pledges.

Without mentioning incidents, such as that of the torpedo boat *Ryeshitelni*, it would be easy to cite a whole series of cases where the duties imposed by neutrality have been violated by China to the benefit of Japan. Thus it has been ascertained many times that bands of hoonhoozes (Hunghutse) operating on neutral territory were commanded by Japanese officers, just as whole detachments of these hoonhoozes have been enrolled in the Japanese army and are in the pay of the Tokyo Government, while Japanese instructors are constantly admitted among the Chinese troops stationed along the northern boundary of the Province of Chile.

It has been established, moreover, that since the beginning of the campaign the Japanese have been using the Miao-Dao Islands as a basis for their naval operations; that they import into Dalny, without hindrance, a great quantity of contraband of war coming from Chefoo and other ports on the Chinese coast, and that the government shops of Hanian (Hanyang) furnished cast iron to the Japanese army.

To all the representations and protests of the Imperial Government on occasions of this kind the Chinese ministers confined themselves to giving vague promises or to answering evasively.

Reports recently received indicate that the Chinese are no longer content with violations of neutrality of the character aforementioned, and that they are making serious preparations with the apparent intention of taking an active part in the military operations. A feverish excitement, dangerous to all whites alike, reigns among the Chinese people, and is being constantly fomented.

The Imperial Government finds it impossible not to draw the attention of the powers to the facts above-mentioned, which demonstrate clearly that their efforts toward assuring the neutrality of China have not been successful, owing to the manner of acting of the Japanese and to their intimidating pressure on the Peking Government.

Russia would, therefore, in case the present situation should continue, be obliged to consider the said neutrality from the standpoint of her own interests.

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*The Secretary of State to the Russian Ambassador.*

No. 253.]

DEPARTMENT OF STATE,  
Washington, January 17, 1905.

EXCELLENCY: In accordance with your excellency's request, I have communicated to our minister in China the complaint of the Russian Government in regard to the various incidents which it considers as a violation of neutrality on the part of the Government of China, and have instructed him to make known to the foreign office in Peking the earnest hope of the President that China will scrupulously observe her neutral obligations, any departure from which would seriously embarrass not only China, but also the powers interested in limiting the area of hostilities.

I willingly took advantage of this occasion, as I have of similar occasions in the past, to make proof of the frank and loyal friendship which has always existed between our two nations. But I feel that I ought, with the same frankness, to call your excellency's attention to the fact that the Chinese Government declare with great earnestness that they have constantly observed that strict neutrality in the present war which is imposed upon them not only by their solemn engagements, but also by the very necessity of their independent existence, and that the Government of Japan insist that they have kept and intend to keep inviolate the pledges they made at the beginning of the war to respect the neutrality of China within the limits then agreed upon.

The President directs me to express to your excellency his earnest hope and confidence that there may not be, on the part of either belligerent, nor of a neutral power, any breach of the neutrality which the whole civilized world has agreed to respect, the violation of which could only be disastrous to all the powers concerned.

I am, etc.,

JOHN HAY.

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*The Russian Ambassador to the Secretary of State.*

[Translation.]

IMPERIAL EMBASSY OF RUSSIA,  
Washington, January 18, 1905.

DEAR EXCELLENCY: I have had the honor to receive your letter dated January 17, relative to the memorandum of the Imperial Government dealing with acts contrary to the neutrality which the Chinese Government had promised to observe.

You are pleased to tell me in your letter that the Chinese Government has declared that it has constantly performed in the present war the duties imposed upon it, from its standpoint, by strict neutrality, and that it denies the existence of the facts contrary to such neutrality that are laid to its charge. No other answer could assuredly be expected from the Chinese Government, but I shall take the liberty of asking you to notice that this denial of China is met by the Imperial

Government with the presentation of a full series of facts, for the most part of matters of public knowledge, which the foreign representatives at Peking—those at least who wish to reach a conscientious appreciation of the true condition of things—can not fail to know and to report to their respective governments.

The present aspect of the situation is as follows: On the one hand, a series of acts, unquestionably contrary to the neutrality of China and incited by Japan; on the other, denials unsupported by any evidence. I beg to take up, among the facts cited in the Russian memorandum, the *Ryeshitelni* incident at Chefoo, which has attracted so much attention that no one can be supposed not to know of it. This incident showed to the world what heed Japan paid to the neutrality of China and the inability or unwillingness of the latter, intimidated by Japan, to enforce the neutrality of which she had assumed the obligations. The United States and Europe saw fit to close their eyes upon that flagrant breach of neutrality of China, as well as upon the deplorable attitude the latter assumed on that occasion. I took the liberty at the time to draw your attention to the probable consequences that would attend in the future the leniency evinced in that case toward both China and Japan. Finding encouragement in that attempt, both those powers persevered in that objectionable course, which placed upon Russia, scrupulously true to the promises made, the necessity of noticing at every moment the encroachments of China, encouraged by Japan, upon the duties of the neutrality which had been imposed upon her in her own interest and in that of the whole world. Russia surely is as much interested as the other powers, and perhaps even more, in the maintenance of the neutrality of China as long as this neutrality is strictly and loyally observed. Engaged as Russia is in a serious war, it is obviously not to her advantage to complicate the situation by creating additional difficulties, but it is impossible, I must say it again, for her to admit for an instant that while she is herself observing her duties of neutrality, China, influenced and intimidated by Japan, may commit acts contrary to her neutral obligations and detrimental to the interests of Russia.

I highly appreciate and shall not fail to transmit to the proper quarter the words which the President has directed you to transmit to me, but I venture to remark that a favorable solution of the question depends at this time much more on China and Japan than on Russia, who, as I have already said, has heretofore scrupulously observed her duties of neutrality toward the Celestial Empire.

Be pleased to accept, etc.,

CASSINI.

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*The Secretary of State to the Russian Ambassador.*

No. 254.]

DEPARTMENT OF STATE,  
Washington, January 23, 1905.

EXCELLENCY: I have given careful attention to your excellency's note of the 18th instant, in rejoinder to the note I addressed to you on the 17th, by which I informed you that I had communicated to the American minister at Peking the complaint you addressed me on the 13th instant in regard to the course of China as a neutral, and communicated to you the declaration, elicited from the Government of



China, that they have constantly observed that strict neutrality in the present war which is imposed upon them alike by their solemn engagements and by the very necessity of the independent existence of China.

Your excellency now states that the declaration of China is met by the facts adduced by the Imperial Russian Government as matters of public knowledge, and you specifically cite the case of the *Ryeshitelni* at Chefoo as an instance of the disregard of Chinese neutrality by Japan and of the inability or unwillingness of China to enforce the neutrality of which she had assumed the obligations.

It does not seem incumbent upon me to take up the question your note appears to present, touching the asserted inaction of the United States and Europe on that occasion or the consequences of what you term the leniency evinced both to China and Japan. So far as the course of the United States is concerned, the correspondence exchanged at the time shows that the seizure of the refugee torpedo boat in the port of a neutral by one of the belligerents found no encouragement whatever; while our attitude when the *Askold* and her companion vessels subsequently took refuge at Shanghai was in full encouragement of the efforts and eventual success of China in enforcing neutrality.

The interests of so many powers being deeply affected by the continuance and observance of the neutrality of China, and their keen solicitude for the maintenance of that neutrality and its observance by both the belligerents having been so conspicuously manifested on many occasions, the Government of the United States does not at this moment feel that it is called upon to express an isolated judgment or to consider the adoption of an individual course of action looking to the conservation of that neutral status which we all desire. It would, on the other hand, seem that this general solicitude of all the interested states would make it expedient and proper that the matters concerning which the Russian Government raises an international issue should be considered in a conference of the powers.

Accept, etc.,

JOHN HAY.

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*The Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
Washington, January 24, 1905.

DEAR EXCELLENCY: In compliance with your excellency's request on the 13th instant we instructed our chargé d'affaires in Peking to bring to the attention of the Chinese Government the statement of the Imperial Government of Russia in regard to alleged violations of neutrality on the part of China.

We have received from the Chinese minister in Washington a reply to this statement, sent him by his government, which I hasten to bring to your excellency's knowledge.<sup>a</sup>

I am, etc.,

JOHN HAY.

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<sup>a</sup> Printed under China, p. 136.

*The Russian Ambassador to the Secretary of State.*

[Promemoria.—Translation.]

IMPERIAL RUSSIAN EMBASSY,  
*Washington, March 2, 1905.*

The latest reports from the commander in chief of our forces in the Far East show a renewed outburst of activity by the bands of Khounkouses (Hunghutses) in Mongolia and in the provinces bordering on Manchuria—an activity which has been fomented and directed by Japanese soldiers.

This fact has recently been demonstrated by the attempt to destroy the railway bridge between Tchouplain and Fankitou stations, mention of which is made in the official telegrams from General Kouropatkine and his chief of staff, dated February 1, 3, and 5.

Under these conditions outbreaks may be expected among the population of Manchuria, as well as an attempt on the part of the Chinese troops under General Youanchikai to take part in the military operations, which might easily provoke, in all the other parts of the Celestial Empire, serious troubles similar to those of the Boxer uprising in 1900.

Since the beginning of the present war between Russia and Japan, all the efforts of the powers have been directed toward the localization of the theater of war, and by conforming to these interests of the great powers the Imperial Government adhered to the proposals made to it on this subject and assumed on this occasion obligations which it has always scrupulously observed.

Russia reiterates her firm intention to follow this policy in the future, provided, however, that the powers interested will, on their side, take measures to force Japan and China to renounce the idea of enlarging the sphere of military operations, and above all to carefully avoid bringing the war into the provinces east of Mongolia.

*The Department of State to the Russian Embassy.*

## MEMORANDUM.

DEPARTMENT OF STATE,  
*Washington, June 15, 1905.*

The Department of State at once communicated to the Chinese Government the memorandum of the Russian embassy transmitted with his excellency Count Cassini's note of March 2 last, alleging an activity on the part of the Chinese in Mongolia which might tend to widen the sphere of hostile operations.

The Chinese foreign office has replied to the note of the American legation, inclosing a copy of the Russian Government's memorandum, as follows:

At the beginning of hostilities between Japan and Russia my board on the 27th of the twelfth moon of the twenty-ninth year of Kuanghsü (February 12, 1904), sent dispatches to the various powers, clearly stating that the region west of the Liao River, from which Russia had already withdrawn her troops in accordance with treaty provisions, and Inner and Outer Mongolia would all be treated as within the area of neutrality, and that the belligerents must not encroach upon them, etc., all of which the records will show.

As to Mongolia, instructions have been sent repeatedly to the colonial office strictly enjoining upon it that no bandits should be allowed to pass out or come in. As to the

theater of war in the Manchurian provinces, both Russia and Japan have enlisted bandits; and if a destruction of railway bridges is the result, it is in a region to which China's military forces may not penetrate, and it is difficult for us to show any partiality in our prohibitions. As a matter of course China can not be held responsible.

The regiments of the forces of the superintendent of trade for the North (Yāan Shih-k'ai) are all stationed in Chihli and are strictly observing the (neutrality) regulations. Moreover, they are far from the theater of military operations, and how can it be said that they are giving any assistance? This is merely conjecture on the part of Russia. As to restricting the area of hostilities and thus lessening the injuries to be suffered by the inhabitants of the country, it is what China most desires. As to the matter of the belligerents not entering the region east of Mongolia west of the Liao River, my board as occasion has offered has uniformly forbidden it and from first to last has observed its obligations in this respect.

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### LABOR TROUBLES AND POLITICAL REFORMS IN RUSSIA.

*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, January 23, 1905.*

(Mr. McCormick reports that crowds filled the streets leading to the Winter Palace yesterday with the expectation that the Emperor might appear and address the workmen, but they were stopped by mounted Cossacks. Only those driving were permitted to pass through the palace square. No evidence of evil intent on the part of the workmen was manifested nor was there any evidence of hostile intent by the crowds beyond jeering at the officers and soldiers. Some effort was made to disband the crowd especially that part of it which was congregated in the Alexander Park facing the palace square. The ambassador does not know what warning was given, but an eyewitness told him that an order to fire upon the crowd in the park was given. This crowd was partly composed of women and children, and some 60 persons were killed and wounded. At other points in the streets leading to the palace many were cut down by the Cossacks. A large number is reported killed and wounded in the manufacturing district, but there is no reliable information as to the actual numbers. A reliable eyewitness reported to him that officers appealed to the crowd to disperse, calling attention to the posters displayed everywhere warning the public to keep off the streets and that their lives were in danger if they remained; no notice seems to have been paid to this warning. The crowd shoved the officers about and in some instances attacked them and tore their insignia from their uniforms and inflicted severe wounds with clubs. Quiet now prevails in the center of the city, which is cut off from the manufacturing districts by the troops. A large amount of socialistic literature was circulated among the workmen, and a petition which was sent to His Majesty by them was not written by a Russian workman, but by a German socialist, as a large employer of labor informed him. A deep-seated discontent exists among the working class throughout the large towns, and yesterday's happenings will probably increase the antigovernment feeling and discontent with the present unhappy conditions.)

*Ambassador McCormick to the Secretary of State.*

AMERICAN EMBASSY,  
*St. Petersburg, January 12/25, 1905.*

SIR: \* \* \* There can be no doubt that for some time a socialist group has been at work among the operatives in St. Petersburg, as well as other manufacturing towns and cities of Russia. In spite of all precautions taken by the censorship great quantities of socialistic literature have been sent across the border and widely distributed from St. Petersburg to Odessa in every town of any manufacturing importance. This has been going on for some years and the war and its accompanying conditions have been such as to bring this propaganda to its full fruition.

As far as I can hear, the authorities have the situation now in hand and no more serious outbreaks are looked for except at Moscow, where to-day was fixed as a time for demonstrations similar to those in St. Petersburg on Sunday. However, it is presumed that all necessary precautions have been taken to prevent an actual clash between the troops and police with the populace.

It is exceedingly difficult to obtain any information on what is transpiring outside of St. Petersburg, even in its suburbs, and therefore nothing available here upon which to form an intelligent opinion as to how widespread is the feeling of discontent and unrest and how far-reaching its consequences may be.

I have, etc.,

ROBERT S. MCCORMICK.

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*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, February 17, 1905.*

(Mr. McCormick reports that Grand Duke Sergius was assassinated to-day at Moscow by a bomb thrown by a student who, with two others, was lying in wait for him. Two of the students were killed; the third escaped.)

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*The Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, February 18, 1905.*

(Mr. Hay instructs Mr. McCormick to convey fitting expression of condolence upon the death of Grand Duke Sergius and the abhorrence of the act felt by the President and the Government of the United States.)

*Ambassador McCormick to the Secretary of State*

AMERICAN EMBASSY,  
St. Petersburg, March 4, 1905.

SIR: I have the honor to inclose herewith, for the information of the Department, English translations of the manifesto and of the rescript issued by His Majesty the Emperor on vesterday.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure 1.—Translation.]

With God's mercy, we, Nicholas II, Emperor and Autocrat of all the Russias, Tsar of Poland, Grand Duke of Finland, etc., declare to all our faithful subjects:

God, in His unfathomable wisdom, has seen fit to visit upon our country severe trials.

The bloody war in the Far East, for the honor and dignity of Russia and for the domination of the waters of the Pacific Ocean, so vitally necessary to the strengthening, for centuries to come, of the peaceful progress not only of our own, but of her Christian nations as well, has demanded of the Russian people great exertions of their strength and claimed many sacrifices dear to our heart.

At the same time as the valiant sons of Russia, fighting with unrestrained bravery, lay down their lives self-sacrificingly for the faith, Tsar, and country, in our country itself disturbances have arisen, to the joy of our enemies and to our immense and heartfelt affliction.

Blinded by the arrogance of the evil-minded leaders of the rebellious movement, audaciously making attempts against the foundation of the Russian State, sanctified by the Orthodox Church and confirmed by the laws, thinking, by breaking the natural tie with the past, to destroy the existing state organization and in its stead erect a new administration of the country on a basis unnatural to our country.

The wicked attempt on the life of a grand duke, who warmly loved the capital city, untimely perishing by a cruel death among the holy monuments of the Moscow Kremlin, deeply offends the patriotic feeling of everyone to whom the honor of the Russian name and the good fame of our country is dear.

Accepting with humility all these trials sent down by the justice of God, we draw strength and consolation from the firm hope in the mercy of God, shown for centuries to the Russian power, and in our knowledge of the sincere devotion of our people to the throne.

By the prayers of the whole Orthodox Church, under the banner of the autocratic imperial power and in indissoluble union with her (the Church), the Russian land has not seldom lived through great wars and disturbances, always issuing from the troubles and difficulties with new insuperable force.

But the internal discord of the present time and the vacillations of thought, facilitating the spread of revolt and rioting, oblige us to remind the governmental institutions and authorities of all departments and degrees of their duty and the mandate of their oath and to call for redoubled vigilance to preserve the law, order, and safety with stern realization of their moral and official responsibility to the throne and to the country.

Unceasingly thinking of the popular welfare and firmly believing that the Lord, testing our patience, will bless our army with success, we call upon all right-thinking people, of all classes and conditions, each in his calling and in his place, to join in friendly cooperation with us in word and deed in the holy and great cause of overcoming the stubborn external foe, in the extirpation from our land of revolts and in sober-minded opposition to the internal disorders, bearing in mind that only with a calm and courageous state of mind can the whole population of the country achieve successful realization of our plans, directed toward the renewal of the spiritual life of the people, the strengthening of their well-being, and to the improvements of the governmental order.

Let all Russian people stand fast around our throne, true to the will of the native country, working honestly and conscientiously for the affairs of the state in harmony with us.

And may God grant to the Russian power: To the shepherds, sanctity; to the leaders, justice and right; to the nation, peace and calm; to the laws, strength and faith; prosperity to the greater strengthening of the true autocracy for the good of all our faithful subjects.

Done at Tsarskoé Sélo the 18th day of February of the year A. D. 1905 and of our reign the eleventh.

Signed on the original in His Imperial Majesty's own hand:

NICHOLAS.

[Inclosure 2.—Translation.]

## IMPERIAL RESCRIPT.

To the Minister of the Interior, Alexander Gregorovich, greeting:

True to the custom of the Russian people, since time immemorial, to lay at the foot of the throne the testimony of their feelings in seasons of joy and sorrow through which the dear fatherland passes, from all parts of the Russian land assemblies of the nobility and of the zemstvos, commercial and municipal associations, and peasant communes have addressed to me manifold congratulations on the occasion of the auspicious event, the birth of my son and heir, coupled with assurances of their readiness to sacrifice all they possess to the prosecution of the war to a successful end and to devote all their efforts to cooperating with me in the betterment of the machinery of government.

In the name of Her Majesty and myself I charge you to transmit to the associations and assemblies addressing to me these congratulatory messages our hearty gratitude for the expression of their loyal feelings, which in the difficult period through which we are living were the more comforting in that the readiness expressed in these addresses, at my call to come and cooperate in the successful realization of the reforms announced by me, fully meets my sincere wish to attain, by the joint work of the government and the ripened forces of the body politic, the realization of my plans directed toward the welfare of the people. Continuing, as their successor, the imperial work of my crowned ancestors—that of gathering and organizing the lands of Russia—I have now conceived the design, with God's help, of inviting the most worthy men possessing the confidence of the people, and chosen from their numbers, to take part in the elaboration and discussion of legislative proposals.

Taking into consideration the special conditions of our broad fatherland, the variety of races comprised in its population, and the incomplete development in some of its parts of civic qualities, the Russian Emperors in their wisdom have always granted needed reforms in accordance with the maturity of their requirements, only in a certain sequence and with caution, thereby guarding the inviolability of the strong historical tie with the past as a guarantee of the durability and stability of such reforms in the future.

And now, undertaking this reform, convinced that the knowledge of local needs, experience in life, and prudent, frank advice of those selected as the best representatives of the people will secure fruitful legislative work to the true advantage of the people, foreseeing at the same time all the complexity and difficulty of carrying out this reform while preserving firmly and inviolably the basic laws of the Empire, I consider it well to create, under your presidency, knowing well your many years of administrative experience and valuing the calm confidence of your character, a special consultative assembly to consider means for the realization of this my will.

May God bless this felicitous undertaking of mine and help you to bring it to completion successfully and to the weal of the people intrusted to me by God.

I remain your inalterably well-disposed

NICHOLAS.

18TH FEBRUARY, 1905, TSARSKOË SÉLO.

*Ambassador Meyer to the Secretary of State.*

No. 23.]

AMERICAN EMBASSY,  
*St. Petersburg, May 5, 1905.*

SIR: I beg leave to report that an imperial ukase has been issued granting relief to the peasants through the remission of the arrears, amounting to 75,000,000 rubles, due to the imperial government on account of the loans accorded to the peasants in bad harvest years from 1857 to the birth of the Tsarevitch.

I have, etc.,

G. v. L. MEYER.

[Inclosure.—Translation.]

[From the St. Petersburg Journal, April 21 (May 4), 1905.]

*Ukase of His Majesty the Emperor to the Directing Senate.*

In our unceasing solicitude toward the numerous rural population of the Empire we have instructed the minister of finance, in our manifesto issued on the date of the baptism of the heir to our throne, to cooperate with the minister of the interior in seeking out the best

means of according to the rural population of the Empire new facilities (in addition to those granted them in the said manifesto) for the payment of the debts contracted for the furnishing of food to the peasants and the seeding of the fields, and to submit their views to us on the subject in the customary manner.

To-day having examined the projects which have been submitted to us for this purpose, we hereby give the following orders:

I. To grant to the rural population the following facilities in the repayment of the debts which they have contracted for their alimentation and the seeding of the fields:

1. To strike off entirely from the accounts: (a) The payments in arrears to the general alimentation fund for the whole Empire on account of the alimentary tax which existed up to 1866; (b) the debts on advances made for alimentation and for the seeding of the fields and due to the general alimentation fund for the period from 1867 to November 14, 1894; (c) the debts on advances made for alimentation and seeding by the treasury of the Empire and which were allowed immediately in pursuance to special imperial orders; and (d) the debts on advances made for the alimentation of the workmen in the following works and mining establishments: Province of Viatka—the Poklevsky-Kozel works (declared bankrupt), the Kholounitsky and the Klimbovsky works (district of Slobodsk), and the Zaliazine works (district of Glazovo); province of Nijni-Novgorod—the works within the circuit of Ilef (district of Ardatoff), belonging to the Shipoff Brothers; province of Tamboff—the Voznessensk works (district of Temnikovo); and the province of Riazan (district of Pronsk), to the provincial fund of this province.

2. To strike from the accounts one-half of the debt contracted on the general aggregate of the alimentation debts owed by the rural population to the crown on account of advances made at the time of the crop failures in 1891 and 1892, as well as of the amounts due to the general alimentation fund and to the alimentation funds of the provinces on account of advances made for alimentation and seeding from November 14, 1894, up to the birthday of the heir to our throne, which debts have remained unpaid up to this date in the provinces of Arkhangel, Astrakhan, Bakou, Bessarabia, Vilna, Vitebsk, Vologda, Vladimir, Voronège, Viatka, Catherinoslaff, Elisabethpol, Kalouga, Kieff, Kovno, Kostroma, Kursk, Minsk, Mohileff, Moscow, Olonetz, Orenbourg, Orel, Penza, Perm, Podolsk, Poltava, Riazan, St. Petersburg, Smolensk, Stavropol, Tauride, Tamboff, Tver, Tiflis, Toula, Kharhoff, Kherson, Tchernigoff, and Yaroslaff, as well as in the territories of the Dagheztan and of the Cossack troops of the Don and the Kuban, and (b) two-thirds in the provinces of Kazan, Nijni-Novgorod, Novgorod, Pskoff, Samara, Saratoff, Simbirsk, and Oufa, as well as the territory of the Terek.

3. Independently of what is set forth in section 2 of the foregoing Article I—that is, of the partial remission of the alimentation debts of the rural population—a total remission is made in the localities enumerated in said paragraph for families whose members have been called from the reserve to the ranks of the active army or to the navy, of the entire amount of the debts contracted by these families toward the crown, the general alimentation fund, and alimentation fund of the province up to the birthday of the heir to our throne.

II. The amount of the annual installments to be paid in the reimbursement of the sum remaining due from the people after the partial remission of the alimentation debt in accordance with Article I shall be fixed by the district assemblies or by the institutions taking their place, regard being had to the agricultural economic situation of the rural class, and in such a manner that those who have to make redemption payments shall not have to effect a reimbursement exceeding 25 per cent of all the taxes which they have to pay to the government and to the zemstvo.

III. The payments made by the peasants in conformity with the foregoing article (II) for the purpose of taking up the remainder of their alimentation debt shall be applied primarily to the extinction of the aggregate of the amounts due to the alimentation fund of the province up to the time of the remission of the debt according to the provisions of the aforementioned Article I, after which the remainder of the proceeds from these payments shall be applied to the general alimentation fund of the Empire.

IV. All the accounts existing between the crown and the general alimentation fund of the Empire are hereby suspended, and from this fund shall be reimbursed to the local alimentation funds the part of the alimentation fund of which remission has been made to the people by virtue of the imperial manifesto of November 14, 1894, and which has not been reimbursed to these funds up to the present on account of advances made from them for alimentation and for seeding the fields in consequence of the crop failures of 1891 and 1892.

The directing Senate will take the necessary measures to execute the foregoing.

Tsarskoé-Sélo, April 5, 1905.

NICHOLAS

*Ambassador Meyer to the Secretary of State.*

No. 24.]

AMERICAN EMBASSY,  
*St. Petersburg, May 5, 1905.*

SIR: I beg leave to report that the ukase issued by the Tsar on the Russian Easter Sunday (April 30) makes religious freedom to all Russian sects, except the Jews, an accomplished fact. \* \* \*

If the ukase is carried out in all its completeness, it will be the greatest concession of individual liberty since the liberation of the serfs, and may be the first step toward a separation of church and state.

I have, etc.,

G. V. L. MEYER.

[Inclosure.—Translation.]

[From the St. Petersburg Journal April 21 (May 4)].

*Ukase of His Majesty the Emperor to the Directing Senate.*

Ever deriving, according to the traditions of my ancestors, all joy as well as the renewal of the necessary moral strength from the Holy Orthodox Church, I have always wished to guarantee freedom of faith and prayer to each of our subjects according to the dictates of their conscience. Being anxious to carry out these intentions we included among the reforms set forth in our ukase of December 12 last the adoption of effective measures for the removal of all vexations in the matter of religion.

Now, having examined the regulations prepared in pursuance to the foregoing by the committee of ministers and finding that they respond to our constant desire to firmly establish the principle of religious tolerance embodied in the fundamental laws of the Russian Empire we have deemed it proper to approve them.

Invoking the blessing of the Almighty on this work of peace and love and hoping that it will contribute toward strengthening the orthodox faith, having as its source divine grace, precept, kindness, and good examples, we hereby give orders in conformity with this decision as follows:

1. To permit that the abjuration of the orthodox faith and the adoption of another Christian religion or confession shall not give rise to persecution and shall entail no disadvantageous consequences from the standpoint of personal or civil rights, and that a person who has forsworn the orthodox faith after having attained his majority shall be recognized as belonging to the religion or confession which he has chosen.

2. To permit that, if one of two consorts who profess the same Christian religion adopts another confession, all their children who have not attained their majority shall retain the old religion professed by the other consort, and that in case both the consorts adopt a new religion their children less than 14 years of age shall adopt the religion of the parents, while those having reached this age shall retain the former religion of the parents.

3. To establish, as a supplement to these rules (secs. 1 and 2), that persons who are ascribed to the orthodox church, but who in reality confess the non-Christian faith to which they themselves or their ancestors belonged, may be stricken from the rolls of the orthodox church if they express a desire to this effect.

4. To authorize Christians of all denominations to baptize, according to the rites of their religion, children of unknown parents whom they adopt in order to rear them.

5. To establish by law a classification of the various confessions bearing the general designation of dissenters, dividing them into three groups, viz, old believers, sectarians, and those who profess fanatical creeds the followers of which are subject to prosecution for this very reason by the criminal laws.

6. To recognize that the provisions of the law which grant the right to hold prayers in common and which regulate the rights of dissenters from a civil standpoint are applicable not only to those who profess the old beliefs, but also to sectarians, and that infractions of the laws committed from religious motives render those who have committed them liable according to the requirements of the law.

7. To grant the general designation of old believers, instead of dissenting sectarians which is now employed, to all those who have embraced a belief acknowledging the fundamental dogmas of the orthodox church, but who do not recognize certain of the religious ceremonies and who hold their religious services according to the old books.



8. To permit that the installation of chapels by old believers and sectarians, as well as the authorization to proceed to their repair or closure, shall take place in accordance with the existing rules or with those which shall be admitted for the installation of churches for the nonorthodox creeds.

9. To confer the denomination of ecclesiastical préposés on persons charged by the communities of old believers and of sectarians to perform functions peculiar to their form of worship. These persons, after having been confirmed in their offices by the competent authorities, shall be exempted from registry in the corporations of citizens or villagers; they shall likewise be liberated from military service and shall be authorized to bear the monastic name which they adopted on taking the frock, as well as to indicate in the passports which are delivered to them the position which they occupy in the clergy of the old believers, without, however, employing the denominations allowed for members of the orthodox clergy.

10. To authorize the said clergymen to freely celebrate religious rites in private or other houses of prayer, as well as in every other case, forbidding them, however, to wear priestly garments if the law prohibits it. The ecclesiastical préposés of the old believers (section 9) shall enjoy, with regard to the right to be present at the making of wills, the same rights granted generally to all clergymen.

11. To grant the same rights to old believers and sectarians in case of marriages with orthodox persons as are accorded to persons belonging to nonorthodox creeds.

12. To remove the seals affixed to all the houses of prayer which were closed by administrative orders without excepting either the cases submitted by the committee of ministers to the supreme sanction or the cases of closure by virtue of sentences pronounced by the court, but excepting those cases in which the closure was decreed for infraction of the building regulations.

13. To lay down as a general rule that, in order to obtain authority to construct, renovate, or repair churches and houses of prayer of any Christian denomination, it shall be necessary:

- (a) To obtain the consent of the authorities of the competent nonorthodox creed;
- (b) To possess the necessary pecuniary resources, and
- (c) To observe the technical requirements of the building regulations.

Exceptions to these general rules, when recognized as necessary in certain localities can only be authorized by legislative action.

14. To permit the teaching of religion to children of nonorthodox creeds in all educational institutions in the native language of the pupils and to allow this teaching to be intrusted to clergymen of the respective creeds, except those cases only in which there are none such, when it may be intrusted to lay teachers belonging to the same creeds.

15. To recognize as being susceptible of revision the laws concerning the most important conditions of the religious life of persons of the Mohammedan religion.

16. To take under consideration the laws concerning the Lamaites (Buddhists) and to prohibit forever the application to them of the designation of idolators or heathens in official documents.

17. Independently of the foregoing, to apply likewise the other recommendations of the committee of ministers, approved by us to-day and relating to the procedure to be followed in enforcing Section 6 of our ukase of December 12 last.

The directing Senate shall take the necessary measures for the execution of the foregoing.

NICHOLAS.

Tsarskoé-Sélo, April 11 1905.

### *Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, May 17, 1905.

(Mr. Meyer reports that an imperial ukase was issued on May 17 for restoring the election of nobles in Poland and conferring upon the Poles the right to rent and purchase land, and the minister of the interior is to report ways and means to carry this into effect. Under certain conditions the Lithuanian and Polish languages are permitted in the schools of Poland and more freedom is granted for the use of the Polish language in general.)

*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, June 28, 1905.*

Under date of 28th consul Odessa telegraphs that Russian battleship *Kniaz Potemkin* and one torpedo boat arrived here last evening; all of the officers were murdered at sea and their bodies thrown overboard. Situation precarious. Men threaten to bombard the town if interfered with. Black Sea fleet expected here to-day.

MEYER.

*Ambassador Meyer to the Secretary of State.*

No. 89.]

AMERICAN EMBASSY,  
*St. Petersburg, June 29, 1905.*

SIR: I beg leave to report that on the 22d and 23d of June there was a strike of all the workmen in the mills and factories in the city of Lodz. Many wine shops were totally demolished, and frequent conflicts occurred between the strikers and the troops, which consisted of regiments of infantry and cavalry. The disturbances looked so serious that I cabled to the Department, true reading of which is as follows:

Serious disturbances at Lodz Friday between 60,000 workmen and troops, four regiments of infantry; two cavalry took part; many streets barricaded; nothing authentic as to number of killed and wounded. Alarm felt in Warsaw; workmen striking; crowds assembling.

The latest reports now state that the city has recovered almost its normal condition and workmen are gradually returning to their duties.

I have, etc.,

G. V. L. MEYER

*Ambassador Meyer to the Secretary of State.*

No. 109.]

AMERICAN EMBASSY,  
*St. Petersburg, July 6, 1905.*

SIR: I have the honor to hand you herewith the official account of the troubles at Odessa and the mutiny aboard the battleship *Potemkin*. It appears that the original version given out by the press that the officer shot down a sailor on account of complaining of the food is not correct. On Tuesday, June 27, the crew of the ship, on the ground that the meat brought by the torpedo boat from Odessa was of bad quality, refused to take their food. On the order of the commander the crew was assembled on the quarterdeck, where the first officer asked those who took no part in the protest to step to one side. This was done by the majority of the crew, and the first officer commenced to write the names of the malcontents. Taking advantage of this moment, the minority seized the guns and began to load them with cartridges. The order to fire on the mutineers, which was given by the first officer, was not carried out, and this same officer, seizing a gun from the nearest man, fired, wounding mortally one of the sailors. Then the mutineers fired, killing the officers, hunt-

ing them all over the ship, even firing on those who had thrown themselves into the water.

Later on, when the fleet arrived from Sebastopol, while they were unwilling to join the *Potemkin*, they refused to fire upon their comrades on the mutinous ship. The *Potemkin* is still roaming about the Black Sea, having touched at the port of Constance in Roumania, also at Feodocia in Russia, and is now reported again to be off Odessa. There is no doubt that she is being controlled by a revolutionary committee of twenty, who are reported to have gone on board in the harbor of Odessa.

I have, etc.,

G. v. L. MEYER.

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[Inclosure.]

*Report on the troubles at Odessa, from Official Messenger, July 21-24, 1905.*

The fermentation among the workmen of the city of Odessa and in other localities of that district, which has been noticeable for some time, was crowned on June 25 by a meeting of delegates elected from various mills and factories with the object of deciding the question of calling a general strike. Among these delegates, according to information in the hands of the police, were members of the local committee of the social-revolutionary party, in consequence of which all the participants of the meeting were subjected to arrest, and on one of them was found a letter from a member of the revolutionary fighting organization, named Gilerovich, in which was communicated the intention to kill one of the local police commissioners, named in the letter. And on the following morning two individuals were arrested near the police station, one of whom, Monis, handed the other two revolvers and the sentence of death of the commissioner. On June 27 Margulis, a social-revolutionary, was arrested in the street, and in his lodgings were found fourteen revolvers with cartridges; and in the evening of the same day one Mordka Tzipkin, known to the police, being arrested by a policeman while he was carrying a bomb which he intended to throw at the troops stationed on the Cathedral Place, threw the bomb to the ground and was killed, together with the policeman who was trying to arrest him.

Discontented with the arrests which were made, the workmen, on June 26, began to assemble in a crowd near the Gen factory, and, in reply to the demands of a police commissioner that they should disperse, they threw stones. When the commander of a Cossack sotnya also addressed the workmen with the same request, they knocked him off his horse with stones and injured him. The Cossack officer warned the crowd many times that after three signals of the cornet he would give the order to fire. However, the crowd continued its tumult, and after the second signal shots even began to be fired from the roofs of neighboring houses. Then, at the order of the commander of the sotnya, twelve Cossacks on foot fired a volley into the crowd, killing two workmen and wounding one. During the day crowds of workmen marched about the city, and in various places in the city disorders took place intermittently, accompanied in some cases by forcible stopping of work in the factories, the building of barricades in the streets, turning over street cars, and firing on the police, who were obliged to reply in the same manner. Five policemen were wounded. Toward evening of the same day the striking workmen began to show greater audacity. They occupied at two points in the city the railroad line, extinguished the fires on four locomotives, held up a passenger train, driving out the passengers and breaking the windows in the cars. At night the crowd dispersed, and the railroad lines were occupied by two companies of soldiers. During these two days the troops, although they were challenged, did not resort to the use of arms, and order was preserved by the police, Cossacks, and military patrols.

Together with the movement among the inhabitants of the city, a peasant movement has been noticeable spreading in the Odessa district. However, there has as yet been no personal violence or outrage of the property of landowners. The disorders in the villages consist of demanding exorbitant increases in wages, that only local agricultural workmen be employed, and in forcibly removing those workmen who do not belong to the locality. However, as in Odessa itself, the excitement in the district is kept up by outside influences.

The increased excitement among the working population of the city of Odessa, which became an open uprising on June 28, accompanied with murders, pillage, and arson, facilitated the following events:

At 4 o'clock in the morning of June 28 the battle ship *Knyaz Potemkin-Tavricheski*, of the Black Sea fleet, steamed into the harbor of Odessa from the Bay of Tender, and a boat came off from her bearing the body of a dead sailor. The sailors in the boat laid the body on the wharf, with a slip of paper pinned on the breast stating that sailor Omelchuk had been killed by an officer for having expressed his discontent with the food; that all the officers of the battle ship had been killed by the crew, and that the battle ship would fire on the city if the administration of the port should make any attempt to take away the body or to approach the ship. Thousands of workmen began to move from the city to the place where the body was laid, and their excitement steadily grew, especially under the impression produced by fiery speeches made beside the corpse by agitators, who, from a specially arranged platform, spoke to the crowd of the necessity of seizing the present occasion to attain the objects for which the revolutionaries were striving. When the assistant procurator of the Odessa district circuit and the chief of the port came in a small boat to verify the fact of the murder and take testimony, they were met by threats and abuse from the sailors and forced to return.

According to statements made by one of the officers of the ship who was saved and by a sailor who jumped overboard in the night and swam ashore, the happenings on board the *Knyaz Potemkin* are outlined as follows:

The battle ship left Sebastopol on Sunday, June 25, under the command of Captain Golikoff, for Tender Bay for gun practice, together with torpedo boat *No. 267*, under Lieut. Klodt von Jurgensburg. On Tuesday, June 27, the crew of the ship, on the ground that the meat brought by the torpedo boat from Odessa was of bad quality, refused to take their food.

At the order of the commander, the crew was assembled on the quarter deck, where the first officer, Captain Gilyarkovsky, asked those of the crew who did not refuse their food, and therefore took no part in the protest, to step out in front. The majority of the crew stepped out, and the first officer began to write the names of the malcontents forming the minority. Taking advantage of this moment, the latter seized guns from a pyramid and began to load them with the cartridges they had on them. The order to fire on the mutineers, which was given by the first officer to the watch, was not carried out, and the officer, seizing a gun from the nearest man on watch, fired two or three shots at one of the sailors, wounding him mortally. Then the mutineers began to fire volleys at the officers, hunting them out all over the ship. In this way the commander of the ship was killed, along with the others. Some of the officers threw themselves overboard, but here, too, they were overtaken by death, since, according to witnesses, they were fired on in the water, and even a 47-millimeter gun was used.

Besides the commander of the ship, the first officer, Gilyarkovsky, Lieutenants Neupopoeff and Tun, Midshipman Grogorieff, Ensign Liventzoff, Doctor Smirnoff, and about 30 sailors were murdered. The remainder, including the commander of the torpedo boat, upon which the battle ship fired volleys, were terrorized by the mutineers, who arrested the officers still remaining alive.

A committee was formed on the battle ship, composed of 20 sailors, who took over the command of the ship and decided to go to Odessa, in the offing of which they arrived on the evening of June 27, and the next morning they sent off a boat with the corpse of the sailor. On the 29th the port steamer *Vyecha* entered the harbor of Odessa, and at a signal from the *Potemkin* cast anchor under the stern of the battle ship. Knowing nothing of the mutiny, the commander of the *Vyecha* went on board the *Potemkin* to present his report to the commander, as being the first officer in the port. On arriving on board the battle ship, the commander of the *Vyecha* was disarmed and forced, together with his other officers, to go ashore. In Odessa the *Knyaz Potemkin* seized two coal steamers, private property, and which they had loaded with the help of about 300 workmen of the port. At the same time the mutinied crew forced all the workmen in the port to stop work, as well as those on private steamers, and in a short time the normal activity of the port ceased, and it fell completely into the hands of the insurgents.

The mutiny on the ship of war gave the revolutionaries a favorable opportunity to agitate among the masses, and they successfully exploited this incident to incite further disorders in Odessa. Not confining themselves to incendiary speeches, the agitators going on board the battle ship in boats assured the mutineers that the troops of the whole Odessa garrison had laid down their arms and that all the ships of the Black Sea fleet had gone over to the *Knyaz Potemkin*. According to an eyewitness, two students took an especially active part in the discussions which took place in the admiralty.

The results of the inciting of the port workmen by the anarchists, on the one hand, and of the mutinied crew on the other, were not long in making themselves evident. Although by this time the authority of the city had been transferred to the commander of the troops of the Odessa district, it was impossible to restrain the thousands of workmen in the port, as, if the troops had resorted to arms, they would have been subjected to a raking fire from the guns of the battle ship. The port was thus in the hands of the mob, who began to plunder

everything without exception—warehouses, private depots, harbor buildings, steamers—throwing goods into the sea, intoxicating themselves with wine from demolished wine kegs. With the approach of darkness incendiarianism began, which soon spread to a terrible extent. Almost the whole port district was burned to the ground, as the crowd did not allow the firemen to extinguish it. According to the reports of the local authorities, two railroad depots were destroyed, as well as the warehouses of the Russian Steamship and Trading Company, the agency and warehouse of the Danube Steamship Company, a sleeper and lumber warehouse on the Platonovsky pier, an electric plant, the Odessa port station, the administration of the port captain, also rolling stock, and many other buildings. Many of the rioters, dead drunk, are said to have perished in the flames. At the same time the agitators endeavored to direct the mob, which had lost all reason, against the troops and police. Several times during the night the crowd, firing revolvers, advanced toward the troops, but each time dispersed at a volley from the latter. Six soldiers were wounded by the explosion of a shell and one killed. The exact number of killed and wounded rioters has not yet been ascertained, but it is several hundred men. Exact information will be published later.

On the following day, June 29, by an order from the Emperor, in the city and district of Odessa martial law was declared, the city was surrounded on all sides by a ring of troops, and the disorders ceased. The losses from damage done to property by the mob, excited by the revolutionaries, amounts to millions. The representatives of foreign powers did not suffer, as, by order of the commander of troops of the Odessa district, each of the eighteen foreign consulates in the city of Odessa was guarded by a special detachment.

At 7 o'clock in the evening, June 29, the battle ship *Knyaz Potemkin-Tavrichesky*, after having sent ashore nine of the captured officers, retired half a mile to the west of its original anchorage and fired three blank shells (the salute fired, according to the statutes, when a sailor is buried), and then two shots which destroyed the roof and a part of the walls of a house on Nejinsky street, but injured no one. The next day, June 30, at 7 o'clock in the morning, the Black Sea fleet, under the flag of the eldest flag officer, consisting of four battle ships and five armored torpedo boats, arrived at Odessa. The fleet, in line of battle, advanced toward the docks, while the *Knyaz Potemkin* went out to meet them, with decks cleared for action. When the *Potemkin* ranged alongside the battle ship *George the Victorious*, the crew of the latter met them with an ovation, and when the fleet turned to go back at the order of the admiral, the crew of the *George* rushed to the bridge and prevented the ship from maneuvering. Then a boat was let down from the *George*, in which were placed the commander of the ship and all her officers, after being disarmed, and conducted ashore, with the exception of Lieutenant Grigorkoff, who committed suicide. During this about 30 persons in civil costume were observed on the deck of the *Potemkin*. Before the discussion between the officers and the mutinied crew was finished torpedo boat No. 267 brought on board the *George the Victorious*, according to statements of the latter's crew, Hebrew students and sailors from the *Potemkin*, who took command of the ship and advised the men to throw the officers overboard, which the latter refused to do. At the suggestion of revolutionaries who appeared, a commission of 20 men was appointed to take charge of the ship, while the boatswain, evidently against his will, was made commander. However, differences arose among the crew of the *George the Victorious*, and it was only under the influence of agitators who came on board that a part of the sailors insisted on following the *Knyaz Potemkin*. On the arrival of the two battle ships in the harbor of Odessa the *Potemkin* even threatened to bombard the *George the Victorious* with her heavy guns if she should start for Sebastopol to join the fleet. Finally, not submitting to the revolutionaries, a part of the crew of the *George the Victorious* gained the upper hand, and when at 4 o'clock in the afternoon of July 1 both ships weighed anchor, the latter entered Odessa port at full speed, and the outsiders who were on board entered a boat and went on board the *Knyaz Potemkin*, which went to sea with them, heading in a southwesterly direction.

The crew of the *George the Victorious* at once sent the boatswain and some sailors to the commander of the troops of Odessa district to declare their submission and with the request that the staff of officers be returned to the ship. General Karangozoff, commander of troops, who was ordered on board the battleship, was met by the crew, drawn up on the quarter-deck, and on July 2 General Kakhanoff sent in a report to His Majesty that the crew of the *George the Victorious* expressing their complete repentance for their audacious actions, place their hopes in His Majesty's mercy; the crew, having delivered up 67 of the most guilty, took their oath of allegiance with tears of repentance. After this the commander and the officers of the *George the Victorious* again took up their duties.

According to a telegram sent by Vice-Admiral Kriger to the director of the navy department, on board the transport *Prut*, when leaving Tender, the crew mutinied, seized the commander and officers, killing Ensign Nestertzeff and Boatswain Kozlitin. The *Prut* arrived at Sebastopol, where the crew repented and liberated the commander and officers and asked them to take command over them. The *Prut* was ordered to Kamysheff Bay, where investigations will be made.

The *Knyaz Potemkin*, after leaving Odessa, put in to Constance, in Roumania, together with the torpedo boat No. 267, the crews still in full mutiny. On arriving at the port the

ship fired a salute, which was not replied to. The commander of the port immediately went on board the battleship, on which he found 600 sailors and not one officer. The crew declared themselves insurgents and handed the commander of the port a letter giving the reasons for the uprising, requesting that they be allowed to take provisions and coal for their further journey, which was refused them. The Roumanian authorities proposed to the sailors to quit the ship and the guns and hand them over in complete order to the Roumanian authorities, informing them that they would only under these conditions agree to consider them as deserters, and not subject to extradition. After consulting together the crew refused these conditions, stating that they would go to the Russian coast for coal and provisions. However, in the morning the torpedo boat made an attempt to enter the port, but was stopped by two shots from a Roumanian cruiser. On the same day at 1 o'clock in the afternoon the battleship *Knyaz Potemkin*, taking the torpedo boat in tow, weighed anchor and departed in the direction of Batum.

According to the latest telegrams the *Potemkin* was last seen at Feodocia and is now on her way to Odessa again. It is not stated whether the torpedo boat is with her. The Black Sea fleet has gone to Kerch. Fears are entertained that the *Potemkin* will continue to sail about the Black Sea and force undefended ports to furnish her with coal and provisions, creating at the same time riots like that at Odessa. It is feared that the English fleet may enter the Black Sea to subdue the mutineers.

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*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, July 11, 1905.

(Mr. Meyer transmits a telegram from the American consul at Moscow reporting the assassination of Count Souvaloff, chief of police, and the apprehension of the assassin.)

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*Ambassador Meyer to the Secretary of State.*

No. 48.]

AMERICAN EMBASSY,  
St. Petersburg, June 31/13, 1905.

SIR: I have the honor to report that the project drawn up under the direction of the minister of the interior, A. G. Bulygin, for the creation of an institution of popular representation, is now before the council of ministers specially appointed for the purpose of examining into it.

The project proposes to call the permanent assembly of popular representatives the Gosudârstvenny Dûma (Imperial Assembly). The idea of introducing the Zemstvo system into the Caucasus, Poland, and the Baltic provinces has been abandoned for the time being, but it is proposed to have the elections for the representatives take place according to the system of Zemstvo electoral assemblies under the Zemstvo regulation of January 13, 1864. In this way the elections will take place according to property census, but the details of this census are not defined by the ministry and are left to the decision of the council of ministers.

The Imperial Assembly, as a permanent institution, will not only have legislative rights, i. e., the right to consider new laws brought up by various departments and changes and additions to existing ones, but also the right of legislative initiative, independent elaboration of new laws (independently of the ministry), and in this connection special commissions may be formed from among the members of the Imperial Assembly.

The Imperial Assembly has the right of consideration of the imperial rent-roll, the financial estimates of the ministry of finance, the right of examination of reports on the execution of the imperial rent-roll, and the estimates of the various departments and of the state control.

In the project of A. G. Bulygin the right of the Imperial Assembly to interrogate ministers and chief administrators of various departments is granted, but the ministers and the chief administrators are responsible only to the Emperor. The right of interrogation is not intended to include individual persons, representing one or the other of the ministries, but can be asserted only in connection with a whole department.

The total number of members of the Imperial Assembly will be from 400 to 600, and their term of service three years. Only those who are chosen by the people can be members of the Imperial Assembly, the president being appointed by the Emperor from among the members of the Assembly. Ministers and chief administrators of separate departments or their substitutes are to be members of the Assembly *ex officio*, their participation being justified by the necessity of giving explanations to the questions under consideration by the Imperial Assembly.

The Imperial Assembly, being the lower house, bills after being enacted are referred to the upper house (Council of the Empire) and until examined by the Council of the Empire and confirmed by the Emperor these projects of law will have no force. In case of dissension between the Imperial Assembly and the Council of the Empire questions will be decided by the Emperor, and in disagreements with the various ministries the ministers may come to an understanding with the Assembly.

The sessions of the Imperial Assembly will take place each year from November till January. By order of the Emperor the Imperial Assembly can be closed at any time and new elections ordered. The sessions of the Assembly are to be public.

In order that no section of the population shall at any time during the session of the Imperial Assembly be without its representative, the project considers the point of guaranteeing the personality of the members of the Imperial Assembly.

The members of the Imperial Assembly will not receive a salary, but in order to reimburse them for their expenses they will be given 15 rubles a day, and to avoid any criticism no one will have the right to refuse this money.

The members of the Imperial Assembly may make statements in the Assembly, not only individually, but also collectively.

Since it is proposed to have the elections take place on the basis of the *Zemstvo* electoral assemblies, in accordance with the *Zemstvo* regulation of 1864, it will not be superfluous to recall that by this regulation it has been the custom to divide the population of the districts into three principal parts: 1, private landowners not belonging to the community; 2, city communities; 3, country communities. In accordance with this there were formed three electoral colleges—the congress of district landowners, the congress of municipal electors, and the congress of country electors.

It will, of course, remain with the council of ministers to accept or reject the project of the minister of the interior.

I have, etc.,

G. V. L. MEYER.

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, July 13, 1905.*

(Mr. Meyer reports that an imperial edict was issued to-day appointing Admiral Birileff minister of marine, in which the Emperor counts on the admiral's services to reorganize the navy. The lack of discipline in the navy and the extreme negligence on the part of the officers in their professional duties is referred to as well as the Black Sea affair, stating that such criminal doings demand the most serious and extensive investigation and severest punishment.)

*Amdassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, August 12, 1905.*

(Mr. Meyer reports that orders were given to-day by an imperial ukase that the project for a national assembly, revised according to his indications, be presented to the Emperor for his ratification.)

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, August 18, 1905.*

(Mr. Meyer transmits the following provisions, which are being considered, for a national assembly: Members will be elected for five years. The Emperor can order a new election. The president of the assembly is elected annually by the members and reports to the Emperor. One-third of the house constitutes a quorum. Committee chairmen are elected by the committees. Members can not be arrested and enjoy freedom of judgment. Membership is forfeited by debt when property qualifications are lost or during military service. Traveling expenses to and from St. Petersburg and \$5 per diem are allowed. The ministers may attend the meetings and make explanations in the house, but are not members. The imperial treasury will provide for the expenses. Bills may be introduced by the legislators with the signatures of thirty members, and two-thirds vote is required for the passage of a bill.)

*Chargé Eddy to the Secretary of State.*

No. 231.]

AMERICAN EMBASSY,  
*St. Petersburg, October 27, 1905.*

SIR: I have the honor to confirm herewith my telegram of yesterday's date.<sup>a</sup>

<sup>a</sup>Not printed.



Day before yesterday, the 25th of October, a strike was declared on all of the principal railway lines leading into St. Petersburg. This strike came into effect late in the afternoon, at which time all of the railroads had ceased running trains, with the exception of the Finnish Railway and the railroad which connects St. Petersburg with Tsarskoé Sélo. This strike was organized not, it would appear, for the purpose of creating disturbances or for the purpose of obtaining an increase in wages. The idea seems to have been to test the organization of the different labor unions throughout Russia and to give to the authorities as a proof of the power which existed. The strike has since developed all over the Empire, so that at the time of writing all postal communication has ceased and there are practically no trains running throughout Russia.

In St. Petersburg there has been a notable lack of any rioting or disturbances in the streets, which fact would bear out the idea of a simple demonstration of power, with no attempt at accomplishing anything by violence. This capital is at the present moment under martial law, and the streets are patrolled by small bodies of troops, and notice has been formally given to the inhabitants of the city that should any rioting occur the troops have orders to immediately fire upon the rioters with ball cartridges; that the people have been warned and any trouble which may come will be of their own seeking.

I have, etc.,

SPENCER EDDY.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, October 28, 1905.*

(Mr. Eddy reports the situation unchanged. There is no rioting in St. Petersburg, and all communication has ceased throughout the Empire.)

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*The Secretary of State to Chargé Eddy.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 29, 1905.*

(Mr. Root instructs Mr. Eddy to protect American citizens by all means at his command and to give such help as may be made necessary by the special exigency. If necessary, shelter may be given at the embassy, and as a last resort a vessel may be chartered, which should fly the American flag.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, October 30, 1905.*

(Mr. Eddy reports that a constitutional government will be proclaimed to-night; full parliamentary government, the Emperor reserv-

ing the right of veto; freedom of the press and person and of speech, habeas corpus, and inviolability of domicile. The parliament appoints the ministers. The franchise is extended to all classes. Count Witte, prime minister.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
St. Petersburg, October 31, 1905.

New cabinet contains following changes: Minister of the interior, Alexis Obolensky; minister of finance, Romaroff; minister of justice, Koni; minister of education, Krosovsky; minister of ways and communications, Ziegler Von Sgaffhausen.

EDDY.

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*Chargé Eddy to the Secretary of State.*

No. 240.]

AMERICAN EMBASSY,  
St. Petersburg, October 31, 1905.

SIR: I have the honor to transmit to you herewith the translation of the imperial manifest which appeared in St. Petersburg this morning.

I am enabled to send this dispatch to-day through the courtesy of the British embassy, whose courier will leave to-morrow morning by boat. The railroads are not yet operating and postal communication does not yet exist.

I have, etc.,

SPENCER EDDY.

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[Inclosure.—Translation.]

IMPERIAL MANIFEST.

By the grace of God we, Nicholas Second, Emperor and Autocrat of all the Russias, Tsar of Poland, Grand Duke of Finland, etc.

The rioting and agitation in the capitals and in many localities of our Empire has filled our heart with great and deep affliction. The welfare of the Russian Emperor is united with the welfare of the people, and its troubles are his troubles. The agitation which has broken out may bring confusion among the people and threaten the entirety and unity of our Empire.

The solemn vow of the imperial service commands us, with all the strength of intelligence and of our power, to endeavor to stop as quickly as possible agitations so dangerous to the Empire. In ordering the competent authorities to take measures to avert the disorders, the troubles, and violence, and to guard peaceful people who are eager to fulfill quietly the duties placed upon them, we have found it necessary, in order to insure the proper execution of the general measures marked out by us, to unify the action of the supreme government.

We lay upon the government the fulfillment of our absolute will:

1. To grant to the population the inviolable basis of free citizenship, on the ground of actual inviolable personality, freedom of conscience, speech, meeting, and unions;

2. Without stopping the intended elections for the State Douma, to include now in the participation of the Douma as far as possible, in view of the corresponding short term which remains before the convocation of the Douma, those classes of the population which up to now were entirely deprived of the right to vote and to allow in future the further development of the element of a general right of election which is to be established by new legislation; and

3. To establish as an inviolable rule that no law shall take effect without its confirmation by the State Douma and that the persons elected by the population should be guaranteed the possibility of actual control over the legal activity of the persons appointed by us.

We call on all the true sons of Russia to remember their duties toward their fatherland, to assist in combating these unheard-of agitations, and together with us to unite all their strength in establishing quietness and peace in their country.

Given in Peterhof on the 17th day of October in the year of our Lord 1905 and the eleventh year of our reign.

(Signed in his own hand.)

NICHOLAS.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 1, 1905.*

(Mr. Eddy reports that there is no change in the situation at St. Petersburg. The streets are being patrolled by a large number of troops. Frequent disturbances occurred last night. In one case the troops fired and killed less than fifty. In other parts of Russia laborers are returning to their work gradually.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 2, 1905.*

(Mr. Eddy reports the situation improving. The general strike will come to an end to-morrow. It is hoped that railway communication will be open within a few days. Small disturbances continue and the revolutionary party is still active. The situation in Finland is serious.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 2, 1905.*

(Mr. Eddy reports that according to a proclamation just issued the departments of the army, navy, and the imperial domain will not come under the jurisdiction of the new parliament. Under another proclamation all political prisoners not deemed dangerous to the state will be released. Reports of the gravest character have been received from Odessa.)

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*Charge Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 3, 1905.*

(Mr. Eddy reports that no disturbances have taken place in this city during the last twenty-four hours. The disturbances are apparently over, and it is believed that the railways will be put in operation early next week.)

*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 5, 1905.*

(Mr. Eddy reports that the American consuls at Riga and Rostoff have asked for military protection. The same has been asked for and has been obtained for Riga and will also be given to the consulate at Rostoff. The consul at Odessa reports that severe conflicts between Jews and Russians were begun by the Jews. The fighting is still going on and probably thousands of the Jews were killed. American interests at that place are not threatened. The situation at Warsaw is serious. Conflicts continue between the Poles and the Russian army. At Moscow everything is quiet. The people have resumed work at St. Petersburg. A large meeting occurred to-day without conflict after the funeral service of those killed in recent disturbances. Large crowds assembled, composed principally of sightseers. Important concessions have been made to Finland.)

*Chargé Eddy to the Secretary of State.*

No. 251.]

AMERICAN EMBASSY,  
*St. Petersburg, November 6, 1905.*

SIR: With reference to the recent disorders in St. Petersburg and throughout the Empire, and the granting of a constitution to the Russian people by the Emperor, I have now the honor to report to you as follows:

On the 25th of October the general railway strike throughout Russia came to a head. This strike originated through the desire, not to cause rioting and ultimate revolution, but through a desire to show to the Russian authorities and Government, in a peaceful manner, that the labor unions had finally been brought to a high state of organization. There was also in the minds of the leaders of this movement the desire to test for themselves their own strength. By Wednesday night, the 25th, none of the railway lines running into St. Petersburg was working, with the exception of the Finland Railway. Even the railroad connecting St. Petersburg with Tsarskoé Sélo had ceased moving trains. This fact is the more remarkable as the Tsarskoé Sélo Railroad is the personal property of the Crown.

On Thursday, the 26th, the city of St. Petersburg remained comparatively quiet; the movement had not, up to then, developed the political character which it afterwards assumed. In the early morning there was a slight disturbance in the large markets of the city, certain of the shops being looted by gangs of "hooligans." The price of meat of all kinds had risen about 100 per cent, owing to the fact that St. Petersburg draws almost its entire supply of fresh meat from Moscow and the south, which points had all been cut off by the strike.

\* \* \* \* \*

On the next day, the 27th, the situation remained unchanged. The strike had spread to every railway line throughout the Empire, including the Finland Railway, and the capital was cut off from all postal communication with the outside world. The attempt was made by

the government to arrange an inadequate mail service by means of steamships plying between St. Petersburg and other ports outside the Empire. This system has been made use of up to the present time, but the post-office has refused to guarantee the proper delivery of the mail sent in this way. It has therefore been impossible to send any pouch to Washington.

On the 28th the aspect of things began to assume a political character; the strike had succeeded even beyond the expectation of its organizers. Other trade unions joined with the railways, and this universal strike was carried to such an extent that even doctors, lawyers, and members of the learned professions refused to take up their ordinary occupations

\* \* \* \* \*

All telegraphic and telephonic communication with Moscow was cut off; the last reports which we had had from the latter city were very disquieting, though they afterwards proved to have been somewhat exaggerated. After having seen and consulted with several of the most important Americans in St. Petersburg, who seemed greatly alarmed as to the course things were taking, I decided that it could do no harm to ask for instructions. \* \* \* I have only to-day learned that the consul-general sent you a telegram at about the same time, asking for authority to charter a steamer in case it became necessary.

When evening came on the city was practically in darkness, as the employees of all the lighting plants had joined in the general strike. Searchlights were being used by the authorities in different parts of the city to prevent any sudden and unexpected attack on the part of the rioters. The command of the military forces in the capital had been turned over to the governor-general by the Grand Duke Vladimir. \* \* \*

On the next day, October 30, there was no change in the situation; there were many mass meetings, notably at the university, where even professors and instructors of high standing urged on the popular movement for free government. It had begun to be rumored among the people, however, that the government had at last taken up the matter very seriously and that sweeping reforms would probably be made within two or three days at the outside.

On the 30th of October I learned \* \* \* that the announcement of the constitution would be promulgated during the course of the following night. I sent you, therefore, a telegram announcing this fact. \* \* \*

On the 31st the popular demonstrations were of a very vast character. A conservative estimate would place the numbers of the crowds on the Nevsky Prospect alone at 200,000. There was not, however, as might have been supposed, unmixed satisfaction. \* \* \* Frequent collisions took place between bodies of the extreme revolutionaries and those of the moderate party. In many places people were badly hurt, revolvers and other weapons having been used. Toward evening the excitement quieted and the only serious trouble which occurred was at the Polytechnic Institute, where a meeting was being held, and where the troops were finally obliged to fire upon the crowd, killing and wounding some fifty or sixty of them. On this same day I telegraphed you that a new cabinet had been formed by Count Witte. Since cabling you the names of the new ministers, these

have been again altered. Prince Hilkoﬀ is to retain his old position of minister of ways and communications, at the direct request of the Emperor, in very just recognition of the immense services rendered by Prince Hilkoﬀ during the Japanese war. I have not cabled you the names of the others who have been mentioned in connection with the new cabinet, as undoubtedly many different decisions have been arrived at and then again changed for others.

\* \* \* \* \*

In Moscow and in some of the other cities of the Empire the announcement of the Emperor's proclamation was received with joy, and the great majority of the people seem to have been content. In Warsaw in the midst of the public rejoicings over the constitution a collision occurred between the troops and the people, which resulted in some loss of life. Great popular indignation was felt at the occurrence, which was certainly unfortunate. But on the day following the people continued their assemblies throughout the city without being molested. It is gratifying to note that the Emperor's proclamation was received by the Poles with such an amount of satisfaction, and it is interesting to compare the discontent in St. Petersburg with the delight evinced by the people of Poland. In Odessa the disturbances seem to have taken the form of anti-Jewish riots. \* \* \* The reports which are coming in to-day (November 6) are doubtless exaggerated, but they state that between four and five thousand wounded men and women are in the hospitals. Certainly the final list of the killed will be very large.

On the 2d of November the announcement was made by the head committee of the strikers that the strike would be brought to an end on November 3 at noon. The situation was undoubtedly improving in every way, though the streets of St. Petersburg gave evidence that the revolutionists were still active. There were small disturbances in the city, but no loss of life was reported. The electric-lighting establishments started work during the afternoon and the streets during the evening were in their usual condition, except for the military patrols which moved here and there.

From that time on up to the present everything has been quiet and orderly in the city. People have gradually gone back to their work; the railroads have begun running their trains with regularity, and, with the exception of the anti-Jewish rioting which continues at Odessa, the population of the entire Empire seems to have taken up its work again with a trust in the promises of the Emperor and a desire to see the normal conditions of life return.

\* \* \* \* \*

I have, etc.,

SPENCER EDDY.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 13, 1905.*

(Mr. Eddy reports that an imperial proclamation was issued to-day suspending the operation of the new constitution in Poland until the present disorders shall cease.)

*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, November 15, 1905.

(Mr. Eddy reports that St. Petersburg is perfectly quiet. All railroad communication is cut off. Within the next few days the Emperor will give to the peasants a large portion of the crown lands. The mutineers at Cronstadt, with the exception of six, who were executed to-day, will be pardoned. These facts should do much toward stopping the present strike.)

*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, November 15, 1905.

(Mr. Eddy reports that the recent proclamation of martial law in Poland has not had a pacific effect. The strike of 100,000 laborers in St. Petersburg and vicinity was instituted to-day. The mills of the English manufacturers were closed for an indefinite period, and the families of the manufacturers are leaving the country; although no immediate prospect of another strike is evident, it is feared that it will soon follow. The situation has undoubtedly become more serious. If another general strike should occur, it might be graver than before. Arrangements have been made to care for American citizens in case of need.)

*Chargé Eddy to the Secretary of State.*

No. 277.]

AMERICAN EMBASSY,  
St. Petersburg, November 17, 1905.

SIR: I have the honor to inclose to you herewith a translation of an imperial manifesto, which appeared in to-day's Official Messenger, granting the peasants facilities for the payment of arrears due for land and to purchase more land through the assistance of agrarian banks. I have, etc.,

SPENCER EDDY.

[Inclosure.—Translation.]

## IMPERIAL MANIFESTO.

In a manifesto the Emperor expresses his deep grief at the troubles under which the country is laboring and notes that now the peasants are beginning to rise and seize lands and commit other crimes. The manifesto proceeds: "Nothing is to be gained by disorders, and they may bring the country to great misfortune. The only way to improve present conditions is by a peaceful and legal method of procedure, and we have always made it our first care to improve the position of the present population.

"We have lately given orders to gather information and present it to us with regard to those measures which might be immediately taken in favor of the peasants.

"In considering the matter we have decided:

"1. That the purchase or redemption payments (Auskaufts payments) due from peasants to former proprietors of estates (Gutsbesitzer), as well as to the government and district, shall

be reduced, beginning January 1, 1906 (Russian style), by one-half, and that from the 1st of January, 1907, these payments shall be stopped altogether.

"2. That the Peasants' Agrarian Bank is to be enabled more successfully to assist those peasants who possess little land to extend their land possessions by purchase, this to be done by increasing the funds of the bank and establishing more favorable regulations regarding the issuance of loans.

"We have issued a special ukase regarding the introduction of the above measures.

"We remain in the conviction that by the mutual work of ourselves and the best men chosen by the people of Russia and the peasants it may be possible to satisfy the further needs of the peasantry without any injury to other landowners.

"We hope that the peasant population, dear to our heart, following the teachings of the Christian love and goodness, will listen to our imperial call to preserve peace and quiet everywhere and will not break the law and infringe the rights of other people.

"Given at Tsarskoé, etc., 3-16th November."

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, November 21, 1905.

(Mr. Eddy reports that under an imperial proclamation published to-day payments during 1906 on land granted to the peasants will be diminished by a half, and on January 1, 1907, they will cease entirely, the peasants then becoming the owners of the land. Increased facility is given by the Emperor to the peasants' bank to advance money to the peasants who have not yet taken up the land so that they may profit by this new arrangement.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, December 1, 1905.

(Mr. Eddy reports that the strikers and employers have reached an agreement regarding wages, and that it is promised that new election laws will be promulgated to-morrow. By these laws almost universal suffrage is granted. Electors will be elected by the voters and the deputies by these electors. Reports the situation much improved.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
Berlin, December 4, 1905.

All cable communications broken. Telegraph operators on strike. Unconfirmed report of serious rioting in Reval. Am attempting to instruct consular agent Reval to cable details direct to Department of State. Petersburg quiet.

EDDY.



*The Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, December 23, 1905.

(Mr. Root informs Mr. Meyer that the President desires to know if any practicable measures can be taken by this government for the protection of life and property of Americans in the event of further serious disturbances. Requests suggestions.)

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, December 25, 1905.

(Mr. Meyer states that in reply to the President's inquiry of the 23d instant he reported on the 11th instant<sup>a</sup> that the aspect at Moscow was serious and recommended that American consuls should be provided with funds in case of need for sheltering American citizens. All American consuls were instructed to forward to the embassy a list of American citizens and vested property. On account of the interrupted communications replies were received from Moscow and St. Petersburg only. There are 73 adults and 31 children, American citizens, at Moscow and 75 American citizens at St. Petersburg. No serious trouble is anticipated at St. Petersburg. Suggests that an American vessel in the Mediterranean and another in Danish or Swedish waters might be of benefit to our consuls in the event of further serious disturbances in protecting American life and property. It is impossible at the present moment to give authentic news in regard to the numbers killed and wounded at Moscow. The fighting has been stubborn and Gatling guns have been used. Estimates so far given out as to loss of life are believed to be much exaggerated.)

*Ambassador Meyer to the Secretary of State.*

No. 372.]

AMERICAN EMBASSY,  
St. Petersburg, December 26, 1905.

SIR: I beg leave to report that on the 25th of December the conditions in Moscow were still serious. The struggle was continuing, but with somewhat abated energy on the part of the revolutionaries. It is difficult to say whether on account of fatigue or decrease of enthusiasm, but there was much less firing. The fighting was more on the outskirts of the city. No business or work can be done, as the firing makes it too dangerous. For this reason all banks and government offices are closed. The streets are deserted and buildings all boarded up. Many points are occupied by troops, and the sentinels search passersby for arms. In many streets in the center of the city no one is allowed to pass at all. The hospitals and morgues no longer suffice for the killed and wounded. Even private hospitals are overflowing.

<sup>a</sup> Not printed.

The telegraph office is only accepting government telegrams. The post-office is not working.

The governor-general will hold owners responsible for arms found in their houses and for not keeping their street doors closed. Punishment, three months' imprisonment or 3,000 rubles fine. This has already caused several, unaided by the police, to take their street doors from the barricades and put them back.

To-day the militia, organized by the governor-general, with the aid of the Union of Russian People, began operations. It is led by the police. The revolutionaries call them the "Black Hundred."

A large printing office, containing 600 armed workmen, was surrounded by artillery, cavalry, and infantry. The building was set on fire and many were burned alive, including families. The troops also suffered losses from the determined resistance of the workmen.

Many fresh barricades are being built during the night, making passage impossible. They are made very strong with wiring and are guarded by revolutionaries with red flags.

A fight took place again at the railway station and a factory, where the troops were fought by 3,000 armed men.

At a meeting near the Kursk Railroad shops 10,000 men took part at which it was decided to arrest the governor-general and the chief of police.

That part of the city which is occupied by barricades is in the center, from the Butyrsk Gates to Iversk street and Dorogomilovsk. The barricades extend in three parallel lines. Other streets and places are also barricaded. They are built of boxes and barrels, stones, telegraph poles and wires, street lamps, booths and tramway poles, old iron, and heavy house doors. Many trees on the boulevards have been destroyed. At one place the revolutionaries took possession of the car houses of a street-car company and used the cars as a barricade, leaving narrow openings for people on foot to pass through.

A volunteer guard has been formed to assist the police.

All night the killed and wounded were being carried away; they are estimated by thousands. An attempt was made to assassinate the chief of police. Fresh barricades are still being put up.

In general, yesterday there was less firing and fewer casualties.

I have, etc.,

G. v. L. MEYER.

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*Ambassador Meyer to the Secretary of State.*

No. 379.]

AMERICAN EMBASSY,  
St. Petersburg, December 28, 1905.

SIR: I have the honor to confirm my telegram of this date, reading as follows:

Strikes appear to be breaking out in new places. Troops are being sent to Moscow from here. Injured now estimated at 2,000. Struggle has lasted six days and still continues. \* \* \* General strike in Kharkoff, collision between troops and laborers, 200 injured. Shops closed. Rostoff meeting fired upon by artillery; 800 reported killed and wounded. St. Petersburg quiet. Insignificant collisions in the environs between laborers and troops; many arrests have been made here. Cossack General Mishchenko, Baron Stackleberg have gone to Moscow.

I have, etc.,

G. v. L. MEYER.

**NEUTRALITY OF THE UNITED STATES IN THE WAR BETWEEN  
RUSSIA AND JAPAN.**

[NOTE.—For previous correspondence see Foreign Relations, 1904, p. 780.]

*The Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, February 14, 1905.*

(Mr. Hay advises Mr. McCormick that the three officers of the *Lena*, Midshipman Peter Michailoff, Midshipman Andrey Kyra Dinyan, and Engineer Sergey Kapazin, who broke their parole toward the end of January, are reported to have arrived at St. Petersburg and to have reported to the admiralty. Instructs him to inform the Russian Government and to inquire what action it proposes to take.)

*The Secretary of State to Ambassador McCormick.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, February 21, 1905.*

(Mr. Hay informs Mr. McCormick that press dispatches report that the three Russian officers of the *Lena* who broke their parole and left San Francisco deny that they had given their parole not to leave that city. The commandant of the navy-yard reports that each of them gave their personal parole in the following words: "I promise on my honor not to leave San Francisco without the permission of the President of the United States or until an agreement has been made to that effect between the two governments.")

*Ambassador McCormick to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, February 27, 1905.*

(Mr. McCormick reports that the conduct of the officers of the *Lena* who broke their parole and left San Francisco is not justified by the military authorities, who state that there is nothing in their favor except their youth and inexperience. A penalty of loss in the grade of promotion has been imposed upon them, and they have been instructed to return immediately to San Francisco. Admiral Evelan requests that no restriction or restraint be imposed upon them by the Government of the United States in view of the penalty already inflicted upon them.)

*The Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, February 28, 1905.

(Mr. Hay informs Mr. Meyer that this government highly appreciates the action taken in regard to the officers who broke their parole. No discrimination in the treatment of the officers of the *Lena* is involved by this incident as their parole rests on their honor.

*The Acting Secretary of State to Ambassador Meyer.*

No. 10.]

DEPARTMENT OF STATE,  
Washington, April 8, 1905.

SIR: Referring to the Department's telegram of February 14 last to your predecessor relative to the violation of the paroles of certain Russian officers of the transport *Lena*, I have to advise you of the receipt of a letter, dated the 5th instant, from the Secretary of the Navy, in which he quotes the text of a telegram, dated April 4, from the commandant, navy-yard, Mare Island, Cal., reading as follows:

Midshipman Kyra Dinyan reported last evening and has again voluntarily and personally given me his parole not to leave San Francisco and vicinity of Vallejo without permission from the President.

I am, etc.,

ALVEY A. ADEE.

*The Russian Ambassador to the Acting Secretary of State.*

[Translation.]

IMPERIAL RUSSIAN EMBASSY,  
Washington, April 10, 1905.

SIR: Commander Berlinsky solicited and obtained from the Imperial Government, on account of his health, a leave of four months with orders to transfer the command of the transport *Lena* to the officer following him in rank.

In view of the present situation of the transport *Lena*, I have the honor to bring the foregoing to the knowledge of the Federal Government, with the request that it inform me whether it has any objection to Commander Berlinski's taking advantage of the leave granted him in view of the critical state of his health.

Please accept, etc.,

COUNT CASSINI.

*The Acting Secretary of State to the Russian Ambassador.*DEPARTMENT OF STATE,  
Washington, April 11, 1905.

DEAR MR. AMBASSADOR: Referring to your note of April 10, in reference to Commander Berlinsky of the *Lena*, who desires four months' leave of absence on account of his health, I wish to say that it is only competent for the President of the United States to accept

the parole of Commander Berlinsky for residence in territory on this continent under the jurisdiction of the United States. Commander Berlinsky is interned under the jurisdiction of the government, and it would not seem to be competent for the President of the United States to accept his parole outside of the United States in Europe or elsewhere.

There will be no difficulty whatsoever about accepting the parole of Commander Berlinsky for residence or travel in any part of this country. If he desires to go to Europe during his congé he would have to give his parole to some representative of the Japanese Government, and I will be very glad to take up the matter with the Japanese legation here, if you so desire.

FRANCIS B. LOOMIS.

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*The Russian Ambassador to the Acting Secretary of State.*

[Translation.]

IMPERIAL RUSSIAN EMBASSY,  
*Washington, April 12, 1905.*

DEAR MR. LOOMIS: I have just received your letter in reply to my note of April 10, regarding the four months' furlough requested by Captain Berlinsky, commander of the transport *Lena*.

In my opinion, inasmuch as the Imperial Government granted to Captain Berlinski the furlough requested by him on account of his health, it rests with the Federal Government alone to accede to this request for leave, and I consider the direct intervention of the Japanese Government in this question as absolutely precluded. The transport *Lena* is not a prisoner of Japan, but is simply interned in the United States, and the case of the three officers of this vessel who departed clandestinely for Russia and whom the Imperial Government hastened to send back to San Francisco, proves superabundantly that my government considers that the word given by these three officers to the Federal authorities binds them in honor toward the United States. It would naturally be the same with Captain Berlinsky in case he availed himself of the furlough in question. In a word, I regard the incident of the furlough asked by Captain Berlinsky on account of sickness as a matter concerning directly only our two governments. It seems to me that the Federal Government, by informing Japan of the authorization which it has given to Captain Berlinsky to avail himself of his furlough, would amply comply with the requirements of the strictest neutrality. As to requesting this authority of the Japanese Government for a Russian officer who is not a prisoner of war and is interned in a port of the United States, I consider that such a request would be incompatible with precedent and with the national dignity, and consequently inadmissible.

I should be sincerely obliged to you, dear Mr. Loomis, if you would inform me what decision has been reached, and I beg of you to accept, etc.,

CASSINI.

*The Acting Secretary of State to the Russian Ambassador.*

Personal.]

DEPARTMENT OF STATE,  
Washington, April 13, 1905.

DEAR MR. AMBASSADOR: Referring to your note of the 11th instant, concerning Commander Berlinsky, I am glad to state that the Japanese Government has no objections whatsoever to his proceeding to a European watering resort for the benefit of his health, if he so chooses.

Very sincerely, yours,

FRANCIS B. LOOMIS.

*The Acting Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
Washington, April 13, 1905.

DEAR MR. AMBASSADOR: I have had the pleasure to receive your personal note of the 12th, in further relation to the desire of Captain Berlinsky, commanding the interned Russian transport *Lena*, to be accorded a leave of absence of four months on account of his health.

I am unable to agree with your view of the power and duty of the United States in regard to the execution of the duties of neutrality within its own territory by interning the *Lena* and her officers and crew. I can not admit that this government would have the original and exclusive right to transfer the place of internment to the territory of a third power. But, as I have already had the pleasure to inform you, I have learned that the Japanese Government will not make objection to granting Captain Berlinsky the *congé* he solicits.

The President directs, therefore, that, without prejudice to the parole already given by Captain Berlinsky to the Government of the United States, which engagement continues in full force, leave of absence be granted him for four months upon his parole of honor to report at the expiration of that time to the commandant of the navy-yard at Mare Island, San Francisco. The Secretary of the Navy will be requested to instruct the commandant of the navy-yard in this sense.

I have, etc.,

FRANCIS B. LOOMIS.

*The Russian Ambassador to the Acting Secretary of State.*

[Translation.]

IMPERIAL EMBASSY OF RUSSIA,  
Washington, May 4, 1905.

SIR: Commander Rytchagow, a high officer of the transport *Lena*, of the imperial navy, interned at San Francisco, has been granted four months' leave by the Imperial Government, on account of the very precarious state of his health, verified by the medical authorities of San Francisco.

In bringing this fact to your knowledge, I have the honor to beg that the Department of State will take the necessary steps with the Federal Government, which alone has jurisdiction in the matter, in view of securing for Commander Rytchagow permission to avail himself of the leave granted him.

I will add that the very serious condition of that officer's health makes it desirable that as early a decision as possible be reached in regard to his leave.

Accept, etc.,

COUNT CASSINI.

*The Acting Secretary of State to the Russian Ambassador.*

No. 263.]

DEPARTMENT OF STATE,  
Washington, May 10, 1905.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant by which you inform me that Commander Rytchagow, a high officer of the Russian transport *Lena*, interned at San Francisco, has been granted four months' leave of absence by the Imperial Government on account of the very precarious state of his health, verified by the medical authorities of San Francisco, and requesting this Department to take the necessary steps to secure permission for Commander Rytchagow to avail himself of the leave granted.

It appears from a report of a medical survey in the case of Commander Rytchagow, transmitted to the Navy Department of this government, that the medical board found that officer unfit for duty, due to nervous prostration, and that its probable duration is indefinite, and the board recommended that he be sent to the naval hospital at Kronstadt, Russia, for treatment and final disposition.

Consistently with the position set forth in the personal note to you of April 13, in the case of Captain Berlinsky, this Department has ascertained from the Japanese legation at this capital that the Japanese Government has no objection to a leave of absence for four months, or indefinitely, being granted to Commander Rytchagow for the purpose stated.

I have communicated a copy of this note to the Secretary of the Navy in order that the naval authorities at San Francisco may be advised accordingly.

Accept, etc.,

FRANCIS B. LOOMIS.

*The Russian Ambassador to the Acting Secretary of State.*

[Translation.]

IMPERIAL EMBASSY OF RUSSIA,  
Washington, June 19, 1905.

SIR: The hospital ship *Kostroma* has received the order to proceed from Shanghai to Manila to take the wounded or sick officers and sailors from the vessels of Admiral Enquist and take them back afterwards to Russia. Admiral Enquist has been commissioned to apply to the competent authorities to obtain the necessary permission.

By order of my government I have the honor of placing with the Federal Government the application of our admiral, adding at the same time all the persons who shall be authorized to go on board of the *Kostroma* will give their word to take no further part in the present war.

In bringing what precedes to your knowledge, I beg you to let me know the decision of the Federal Government as soon as possible, that I may transmit it by telegraphic way to the authorities of St. Petersburg.

Accept, etc.,

CASSINI.

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*The Secretary of State to the Russian Ambassador.*

No. 267.]

DEPARTMENT OF STATE,  
*Washington, June 22, 1905.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 19th instant, in which you request permission for the Russian hospital ship *Kostroma* to enter Manila for the purpose of removing the sick and wounded officers and sailors from the Russian war vessels under the command of Admiral Enquist on condition that the said officers and sailors should give their parole to take no further part in the present war.

In reply I have the honor to state that orders have been sent to the naval authorities of the United States in the Philippines to comply with your government's request, on the condition stated, that the sick and wounded officers and men removed should give their parole to take no further part in the present war.

Accept, etc.,

JOHN HAY.

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*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 18, 1905.*

Russian Government requests permission for Captain Ginter to replace Captain Berlinsky, of the steamship *Lena*, on account of illness of latter. The minister of marine officially guarantees that Captain Ginter will take no further part in the war. Early reply requested, as Captain Berlinsky must otherwise leave for America July 29.

MEYER.

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*The Acting Secretary of State to the Russian Ambassador.*

No. 4.]

DEPARTMENT OF STATE,  
*Washington, July 20, 1905.*

EXCELLENCY: In view of a letter recently received from the Secretary of the Navy, the Department asked the Japanese minister at this capital whether his government would object to an indefinite leave of absence being granted to Lieutenant Speshnoff, of the interned Russian transport *Lena*, in order that he might be treated at the hospital at St. Petersburg.

The Department has been assured by the Japanese minister, in a personal note, that his government would not object to the permission being granted, and the Secretary of the Navy has been so advised.

Accept, etc.,

ALVEY A. ADEE.



*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 25, 1905.

Your telegram 18th instant. Berlinsky permitted to delay departure for America thirty days, pending Japan's acquiescence in his replacement by Captain Ginter.

ADEE.

*The Russian Ambassador to the Acting Secretary of State.*

[Telegram.]

RUSSIAN EMBASSY,  
Magnolia, Mass., July 26, 1905.

I am directed by cable to request permission to return to Russia, under promise not to take part in the war, for Sublieutenant Bertenson, of the cruiser *Aurora*. Admiral Enquist is under orders to submit this request to the local authorities at Manila. Your kind cooperation would be highly appreciated. Sublieutenant Bertenson is a son of the celebrated Doctor Bertenson, physician to His Majesty the Emperor. Another son of his was killed in the battle of Tsu Shima.

ROSEN.

*The Russian Ambassador to the Secretary of State*

[Translation.]

IMPERIAL RUSSIAN EMBASSY,  
Magnolia, Mass., July 27, 1905.

MR. SECRETARY OF STATE: I have the honor to inform you that the Imperial Government proposes to appoint Mr. Barstch, captain of frigate, to the command of the cruiser *Aurora*, now at Manila, to take the place of Captain Iegorieff. The new commander will be instructed to repair to his post as soon as possible.

Accept, etc.,

ROSEN.

*The Acting Secretary of State to Ambassador Meyer.*

No. 58.]

DEPARTMENT OF STATE,  
Washington, July 28, 1905.

SIR: I inclose copy of a letter from the Secretary of the Navy transmitting the report of a board of medical survey upon Lieut. Alexis Speshneff, of the *Lena*, who has been allowed to leave for Russia in order to receive treatment.

You will forward the report to the Russian Government.

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 29, 1905.

With acquiescence Japanese Government, permission is granted for replacement Captain Berlinsky by Captain Ginter, on assurances your telegram 18th that Captain Berlinsky will take no part in the war.

ADEE.

*The Acting Secretary of State to the Russian Ambassador.*

No. 5.]

DEPARTMENT OF STATE,  
Washington, July 29, 1905.

EXCELLENCY: I have the honor to acknowledge the receipt of your telegram of the 26th instant, requesting, by direction of your government, that permission might be granted to Sublieutenant Bertenson, of the Russian cruiser *Aurora*, interned at Manila, to return to Russia under his parole not to take part in the present war.

Having been assured by the Japanese legation at Washington that the Japanese Government has no objection to the desired permission being granted, I have to-day requested the Secretary of the Navy to take the necessary steps to that end, upon submission of the application by Admiral Enquist to the naval authorities at Manila.

Accept, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
Washington, August 2, 1905.

MY DEAR MR. AMBASSADOR: On the 28th ultimo this Department received a letter from the Secretary of the Navy quoting the text of a telegram from the commander of the Philippine Squadron as follows:

Admiral Enquist requests that two lieutenants, three sublieutenants be permitted to return Russia, being sick, humanity demanding leave this climate.

In reply to an inquiry which I made of the Japanese chargé d'affaires ad interim at this capital, I am advised by him that the Japanese Government would not have objection to the desired permission being given to the said officers under such conditions as have been exacted in former similar cases. I have so advised the Secretary of the Navy, and have suggested to him that, if not already done, a medical examination by a United States surgical board should be made as a preliminary to actually granting the desired permission for cause appearing.

I am, etc.,

ALVEY A. ADEE.

*The Russian Ambassador to the Acting Secretary of State.*

[Translation.]

RUSSIAN EMBASSY,  
*Portsmouth, August 23, 1905.*

SIR: In your note of May 10 of this year you informed me that the United States Government had no objection to Commander Rytchagow, of the transport *Lena*, taking advantage of the four months' leave granted him on account of serious illness.

The state of health of this officer not having sufficiently improved to enable him to return to his post I hasten to notify you that Commander Rytchagow must continue his treatment, and I hope that the Federal authorities will have no objection to the prolongation of his sojourn in Russia until completely cured.

Please accept, etc.,

ROSEN.

*The Acting Secretary of State to the Russian Ambassador.*

No. 7.]

DEPARTMENT OF STATE,  
*Washington, August 26, 1905.*

EXCELLENCY: In reply to your note of the 23d instant, I have the honor to say that this government has no objection to the extension of the four months' leave granted to Commander Rytchagow, of the *Lena*, for a period sufficient to enable him to recover his health completely.

Accept, etc.,

F. B. LOOMIS.

*The Acting Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
*Washington, September 21, 1905.*

MY DEAR MR. AMBASSADOR: Referring to my informal note of the 2d ultimo, I beg to inform you that I am advised by the Acting Secretary of the Navy that the officers of the interned Russian war vessels at Manila whose names are given below have signed the parole not to further engage in the present war with Japan and have been authorized to leave the immediate vicinity of Manila and to return to Russia: Lieut. D. de Daehn, I. R. Navy; Lieut. A. Losseff, I. R. Navy; Sublieut. M. Bertenson, I. R. Navy; Sublieut. V. Iakovleff, I. R. Navy.

I am, etc.,

ALVEY A. ADEE.

*The Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
*Washington, October 30, 1905.*

MY DEAR MR. AMBASSADOR: I beg to inform you that the Secretary of the Navy had advised me that on the 26th instant he received a telegram from the commandant of the navy-yard at Mare Island, Cal., in which he stated that the *Lena* left the yard for San Francisco on that date, and would sail thence on Sunday, October 29.

I am, etc.,

ELIHU ROOT.

*The Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
Washington, November 2, 1905.

EXCELLENCY: I beg to advise you of the receipt of a letter, dated the 28th ultimo, from the Acting Secretary of the Navy, quoting a telegram received on that date from the commander of the United States Philippine Squadron at Cavite, reading as follows:

*Jemtchug* left yesterday for Vladivostok; *Aurora* and *Oleg* left to-day for Saigon.

I am, etc.,

ELIHU ROOT.

*The Secretary of State to Chargé Eddy.*

No. 93.]

DEPARTMENT OF STATE,  
Washington, November 13, 1905.

SIR: I inclose herewith, for your information, a copy of a letter from the Secretary of the Navy, transmitting one from the commandant of the Mare Island Navy-Yard, in which he informs the Secretary of the good conduct of the officers and crew of the Russian armed transport *Lena* while that vessel was interned at the yard.<sup>a</sup>

I am, etc.,

ELIHU ROOT.

*The Secretary of State to the Russian Ambassador.*

Personal.]

DEPARTMENT OF STATE,  
Washington, November 13, 1905.

MY DEAR MR. AMBASSADOR: I beg to advise you that I am informed by the Secretary of the Navy that he has received a letter, dated October 28, 1905, from the commandant of the Mare Island Navy-Yard, in which he states that the *Lena* left the yard on the 26th of the same month for San Francisco, with a navy-yard pilot on board.

It affords me sincere gratification to inform you that the commandant testifies to the uniformly excellent conduct of all on board the *Lena* during her internment. The association of her officers with those on duty at the navy-yard has been very agreeable to the latter, who have endeavored to make their visit a pleasant one; and it has always been a pleasure to see the members of the crew, who have had the use of the island for exercise and amusement, at the yard and station.

I am, etc.,

ELIHU ROOT.

**TREATMENT OF PRISONERS OF WAR, THEIR RELEASE AND EXCHANGE.**

*The Acting Secretary of State to Ambassador Meyer.*

No. 5.]

DEPARTMENT OF STATE,  
Washington, April 4, 1905.

SIR: I inclose copy of a note from the Japanese minister at this capital, in which, under the instructions of his government, he points out certain alleged features of the treatment of Japanese prisoners in

<sup>a</sup> Not printed.

Russia, which, in the opinion of the Japanese Government, should be remedied.<sup>a</sup>

You will appropriately communicate the contents of this note, by way of good offices, to the minister of foreign affairs.

In so doing you will express the pleasure it would afford to you, and through you to the Government of the United States, to be instrumental in bringing about a satisfactory understanding in this important regard.

I am, etc.,

FRANCIS B. LOOMIS.

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, April 17, 1905.*

(Mr. Meyer informs Mr. Hay that the vice-consul at Moscow has reported to him in regard to the Japanese prisoners. The report states, on the authority of Major-General Lapouschinski, who has charge of all Japanese prisoners in Russia, that each Japanese private is now receiving 30 kopeks per month, while Russian privates only receive 22½ kopeks. The vice-consul was present at their midday meal and ate of the food supplied which he states was excellent.)

*Acting Secretary of State to Ambassador Meyer.*

No. 18.]

DEPARTMENT OF STATE,  
*Washington, May 1, 1905.*

SIR: I inclose copy of a note from the Japanese minister at this capital, who, under the instructions of his government, requests the use of your good offices to obtain the release and exchange of certain noncombatant prisoners mentioned in the list annexed to the note.<sup>b</sup>

You will at once bring the matter to the attention of the Imperial Government.

I am, etc.,

ALVEY A. ADEE

*The Acting Secretary of State to Ambassador Meyer.*

No. 45.]

DEPARTMENT OF STATE,  
*Washington, June 30, 1905.*

SIR: I inclose copy of a note from the Japanese minister at this capital, asking the use of your good offices for the release of three Japanese merchants captured in the northern part of Korea about May, 1904.<sup>c</sup> Their names are said to be Nobe Ichitaro, Yagabe Chiuwaburo, and Gyo, the son of the latter.

The Department desires you to comply with the minister's request.

I am, etc.,

HERBERT H. D. PEIRCE.

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, September 19, 1905.*

(Mr. Adee transmits the proposal of the Japanese Government in regard to the exchange of prisoners of war immediately after the exchange of ratifications of the peace treaty. The Japanese Government proposes to hand over the Russian prisoners and others detained in Japan at the ports of Nagasaki, Kobe, and Yokohama, and to receive the Japanese prisoners and others detained in Russia at the western frontier of that country. The Japanese Government request that the above proposal be brought to the attention of the Russian Government, and that assent thereto be obtained by the American embassy. This subject having important relation to the preparatory arrangements for the exchange of the prisoners, Japan would appreciate a prompt reply.)

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, September 22, 1905.*

(Mr. Adee instructs Mr. Meyer to inform the Russian Government that the Japanese Government intends to carry out the arrangement for the exchange of prisoners soon after the ratification of the treaty by the respective sovereigns, and that in this respect the treaty will operate even before the exchange of the ratifications.)

*Chargé Eddy to the Secretary of State.*

No. 217.]

AMERICAN EMBASSY,  
*St. Petersburg, September 25, 1905.*

SIR: I have the honor to inform you that yesterday I sent to you a telegram,<sup>a</sup> a confirmation of which will be, as usual, sent by the next courier pouch.

Referring to the Department's cablegram dated September 22, I have now the honor to inform you that, after having learned that Count Lamsdorff would receive me on Wednesday next, I caused inquiry to be made at the general staff, thinking that in this way I might be able to obtain information on this subject which would be of value. I learned that it was not thought possible to arrange for the exchange of prisoners of war before the 7th of October. This information may be relied upon, as my communications to Count Lamsdorff regarding this matter have all to be sent by him to the general staff before he is enabled to reply to me. I shall doubtless receive in the course of the next day or two a reply from the ministry for foreign affairs, giving me the information which I cabled you yesterday.

Referring to the body of my telegram, in which I mentioned the proposed remittance of punishment for insubordination which was

<sup>a</sup> Not printed.

awarded to two Japanese prisoners now at Selo Medvied, provided the same remittance of punishment be accorded to Count Bobrinsky, who was condemned on a like charge in Japan, I beg to state that this proposal emanated from the general staff, who seemed to think that there would be no difficulty in arranging the matter satisfactorily so far as the Russian authorities were concerned. I may add that, through the efforts of this embassy, the punishment of the Japanese prisoners mentioned above has been greatly reduced.

I have, etc.,

SPENCER EDDY.

*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, September 30, 1905.*

(Mr. Eddy transmits the reply of the minister for foreign affairs in regard to the exchange of the Russian and Japanese prisoners of war which states that the Imperial Government shares entirely the point of view of the Japanese Government as to accelerating as much as possible the preparations of the exchange of the prisoners, and accepts in principle the proposition for the return of the Japanese prisoners on the western frontier of the Empire and for receiving the prisoners of war and other Russians detained in Japan at the ports of Nagasaki, Kobe, and Yokohama as soon as the preliminary arrangements are completed. The Russian Government will immediately communicate with the Japanese Government through the usual diplomatic channels.)

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, October 1, 1905.*

(Mr. Loomis transmits the reply of the Japanese Government in regard to the exchange of the prisoners under sentence for insubordination which states that arrangements had already been made to remit the imprisonment of all Russian prisoners of war, irrespective of the penalty to which they had been condemned, on the day when the treaty of peace shall come into force, provided that the Russian Government will likewise remit imprisonment of all Japanese prisoners of war held on that date. The Japanese Government requests the views of the Russian Government on this point and further expresses the desire for an early definite reply to the proposition regarding the place where delivery of prisoners shall take place.)

*The Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, October 23, 1905.*

The Japanese Government have appointed Colonel Kikutaro Oi (Japanese military attaché in Germany) as special commissioner to

receive Japanese war prisoners. He is also authorized to direct matters connected with receiving any Japanese other than war prisoners who are now detained in Russia. The Japanese Government believe that Wirballen was finally decided upon as place for delivery of prisoners, as it was proposed by Russian Government through French minister at Tokyo and accepted by Japanese Government accordingly. The Japanese Government will be prepared to direct their bureau of information to deliver at Yokohama, Kobé, and Nagasaki the Russian war prisoners and others detained in Japan to the special commissioner to be appointed by Russia or to his duly authorized representative. As to those too ill or seriously wounded to stand transportation, the bureau of information will be directed, after completing general delivery of prisoners, to effect necessary procedures at hospitals attached to places for detaining prisoners, or at military and naval hospitals, for their delivery to the Russian special commissioner or his representative, with the understanding that date of delivery and other details be arranged between the director of bureau of information and the Russian special commissioner or his duly authorized representative. You are requested to bring foregoing to notice of the Russian Government, asking early answer.

Root.

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, October 31, 1905.

(Mr. Eddy reports that 103 Japanese officers and 1,956 soldiers are held in the Russian Empire as prisoners of war. Ninety-nine officers and 1,732 soldiers, including 215 sick and wounded, are in European Russia and will be sent out of the country via Wirballen. It is proposed that the commanders in chief of the Japanese and Russian armies arrange for the exchange of the 4 Japanese officers and 224 soldiers who are still at the seat of war. Partly on account of recent disturbances the date of the dispatch of the prisoners from European Russia has not yet been decided upon.)

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*The Secretary of State to Chargé Eddy.*

No. 92.]

DEPARTMENT OF STATE,  
Washington, November 2, 1905.

SIR: Referring to recent telegrams on the subject, I inclose herewith for your information a copy of a note from the Japanese legation relating to the exchange of prisoners between the Russian and Japanese Governments.<sup>a</sup>

I am, etc.,

ELIHU ROOT.



*The Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 7, 1905.*

(Mr. Root advises Mr. Meyer that the Japanese Government has agreed to the proposal of the Russian Government that the commanders in chief of the Japanese and Russian armies in Manchuria shall arrange for the exchange of the prisoners in the theater of war. The Japanese Government desires that the Japanese prisoners in European Russia shall be surrendered as soon as possible before the winter season is advanced. Instructs him to communicate the above to the Russian Government.)

*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 21, 1905.*

(Mr. Eddy reports that the Russian general staff has assured him that the Japanese prisoners of war will reach Wirballen on December 15 in three trains.)

*The Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 13, 1905.*

(Mr. Root instructs Mr. Meyer to ascertain whether necessary instructions for the surrender of the Japanese prisoners held in Manchuria have been issued to the Russian military authorities.)

*Ambassador Meyer to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, December 18, 1905.*

(Mr. Meyer reports that the general staff has sent a special telegram to General Linievitch for information in regard to the details of the arrangement for the exchange of prisoners. Reports that all Japanese prisoners were delivered at Wirballen during the morning of the 15th instant, in excellent condition, to Colonel Oi.)

**REMOVAL OF RUSSIAN DISCRIMINATORY TARIFF DUTIES ON  
AMERICAN GOODS.**

*The Acting Secretary of State to Ambassador Meyer.*

No. 3.]

DEPARTMENT OF STATE,  
*Washington, March 31, 1905.*

SIR: The Department invites your attention to the official correspondence of record in your embassy in relation to the discriminatory customs duties imposed since the year 1901 upon certain American products, especially machinery, tools, and manufactures of iron or steel, on their importation into Russia. As will appear by reference thereto, the Russian minister of finance, in an order published February 15, 1901, to take effect March 22, 1901, withdrew the benefits of the Russian conventional or minimum tariff for European commerce from the products of American manufacture enumerated in tariff articles 150, 151, 152, 153, 161, and section 2 of article 167, and applied thereto the higher rates prescribed in the general tariff, involving increases of duty of 20 and 30 per cent. It was frankly acknowledged at the time by the minister of finance that this withdrawal of most-favored-nation tariff treatment, which had previously been accorded by Russia uniformly and without qualification to American commerce, was an act of retaliation against the United States because of the action of the Secretary of the Treasury of the United States in relation to the assessment of countervailing duties on imports of Russian beet sugar in pursuance of the mandatory provisions of section 5 of the United States tariff act approved July 24, 1897. Furthermore, because of the action of the Treasury Department in levying a duty upon imports of Russian petroleum in accordance with the equally mandatory provisions of paragraph 626 of the said tariff act, the minister of finance, in June, 1901, took further discriminatory action against American trade by applying the advanced tariff rates upon imports from the United States mentioned in article 82 and paragraph 3 of article 173, the latter affecting bicycles.

While the action of the Government of the United States in both the instances above mentioned was not actuated by any thought of retaliation nor attended by any element of discrimination against Russian commercial interests, it is a regrettable fact that the tariff measures adopted by the Russian Government in relation to American commerce have been avowedly retaliatory and discriminatory. This government made prompt representations to the Imperial Government on the subject of the injustice of those measures, pointing out the injurious effect which they would have upon American export interests. No relief, however, has been given by the Imperial Government, and the discriminations have now continued for four years, during which period the trade relations between the two countries have been seriously hampered. This matter has been the subject of numerous complaints by American exporters.

The attention of this Department has just been called to certain statements in relation to this question of commercial difference made by Privy Councilor Timiryazeff, of the Russian ministry of finance, in the course of a recent conversation with an American citizen traveling in Russia. The official named is reported as saying that for his part he would be glad to cooperate with the American Government and to help to stimulate mutual commercial intercourse by removing the

extra duty on American products, and that he believed that this could be done without asking the United States to remove duties, but that his government had not recently been approached by the United States regarding any rearrangement of trade conditions.

Assuming that Mr. Timiryazeff—who, it is understood, is at the head of the division of commerce and industry in the ministry of finance—has been correctly reported, it would seem that the present is an opportune time for the renewal of judicious representations on the part of your embassy looking to the discontinuance by Russia of the existing discriminatory duties on important American articles of export. It is hoped by the Department that the Russian Government, while readjusting its conventional tariff relations with neighboring countries, will be found to be favorably disposed toward the amelioration of the present unsatisfactory conditions in respect to American commerce.

You are accordingly instructed to bring this matter to the attention of the Imperial Government at the earliest suitable opportunity and to urge upon the minister of foreign affairs the importance of restoring the full benefits of most-favored-nation tariff treatment to all imports from the United States in the interest of the greatest possible development of the commercial relations between the two countries.

I am, etc.,

ALVEY A. ADEE.

*Ambassador Meyer to the Secretary of State.*

No. 7.]

AMERICAN EMBASSY,  
St. Petersburg, April 17, 1905.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 3, of March 31, relating to the discriminatory, customs duties imposed since the year 1901 upon certain American products, and to inclose to you herewith a copy of my note on the subject addressed to the Russian Government on April 14.

I have, etc.,

G. V. L. MEYER.

[Inclosure.]

*Ambassador Meyer to the Minister for Foreign Affairs.*

AMERICAN EMBASSY,  
St. Petersburg, April 14, 1905.

EXCELLENCY: Under instructions from the Government of the United States of America, I beg leave to call the attention of the Imperial Government to the discriminating customs duties imposed since the year 1901 upon certain American products, especially machinery, tools, and manufactures of iron and steel, on their importation into Russia.

The Russian minister of finance, in an order published February 15, 1901, to take effect March 22, 1901, withdrew the benefits of the Russian conventional or minimum tariff for European commerce from the products of American manufactures enumerated in tariff articles 150, 151, 152, 153, 161, and section 2 of article 167, and applied thereto the higher rates prescribed in the general tariff, involving increases of duty of 20 and 30 per cent.

These discriminations against American trade have now continued for four years, during which period the trade relations between the two countries have been seriously hampered.

In order to help and stimulate mutual commercial intercourse I would respectfully beg your excellency to bring this matter to the attention of the Imperial Government, and that on further consideration it will be found favorably disposed to the discontinuance of the existing discriminating duties on important American articles of export and at the same time restoring the full benefits of most-favored-nation tariff on all imports from the United States.

I avail, etc.,

GEORGE VON LENGERKE MEYER.

*Ambassador Meyer to the Secretary of State.*

No. 16.]

AMERICAN EMBASSY,  
*St. Petersburg, April 28, 1905.*

SIR: I beg leave to report that when presenting to the minister of foreign affairs my letter in relation to the discriminating duties imposed by the minister of finance in June, 1901, copy of which I inclosed in my dispatch dated April 17, No. 7, I suggested that there would be much time saved if I could take this matter up directly and informally with Mr. Timiryazeff, privy councilor and assistant to the minister of finances, pending official reply of the foreign office. The suggestion was readily accepted by Count Lamsdorff, as he confessed the subject was a technical one with which he was not familiar.

In my first interview with Mr. Timiryazeff the whole subject was discussed in a general way. According to his views, Russia has two grievances:

The first, one of principle, i. e., that a duty should not be changed without consultation of both countries when they are carrying on their trade subject to the clause of the most-favored-nation tariff treatment.

Secondly, the contention that Russian sugar received a bounty.

In the latter case I pointed out that the action of the Government of the United States was not actuated by any thought of retaliation, nor attended by any element of discrimination against Russian commercial interests, the board of appraisers having decided that an assessment of countervailing duties must be put on imports of Russian beet sugar in pursuance of the mandatory provision of section 5 of the United States tariff act, approved July 24, 1897. It is, however, if I might be allowed to say so, a regrettable fact that the tariff measures adopted by the Russian Government in relation to American commerce have been avowedly retaliatory and discriminating.

Mr. Timiryazeff called to my attention that the action of Mr. Witte, minister of finance, increasing the duty on certain products of American manufacture, was published February 15, 1901:

About two or three weeks later of the same year, the minister of finance of the United States, by a circular, explained to the collectors of the port, in reply to their inquiry about the amount of duty to be paid for paraffine, when imported from England into the United States, that in conformity with article 626 of the custom tariff of the United States, naphtha and its products are duty free. But as the English petroleum is apparently made from Russian, and, according to the Russian custom tariff, naphtha and its products brought into Russia pay duty—by reason of this, the above-mentioned article is to be considered as naphtha of Russian origin, manufactured in England, and hence imported into the United States, and, as an article of import from Russia, is to be charged with duty in the same proportion as naphtha imported into Russia.

All invoices of naphtha imported into the United States are to be duly supplied with United States consular certificates warranting the place and country of their origin.

I then replied that, although I had not the tariff of 1897 on our files in the embassy, I was sufficiently familiar with it to state that this regulation applied equally to any country which imposes a duty on petroleum or its products exported from the United States. His answer was, "That is oppressive, and not based on an economic system."

At my second interview (both interviews having been carried on in a most friendly manner) Mr. Timiryazeff assured me that in a conversation with a compatriot of mine he had expressed himself as being

willing to try and find some way of removing the extra duties on American products, and thus stimulating mutual commercial intercourse. He had not, however, intended to imply that the United States would not have to remove any duties. The privy counselor presented me with two copies of the Russian-German treaty of July, 1904. He suggested that possibly we could draw up a commercial treaty that would be satisfactory to both countries. I assured him that the possibilities of making a commercial treaty in the United States at the present time were very vague. Mr. Timiryazeff then intimated that it might be arranged by a simple exchange of notes; that he realized the present discriminating customs duties upon certain American products of manufacture were not only a detriment to American trade, but, as I pointed out, worked to the advantage of certain other countries and to the disadvantage of Russia, by making it impossible for her, at times, to buy in the cheapest market.

His wish, he said, was to build a bridge, no matter how light, that we might cross in order to come together. If the United States would make small concessions, Russia would make great ones. He felt confident that the full benefit of most-favored-nation tariff treatment could be restored to all imports from the United States, if such a clause as Article 6 on page 3 of the Russian-German treaty could be agreed upon. Russia would then recognize the right of the American Government to impose an additional tax upon sugars exported from Russia and imported into the United States, as shown in the protocol on page 10 of the Russian-German treaty (the Brussels convention not applying to the United States).

Mr. Timiryazeff again referred to the duty on paraffine as being an order of the Secretary of the Treasury and not a decision of the board of appraisers, and could therefore be rescinded. I stated that, while not familiar with the case, it was my personal opinion that it was mandatory under provisions of section 626 of the United States tariff act approved July 24, 1897.

In all probability, no official reply will be made to my note addressed to the foreign office until I report to Count Lamsdorff the result of my pourparlers with Mr. Timiryazeff. Before doing so, I await your instructions.

I have, etc.,

G. V. L. MEYER.

*The Acting Secretary of State to Ambassador Meyer.*

No. 50.]

DEPARTMENT OF STATE,  
Washington, July 10, 1905.

SIR: The Department has received and given careful attention to your dispatch No. 16 of April 28 last, relating to your interview with Mr. Timiryazeff, privy counselor and assistant to the Russian minister of finance, respecting the removal of the discriminating tariff duties to which certain American products are subjected in that Empire.

\* \* \* \* \*

If, and when, in your judgment, it shall appear that further efforts to secure the unconditional removal of the existing discriminations to which American export interests appear to be entitled will be unavailing, you may, in accordance with the suggestion contained in the

inclosed letter from the Treasury Department, sound the Russian Government as to its willingness to adjust existing differences by means of a commercial agreement with the United States on the basis of section 3 of the tariff act of 1897. \* \* \*

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

*The Secretary of the Treasury to the Secretary of State.*

TREASURY DEPARTMENT,  
Washington, June 17, 1905.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, transmitting a copy of a dispatch from the American ambassador to Russia relative to Russian discriminative tariff treatment of certain products of the United States.

As stated by the ambassador, the assessment of duty by the United States on sugar and petroleum products was not made under a revocable order of this Department by way of discrimination against Russian commercial interests, but under mandatory provisions of law in section 5 and paragraph 626 of the tariff act of July 24, 1897, which apply alike to importations from all countries granting a bounty on exportation or imposing a duty on petroleum or its products from the United States.

\* \* \* \* \*

The wish of the privy councilor, the ambassador adds, "was to build a bridge, no matter how light, that we might cross in order to come together," and that "if the United States would make small concessions Russia would make great ones." In view thereof it is suggested that section 3 of the tariff act of July 24, 1897, might be made the basis of an agreement accomplishing the purpose in view, although none of the articles on which a reduction of duty is provided for in that section might be an important article of export from Russia.

Respectfully,

L. M. SHAW.

*Ambassador Meyer to the Secretary of State.*

No. 133.]

AMERICAN EMBASSY,  
St. Petersburg, July 26, 1905.

SIR: I have the honor to acknowledge the receipt of your instruction No. 50, dated July 10, the same being in answer to my dispatch No. 16 of April 28.

As further efforts seemed futile to secure the unconditional removal of the existing discriminating duties on certain products of the United States, I sounded Mr. Kokovtsoff, the Russian minister of finance, as to his willingness to adjust existing differences by means of a commercial agreement with the United States on the basis of section 3 of the tariff act of 1897. Mr. Kokovtsoff, after reading the section referred to, replied quite frankly that it was his desire to remove the present discriminations, but as these duties had been levied during Mr. Witte's tenure of office, he felt that the latter should be taken into consideration. Therefore he requested me to address a letter to him making the suggestion that I had made verbally. \* \* \*

I inclose herewith copy of my letter addressed to the minister of finance.

I have, etc.,

G. V. L. MEYER.

[Inclosure.]

*Ambassador Meyer to the Minister of Finance.*AMERICAN EMBASSY,  
*St. Petersburg, July 13/26, 1905.*

YOUR EXCELLENCY: Conforming with my conversation of to-day in respect to the removal of discriminating tariff to which certain American products are subjected, I desire to ascertain, under instructions from my government, whether the Russian Government would be willing to adjust the existing differences by means of a commercial agreement with the United States on the basis of section 3 of the tariff act of 1897.

I also take the liberty of calling to your attention that the assessment of duty by the United States on sugar and petroleum products was not made under a revocable order of this Department by way of discrimination against Russian commercial interests, but under a mandatory provision of law in section 5 and paragraph 626 of the tariff act of July 24, 1897, which apply alike to importations from all countries granting a bounty on exportation or imposing a duty on petroleum or its products from the United States. Taking this into consideration, I trust your excellency will be able to advocate the removal of the existing discriminating tariff duties to which certain American products are subjected when imported into Russia.

I avail, etc.,

GEORGE VON LENGERKE MEYER.

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*Copy of communication handed by Mr. Witte to the President at Sagamore Hill, N. Y., Saturday evening, September 9, 1905.*

Some years ago, in consequence of a misunderstanding in the interpretation of the most-favored-nation clause, there were established in Russia on several articles of American production customs duties on a higher scale than those levied on the same articles when imported from other countries.

His Majesty the Emperor of Russia has commanded me to inform the President of the United States that he has been pleased to order the discontinuance of the levying of such higher duties on American products in order that henceforth the American manufacturers should pay the same duties as importers from other countries.

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*Chargé Eddy to the Secretary of State.*

No. 205.]

AMERICAN EMBASSY,  
*St. Petersburg, September 15, 1905.*

SIR: I have the honor to inform you that I received to-day at 4 o'clock a note from Count Lamsdorff relating to the removal of discriminating customs duties on certain products of American manufacture and officially notifying this embassy that on August 28 (September 10) His Majesty the Emperor issued an imperial order abrogating these duties, to take effect at once.

Immediately on receipt of the said note, of which a copy and translation are herewith inclosed, I cabled you the contents thereof. \* \* \*

I have, etc.,

SPENCER EDDY.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Chargé Eddy.*MINISTER FOR FOREIGN AFFAIRS, SECOND DEPARTMENT,  
*St. Petersburg, September 2, 1905.*

MR. CHARGÉ D'AFFAIRES: I have the honor to inform you that in consequence of a report from the minister of finance His Majesty the Emperor has deigned to order on August 28 that—

1. The dispositions in force relative to the levying of supplementary customs dues on products of American manufacture provided for by articles 82, 150, 153, 161, 167, section 2, and 173, section 3, of the general customs tariff for European commerce, as well as those relating to the presentation to customs offices of documents certifying the origin of the products in question be abrogated, and

2. That the present supreme order be published in the *Bulletin des lois* and be telegraphed to the customs offices with instruction that it be put into execution without delay.

I think it my duty to add that privy Councilor Kokovtsoff has not failed to communicate with the existing senate in order to publish the said supreme order and to communicate it by telegraph to the customs offices of the Empire.

I avail, etc.,

COUNT LAMSDORFF.

**NEGOTIATIONS FOR PEACE BETWEEN JAPAN AND RUSSIA.**

GOOD OFFICES OF THE PRESIDENT—TEXT OF THE TREATY.

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 8, 1905.*

Present to the Russian Government the following dispatch, which is identical in terms with one that is being sent to Japan. When this dispatch has been received by both governments, it will be made public in Washington.

“The President feels that the time has come when, in the interest of all mankind, he must endeavor to see if it is not possible to bring to an end the terrible and lamentable conflict now being waged. With both Russia and Japan the United States has inherited ties of friendship and good will. It hopes for the prosperity and welfare of each, and it feels that the progress of the world is set back by the war between these two great nations. The President accordingly urges the Russian and Japanese Governments, not only for their own sakes, but in the interest of the whole civilized world, to open direct negotiations for peace with one another. The President suggests that these peace negotiations be conducted directly and exclusively between the belligerents—in other words, that there may be a meeting of Russian and Japanese plenipotentiaries or delegates without any intermediary, in order to see if it is not possible for these representatives of the two powers to agree to terms of peace. The President earnestly asks that the Russian Government do now agree to such meeting, and is asking the Japanese Government likewise to agree. While the President does not feel that any intermediary should be called in in respect to the peace negotiations themselves, he is entirely willing to do what he properly can if the two powers concerned feel that his services will be of aid in arranging the preliminaries as to the time and place of meeting; but if even these preliminaries can be arranged directly between the two powers, or in any other way, the President will be glad, as his sole purpose is to bring about a meeting which the whole civilized world will pray may result in peace.”

LOOMIS.



*The Acting Secretary of State to Minister Griscom.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 8, 1905.

Present to the Japanese Government the following dispatch, which is identical in terms with one which is being sent to Russia. It will be made public in Washington after it has been received by the two governments.

"The President feels that the time has come when, in the interest of all mankind, he must endeavor to see if it is not possible to bring to an end the terrible and lamentable conflict now being waged. With both Russia and Japan the United States has inherited ties of friendship and good will. It hopes for the prosperity and welfare of each, and it feels that the progress of the world is set back by the war between these two great nations. The President accordingly urges the Russian and Japanese Governments, not only for their own sakes, but in the interest of the whole civilized world, to open direct negotiations for peace with one another. The President suggests that these peace negotiations be conducted directly and exclusively between the belligerents—in other words, that there may be a meeting of Russian and Japanese plenipotentiaries or delegates without any intermediary, in order to see if it is not possible for these representatives of the two powers to agree to terms of peace. The President earnestly asks that the Japanese Government do now agree to such meeting, and is asking the Russian Government likewise to agree. While the President does not feel that any intermediary should be called in in respect to the peace negotiations themselves, he is entirely willing to do what he properly can if the two powers concerned feel that his services will be of aid in arranging the preliminaries as to the time and place of meeting; but if even these preliminaries can be arranged directly between the two powers, or in any other way, the President will be glad, as his sole purpose is to bring about a meeting which the whole civilized world will pray may result in peace."

LOOMIS.

*The Acting Secretary of State to Minister Griscom.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 8, 1905.

Please inform Department without delay when you present my cablegram of this morning to the Japanese Government.

LOOMIS.

*Minister Griscom to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Tokyo, June 9, 1905.

Your telegram of the morning of the 8th received 8 p. m. to-day and presented to the Japanese Government at 11 p. m. Answer follows to-night.

GRISCOM.

*Minister Griscom to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
*Tokyo, June 10, 1905.*

June 10, 1 a. m. The minister for foreign affairs has handed me the following answer to the dispatch embodied in your telegram of the 8th instant:

"The Imperial Government have given to the suggestion of the President of the United States, embodied in the note handed to the minister for foreign affairs by the American minister on the 9th instant, the very serious consideration to which, because of its source and its import, it is justly entitled.

"Desiring in the interest of the world as well as in the interest of Japan the reestablishment of peace with Russia, on terms and conditions that will fully guarantee its stability, the Imperial Government will, in response to the suggestion of the President, appoint plenipotentiaries of Japan to meet plenipotentiaries of Russia at such time and place as may be found to be mutually agreeable and convenient, for the purpose of negotiating and concluding terms of peace directly and exclusively between the two belligerent powers."

GRISCOM.

*Minister Griscom to the Secretary of State.*

No. 274.]

AMERICAN LEGATION,  
*Tokyo, June 10, 1905.*

SIR: I have the honor to confirm an exchange of telegrams between the Department and this legation of the 8th, 9th, and 10th instant, copies of which are inclosed herewith, in relation to the President's proposal to Japan and Russia that negotiations be entered into directly between the two belligerent countries with a view to bringing about peace.

The telegrams sent by you were not received by me in the order sent and were all apparently delayed in transmission from fifteen to twenty hours. The first of your messages reached me at 2 o'clock on the 9th instant, to the effect that you wished to be informed without delay when I had presented your previous cablegram to the Japanese Government. Shortly thereafter Baron Komura sent for me and in an interview explained to me that Mr. Takahira had telegraphed an account of an interview with the President on the evening of the 7th instant, when the President asked Mr. Takahira if Japan would be willing to appoint plenipotentiaries to meet with Russian envoys similarly appointed to discuss terms of peace. The President having informed Mr. Takahira that identical instructions would be sent to our ambassador in St. Petersburg and to me, Baron Komura inquired if I had received such instructions. I informed him that probably owing to some delay in transmission the telegram in question had not reached me, but that I had heard from you that an important message was on the way and that as soon as it was received I would address him a note in accordance with my instructions. He promised me that in order to save time the messenger who took my note to the foreign office would be handed the Japanese reply thereto, to be at once telegraphed to Washington. Beyond this Baron Komura did not discuss the subject.

At 8 o'clock that evening, or six hours after the receipt of your first telegram, I received your important message containing the instructions to be delivered to the Japanese Government. I immediately prepared a note addressed to Baron Komura embodying the dispatch contained in your telegram, and at 11.30 p. m. it was handed by my messenger to the officials of the foreign office. I thereupon telegraphed you that your instructions had been carried out and that the reply of the Japanese Government would follow and be transmitted by me the same night. At 1 a. m. to-day the Japanese reply was handed to my messenger, whereupon I telegraphed it to you as quickly as it could be put in cipher. At 6 p. m. to-day I received your message asking if I had received your two important messages of the 8th. In reply thereto I telegraphed you that your messages had reached me after being delayed about twenty hours in transmission, and that the second message had arrived six hours before the first. I presume that the Department understands without this explanation that whatever delays took place in transmitting your messages occurred while in transit and not in this legation.

The minister for foreign affairs having hitherto made no verbal comment upon the situation I have at present nothing to state by way of explanation beyond informing you of the manner in which your instructions have been carried out.

The text of the notes exchanged between Baron Komura and me were made public by the Japanese Government at 6 o'clock this afternoon. The mail by which I am sending this dispatch is closing before there has been time to observe the effect of that announcement on the public mind.

I have the honor to be, etc.,

LLOYD GRISCOM.

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*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
St. Petersburg, June 12, 1905.

The following note has just been received from the foreign office, which I transmit in full:

"I have not failed to place before my august master the telegraphic communication which your excellency has been pleased to transmit to me under instructions of your government.

"His Majesty, much moved by the sentiments expressed by the President, is glad to find in it a new proof of the traditional friendship which unites Russia to the United States of America, as well as an evidence of the high value which Mr. Roosevelt attaches, even as His Imperial Majesty does, to that universal peace so essential to the welfare and progress of all humanity.

"With regard to the eventual meeting of Russian and Japanese plenipotentiaries, 'in order to see if it is not possible for the two powers to agree to terms of peace,' the Imperial Government has no objection in principle to this endeavor if the Japanese Government expresses a like desire."

MEYER.

*Ambassador Meyer to the Secretary of State.*

No. 68.]

AMERICAN EMBASSY,  
St. Petersburg, June 16, 1905.

SIR: I have the honor to inclose herewith copy of French text of Russia's official note of acceptance to the President's invitation for Russian and Japanese plenipotentiaries to meet in order to see if it is not possible for the two powers to agree to terms of peace. Attached will be found translation of the official note, as cabled June 12 to the Department. \* \* \*

On Thursday morning, June 15, I took the extra precaution of showing the embassy's translation of Russia's note to the minister of foreign affairs in order to remove any doubt that might hereafter arise and for the purpose of ascertaining definitely if it met entirely with his understanding and was in accordance with his meaning. Count Lamsdorff, after reading the English translation, said that it was quite correct. \* \* \*

I have, etc.,

G. V. L. MEYER.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Ambassador Meyer.*

No. 957.]

MINISTRY FOR FOREIGN AFFAIRS, FIRST DEPARTMENT,  
May 30 (June 12), 1905.

YOUR EXCELLENCY: I have not failed to place before my august master the telegraphic communication which your excellency has been pleased to transmit to me under instructions of your government.

His Majesty, much moved by the sentiments expressed by the President, is glad to find in it a new proof of the traditional friendship which unites Russia to the United States of America, as well as an evidence of the high value which Mr. Roosevelt attaches, even as his Imperial Majesty does, to that universal peace so essential to the welfare and progress of all humanity.

With regard to the eventual meeting of Russian and Japanese plenipotentiaries "in order to see if it is not possible for the two powers to agree to terms of peace," the Imperial Government has no objection in principle to this endeavor if the Japanese Government expresses the desire.

COUNT LAMSDORFF.

*Ambassador Meyer to President Roosevelt.*

[Telegram.—Translation.]

AMERICAN EMBASSY,  
St. Petersburg, June 18, 1905.

Have just received the following from Count Lamsdorff:

"I hasten to inform your excellency that His Majesty the Emperor sees no objection to the choice of Washington as a place of conference for the Russian and Japanese plenipotentiaries."

MEYER.

*Minister Griscom to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Tokyo, June 18, 1905.

June 18, 12 midnight. Minister for foreign affairs requests me to inform the President by telegraph of the deep satisfaction of the Jap-

anese Government at the selection of Washington as the place of negotiations. He desires to assure the President that the attitude taken by the Japanese Government regarding the nature of the powers to be conferred on the peace plenipotentiaries was not in any degree inspired by a desire to raise difficulties or delay negotiations. Experience has taught the necessity of caution, and the Japanese Government thought that by securing at the outset a common understanding upon this subject they would preclude possibility of any difficulty arising in the initial stage of negotiations and would smooth the way for the real work of the negotiators; but having entire confidence in the wisdom of the President, the Japanese Government accepts his interpretation of the intention of Russia and will without further question appoint plenipotentiaries with full powers to negotiate and conclude terms of peace. The appointment will be made in time to enable the plenipotentiaries to reach Washington during the first ten days in August, and the persons to be selected will be officials of high rank and position who have the confidence of His Imperial Majesty and of the Japanese Government.

GRISCOM.

*The Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 23, 1905.

In answer to your cable<sup>a</sup> please suggest that Russia send the names of their probable plenipotentiaries to the President, who will keep them secret until Japan has done the same; the President then to announce to each country through their ambassadors the names given to him, each country having the right to change the names, if advisable. No public announcement will be made until these changes, if any, have been made. The President has received from the Japanese Government the assurance that they will name as plenipotentiaries men of the highest rank. He believes that they are hesitating because they want to be sure that the Russian plenipotentiaries will also be of the highest rank. The President very earnestly desires that at the time of the appointment by the Russian Government of these plenipotentiaries it shall be stated that they are named as plenipotentiaries to negotiate and conclude a treaty of peace with Japan. The peculiar wording of the announcement by the Russian Government as to the appointment of these plenipotentiaries, which was simply to the effect that the Russian Government agreed in principle to the President's suggestion and that delegates would be appointed at some future time, evidently made Japan feel doubtful whether the Russian plenipotentiaries will really be appointed to conclude a treaty of peace. Before any question of an armistice is raised the President feels strongly that this point should be settled by the naming of plenipotentiaries with public instructions that they are appointed to conclude a treaty of peace, this conclusion, of course, being subject to the ratification of the treaty by the respective home governments.

HAY.

<sup>a</sup> Not printed.

*The Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 24, 1905.

The Japanese Government wishes to know whether the Russian Government can not agree that the plenipotentiaries shall meet in Washington during the first ten days of August. This is in response to the President's request that the meeting be held as soon as possible. The President hopes that this time of meeting will be agreeable to the Russian Government and that he will speedily receive an answer to the request.

HAY.

*The Acting Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, June 26, 1905.

The President, in accordance with the communication from Count Lamsdorff, of the 25th,<sup>a</sup> has informed the Japanese Government that Russia consents to the meeting taking place in the first ten days of August, but that the President hopes, if possible, the Japanese Government will arrange to have its envoys here on the 1st day of August, as he earnestly desires there shall be no delay. Inform Count Lamsdorff confidentially that the President understands that the Japanese Government have under consideration as their envoys Baron Komura, the secretary for foreign affairs, and Mr. Takahira, Japanese minister at Washington. The appointment of Baron Komura represents, of course, the very highest appointment that can be made by the Japanese Government, being equivalent, for instance, to the President appointing Secretary Hay under similar circumstances. The President is greatly gratified at it, for it shows that Japan is sending her best men with the earnest desire to arrange for peace. I have confidentially informed the Japanese Government that in all probability one of the Russian plenipotentiaries will be Nelidoff.

PEIRCE.

*Ambassador Meyer to the Secretary of State.*

No. 93.]

AMERICAN EMBASSY,  
St. Petersburg, June 29, 1905.

SIR: I beg leave to report that on June 25 I received a communication from Count Lamsdorff, dated the 24th, acknowledging the receipt of my memorandum of the same date and stating that he had forwarded it to the Emperor. He also stated that the Emperor had just authorized him to inform me confidentially, same to be communicated to the President, that the Tsar proposes appointing as the first Russian

<sup>a</sup>See No. 94, June 29, 1905, printed p. 814.

plenipotentiary for the coming negotiations at Washington Mr. Nelidoff, Russian ambassador at Paris.

All of this I embodied in a cablegram dated June 25, which I now confirm.

I have, etc.,

G. V. L. MEYER.

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*Ambassador Meyer to the Secretary of State.*

No. 94.]

AMERICAN EMBASSY,  
St. Petersburg, June 29, 1905.

SIR: I beg leave to acknowledge the receipt of your cable of June 24 instructing me that the Japanese Government wished to know whether the Russian Government would agree that the plenipotentiaries should meet in Washington during the first ten days of August and that this was in response to the President's request that the meeting be held as soon as possible.

I communicated the same at once to Count Lamsdorff, and the next day received a reply stating that while the Emperor consented to the meeting of the Russian and Japanese plenipotentiaries during the first ten days of August, he found this date rather distant.

I am inclosing herewith copy of note of the minister for foreign affairs, dated June 25.

I have, etc.,

G. V. L. MEYER.

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[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Ambassador Meyer.*

MINISTRY FOR FOREIGN AFFAIRS,  
St. Petersburg, June 12/25, 1905.

MR. AMBASSADOR: In response to the memorandum which your excellency has been pleased to address to me this morning, I hasten to inform you that while consenting that the Russian and Japanese plenipotentiaries shall meet at Washington during the first ten days of the month of August, his Majesty the Emperor finds this date rather distant.

I beg you, etc.,

LAMSDORFF.

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*Ambassador Meyer to the Secretary of State.*

No. 98.]

AMERICAN EMBASSY,  
St. Petersburg, June 29, 1905.

SIR: I have the honor to report that yesterday, at the reception of the diplomatic corps in the foreign office, Count Lamsdorff informed me that it was quite possible that M. Nelidoff would be unable to serve as first plenipotentiary on account of ill health, and that he had telegraphed to Paris in order to know definitely.

If it should prove impossible for the Russian ambassador to France to act, the Emperor will immediately appoint as his successor a man of equal importance. It was the intention of His Majesty to have Baron Rosen, the newly appointed ambassador to Washington, serve as the second plenipotentiary. The minister of foreign affairs then inquired whether there would be any objection in case the Emperor should desire a third plenipotentiary, and added that it was the intention to send several delegates as specialists on Eastern affairs.

I took this occasion to call Count Lamsdorff's attention again to the President's desire, as instructed in cable of June 24 [23], that it should be stated by the Russian Government at the time of the appointment of their plenipotentiaries that they are named as plenipotentiaries to negotiate and conclude a treaty of peace with Japan, to which he agreed.

I now confirm cable informing the Department of the above, true reading of which will be found inclosed.

I have, etc.,

G. v. L. MEYER.

*Ambassador Meyer to the Secretary of State.*

No. 99.]

AMERICAN EMBASSY,  
St. Petersburg, July 1, 1905.

SIR: I beg leave to inclose a letter from the ministry for foreign affairs dated June 30, with translation of the same. This communication was received to-day. I immediately cabled the contents to the Department and am now inclosing translation of the cable.

I have, etc.,

G. v. L. MEYER.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Ambassador Meyer.*

MINISTRY FOR FOREIGN AFFAIRS,  
FIRST DEPARTMENT,  
June 17/30, 1905.

MR. AMBASSADOR: I lost no time in transmitting to his Majesty the Emperor the contents of the communication dated June 14/27, in which your excellency was kind enough to inform me that the Japanese Government intends naming as plenipotentiaries for the negotiation of peace Baron Komura, minister for foreign affairs, and Mr. Takahira, Japanese minister at Washington.

My august master has expressed his satisfaction at the above-mentioned appointment and has nominated as Russian first plenipotentiary Mr. Mouravieff, secretary of state and formerly minister of justice, at present ambassador at Rome, the illness of Mr. Nelidoff, ambassador to Paris, having prevented this high mission from being conferred on him. Baron Rosen, Russian ambassador at Washington, will also take part in the negotiations; and, furthermore, the Imperial Government reserves the right to nominate other delegates for the examination of special questions which may be discussed during the course of the negotiations.

Secretary of State Mouravieff, as well as the special delegates, will not fail to report in Washington during the first days of August (new style).

Please accept, etc.,

LAMSDORFF.

*President Roosevelt to Ambassador Meyer.*

[Telegram.]

THE WHITE HOUSE,  
Washington, July 1, 1905.

On Monday I shall announce the appointment of plenipotentiaries by name, stating that they will be clothed with full powers to negotiate and conclude treaty of peace subject to ratification by home governments. \* \* \*

THEODORE ROOSEVELT.



*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 2, 1905.*

Notified Count Lamsdorff at 2.30 o'clock p. m. that the President would announce on Monday the appointment of plenipotentiaries by name, stating that they would be clothed with full powers to negotiate and conclude treaty of peace subject to ratification by home governments. This action fully approved by him. Count Lamsdorff stated that this evening he would send me the names of the five delegates who would act as specialists on different subjects and would accompany the plenipotentiary Mouravieff. \* \* \*

MEYER.

*Ambassador Meyer to the Secretary of State.*

No. 103.]

AMERICAN EMBASSY,  
*St. Petersburg, July 3, 1905.*

SIR: I beg leave to report that on the evening of July 2 I received a formal communication of the same date \* \* \* from the minister of foreign affairs, informing me that the Emperor, as an evidence of his sincere desire to come to a lasting agreement between Russia and Japan, and in view of the importance of the negotiations to be opened at Washington, had named as special delegates M. Pokotiloff, M. de Martens, M. Shipoff, Major-General Yermoloff, and Captain Roussine (naval).

\* \* \* \* \*

I have, etc.,

G. V. L. MEYER.

*Minister Rockhill to Acting Secretary of State Peirce.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Peking, July 5, 1905.*

(Mr. Rockhill communicates a confidential message from the Emperor of China to the President expressing China's great obligation for the President's action in urging upon China the careful observation of neutrality and for his action in proclaiming to the whole world that the territorial integrity of China must be preserved and that her sovereignty must not be injured. For this the Chinese Empire is deeply grateful. The Chinese Government has now learned that the Japanese and Russian Governments are planning for peace and that the President is to exert his good offices as mediator. The Chinese Government hopes that the President will exert his influence for the protection of the territorial rights of China in Manchuria and all China's interests, preserving her sovereignty complete without loss.)

*The Acting Secretary of State to Minister Rockhill.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, July 6, 1905.*

(Mr. Peirce states that the Government of the United States will do everything possible to preserve the territorial integrity and the sovereignty of China in the coming peace negotiations, but the United States is only endeavoring to bring the two countries together, and will have nothing to do with the actual negotiations themselves.)

*Minister Griscom to the Secretary of State.*

No. 291.]

AMERICAN LEGATION,  
*Tokyo, July 7, 1905.*

SIR: I have the honor to inform you that by the steamer *Minnesota*, by which this dispatch will be carried to America, will sail His Excellency Baron Jutaro Komura, minister for foreign affairs, who goes to Washington as a plenipotentiary to negotiate terms of peace.

Baron Komura will be accompanied by the following suite, whose names are set forth in their order of precedence:

H. W. Denison, legal adviser to the foreign office.

Aimaro Sato, minister resident.

Yenjiro Yamaza, director of the political bureau in the foreign office.

Mineichiro Adachi, first secretary of legation, counselor in the foreign office.

Colonel Tachibana, military attaché to the Japanese legation in Washington.

Kumataro Honda, secretary in the foreign office and private secretary to the minister for foreign affairs.

Kotaro Konishi, attaché of legation.

Baron Komura is too well known to the Department to need any explanation as to his distinguished position and high personal character. The appointment of a man of his rank and importance as a plenipotentiary may be taken to indicate the sincere spirit in which the Japanese Government seems to be entering upon the peace negotiations.

I have the honor to inclose herewith a translated copy of the imperial message received by Baron Komura yesterday at a special audience with his Majesty the Emperor.

I have, etc.,

LLOYD GRISCOM.

[Inclosure.—Translation.]

## IMPERIAL MESSAGE.

The President of the United States, grieved to find that the war between Japan and Russia has not yet been brought to a close after the lapse of more than a year, and impressed with the urgent need, in the interest of peace and humanity, of terminating the conflict, has suggested to the two governments that they should appoint plenipotentiaries and cause them to meet together and negotiate for peace. It was contrary to our expectation that we were compelled to resort to arms in spite of our constant and abiding wish for peace. If, in consequence of the conciliatory spirit of our opponent, the hostilities could be brought to an end, nothing would be more satisfactory than such consummation. Accordingly,

we have at once accepted the suggestion of the President of the United States, and we hereby charge you with the mission of negotiating and concluding peace. You should devote yourselves with all your power to the discharge of your mission and make every effort to secure the reestablishment of peace on a durable basis.

*Minister Rockhill to the Secretary of State.*

No. 25.]

AMERICAN LEGATION,  
*Peking, July 8, 1905.*

SIR: I have the honor to acknowledge the receipt of the telegraphic instruction of the 6th instant.

In this connection I have also the honor to inclose herewith a translation of a dispatch received from the foreign office by which the Chinese Government declares that it will not recognize any arrangement which may be made by Japan and Russia at the forthcoming peace negotiations which may involve China's interests without an agreement to that effect shall have been reached with China.

The motif of this declaration is the apprehension felt that Japan may seek to secure at the peace negotiations the reversion of the various concessions made to Russia or to Russian companies of rights in Manchuria.

\* \* \* \* \*

I have, etc.,

W. W. ROCKHILL.

[Inclosure.—Translation.]

*Prince Ch'ing to Minister Rockhill.*

When recently the unfortunate rupture of friendly relations between Japan and Russia occurred, the Chinese Government was deeply grieved. Now that it is reported that peace negotiations are about to begin and that the old feeling of good will is to be restored the Chinese Government can not but rejoice. But in this present war it is Chinese territory that has been used for the military operations, and if in the articles of peace now about to be negotiated there should be anything involving Chinese interests, it will be impossible to recognize any arrangement whatever, made at this time, concerning which agreement shall not have first been reached with China. My board has already sent a dispatch to this effect to the Japanese and Russian ministers residing in Peking, thus making a plain declaration beforehand. Besides sending separate telegrams to the several Chinese ministers abroad, directing them to inform the various foreign governments, I have the honor, as in duty bound, to send this dispatch to your excellency for your information.

A necessary dispatch.

Kuanghsü, XXXI year, 6th moon, 4th day (July 6, 1905).

[SEAL.]

*The Chinese Minister to Acting Secretary of State Adee.*

No. 63.]

CHINESE LEGATION,  
*Washington, July 10, 1905.*

SIR: Under instructions from the Waiwu Pu, the foreign office at Peking, I have the honor to communicate to you the following declaration of the Imperial Chinese Government:

Having viewed with profound regret the unfortunate interruption of peaceful relations between Japan and Russia, the Imperial Government now learns with sincere gratification that negotiations are about to commence for the restoration of peace and amity. But in the present conflict Chinese territory has been made the theater of military operations. Therefore it is hereby expressly declared that no provision affecting China without the

approval of China previously obtained, which the treaty of peace may contain, will be recognized as valid. The diplomatic representatives of China in Japan and Russia have been instructed by telegraph to communicate this declaration to the Governments of Japan and Russia, respectively.

Accept, etc.,

CHENTUNG LIANG-CHENG.

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*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 11, 1905.*

\* \* \* Russia's plenipotentiary and delegates will sail on *Kaiser Wilhelm* due New York August 9. Mouravieff arrived here Sunday morning for instructions, taken ill yesterday, causing Russian minister for foreign affairs some concern, as plenipotentiary has just come from a cure at Contrexeville.

MEYER.

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*Ambassador Meyer to the Secretary of State.*

[Telegram.]

AMERICAN EMBASSY,  
*St. Petersburg, July 13, 1905.*

Received official communication from Count Lamsdorff this morning that M. Witte has been appointed in the place of Mouravieff on account of the latter's health. M. Witte, furnished with the full requisite powers, sails from Cherbourg Wednesday, July 25. Due New York August 1.

MEYER.

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*The Russian Ambassador to Acting Secretary of State Adee.*

[Translation.]

IMPERIAL EMBASSY OF RUSSIA,  
*Magnolia, Mass., July 20, 1905.*

SIR: I have the honor to advise you that Mr. Witte, secretary of state, president of the committee of ministers, first plenipotentiary of Russia, accompanied by special delegates, whose names follow, will embark at Cherbourg on the 26th of July, on board of the North German Lloyd steamship *Kaiser Wilhelm der Grosse*, due in New York August 1.

List of persons accompanying Mr. S. Witte:

Th. Martens, privy counselor, member of the counsel of the ministry of foreign affairs.

J. Schipoff, privy counselor, chief of the treasury division at the ministry of finance.

Major-General Ermoloff, Colonel Samoiloff, G. Plançon, J. Korostovets, C. Nabokoff, officials of the ministry of foreign affairs.

Commander Roussine.

Mr. Pokotiloff, envoy extraordinary and minister plenipotentiary of Russia at Peking, and Prince Koudacheff, formerly first secretary of the legation of Russia to Japan, have also been designated as special delegates.

Mr. Pokotiloff sailed from Shanghai on the 15th of this month on his way to New York, and Prince Koudacheff is already here.

Begging you kindly to obtain that the customary courtesies be extended to the above-named persons on their arrival in the United States of America, I embrace, etc.,

ROSEN.

*The Chinese Minister to Acting Secretary of State Adee.*

IMPERIAL CHINESE LEGATION,  
Amherst, Mass., September 5, 1905.

MY DEAR MR. SECRETARY: I have just received through the Waiwu Pu, the foreign office at Peking, a telegraphic message addressed by the Emperor of China to the President of the United States, of which the inclosed is an English translation; and I beg that you will kindly transmit the same to its high destination.

I am, etc.,

CHENTUNG LIANG-CHENG.

[Inclosure.—Translation.]

The Emperor of China to the President of the United States of America, greeting:

The joyful tidings respecting the satisfactory issue of the peace negotiations between Japan and Russia having been received by all friendly governments with profound gratification, we congratulate you, Mr. President, upon the success of your efforts to bring the relations of the neighboring powers concerned into harmony and to promote the welfare of mankind. With the cessation of hostilities and the establishment of a good understanding, we earnestly hope that all nations will hereafter enjoy the fruits of peace without interruption, to the end that the three Manchurian provinces of China may be blessed with complete tranquillity and lasting welfare, to the benefit of the whole world.

Her Majesty the Empress Dowager of China, being mindful of the friendly relations that have always subsisted between China and the United States, desires to join us in offering you hearty felicitations for your grand achievement.

*The Acting Secretary of State to Minister Rockhill.*

DEPARTMENT OF STATE,  
Washington, September 9, 1905.

The President desires you to communicate the following personal message to His Majesty the Emperor of China:

I share Your Majesty's feelings of deep satisfaction at the results of the negotiations between Japan and Russia whereby the war between two great nations is brought to an honorable close and the integrity of the Chinese Empire preserved, assuring to the Manchurian provinces the blessings of peace and the benefits of untrammelled intercourse with the world. Such a result is of incalculable benefit to the world in general and to the people of the East in particular. In the name of my countrymen I thank you for your congratulations.

THEODORE ROOSEVELT.

LOOMIS.

*The Japanese Minister to the Secretary of State.*

No. 61.]

LEGATION OF JAPAN,  
Washington, October 14, 1905.

SIR: The treaty of peace, concluded between Japan and Russia at Portsmouth on the 5th of September last, provides for the announce-

ment of the Governments of Japan and Russia, respectively, of the ratification of the treaty by Their Majesties, the Emperor of Japan and the Emperor of Russia, through the medium of the American embassy at St. Petersburg and the French legation at Tokyo. I now have the honor, in pursuance of instructions from my government, to inform you that the said treaty has been duly ratified to-day, the 14th of October, by His Majesty the Emperor, and to request that you will have the goodness once again to exert your good offices by giving telegraphic instructions to the American representative at St. Petersburg to bring the fact of such ratification to the knowledge of the Russian Government.

It is the understanding between the Governments of Japan and Russia that the above announcement be given mutually on the day following the ratification of the treaty by the respective sovereigns, and, consequently, I beg to request that in sending the above instructions to the American embassy you will be so good as to add that the announcement referred to should be handed to the Russian Government to-morrow, the 15th instant. I am also instructed to request that, as soon as the above announcement has been handed to the Russian Government, the United States Government would kindly inform the Imperial Government of that fact.

Be pleased, etc.,

K. TAKAHIRA.

*The Secretary of State to Chargé Eddy.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, October 14, 1905.

In pursuance of the understanding which has been reached between the Russian and Japanese Governments you will deliver to the Russian foreign office to-morrow, Sunday, the 15th instant, the Japanese notification of the ratification of the treaty of peace by His Majesty the Emperor of Japan, and you will promptly advise me by telegraph of your having done so. The following is the text of the communication you are to make, dating it October 15:

“The treaty of peace concluded between Japan and Russia at Portsmouth on the 5th of September last provides for the announcement of the Governments of Japan and Russia, respectively, of the ratification of the treaty by Their Majesties the Emperor of Japan and the Emperor of Russia through the medium of the American embassy at St. Petersburg and the French legation at Tokyo, I now have the honor to advise your excellency, in pursuance of a formal communication made to the Secretary of State by the Japanese minister at Washington and transmitted to me by the Secretary of State that the said treaty was duly ratified on yesterday, the 14th instant, by His Majesty the Emperor of Japan.”

ROOT,

*The Secretary of State to the Japanese Minister.*

No. 224.]

DEPARTMENT OF STATE,  
Washington, October 16, 1905.

SIR: I have the honor to acknowledge the receipt of your note No. 61, of the 14th instant, communicating, in pursuance of instructions from your government, information of the ratification of the treaty of peace between the Governments of Japan and Russia by His Majesty

the Emperor of Japan, and requesting that the representative of this government at St. Petersburg be instructed by telegraph to inform the Russian Government of the fact of such ratification. A telegram was accordingly sent to Mr. Eddy, our chargé d'affaires ad interim at St. Petersburg, Saturday afternoon, the 14th instant, in the following words:

In pursuance of the understanding which has been reached between the Russian and Japanese Governments, you will deliver to the Russian foreign office to-morrow, Sunday, the 15th instant, the Japanese notification of the ratification of the treaty of peace by His Majesty the Emperor of Japan, and you will promptly advise me by telegraph of your having done so. The following is the text of the communication you are to make, dating it October 15th:

"The treaty of peace concluded between Japan and Russia at Portsmouth on the 5th of September last provides for the announcement of the Governments of Japan and Russia, respectively, of the ratification of the treaty by Their Majesties the Emperor of Japan and the Emperor of Russia through the medium of the American embassy at St. Petersburg and the French legation at Tokyo. I now have the honor to advise your excellency, in pursuance of a formal communication made to the Secretary of State by the Japanese minister at Washington and transmitted to me by the Secretary of State, that the said treaty was duly ratified on yesterday, the 14th instant, by His Majesty the Emperor of Japan."

I am happy to inform you that yesterday, at 11.20 o'clock, a telegram was received from Mr. Eddy reporting that in accordance with instructions he presented the formal notice of ratification of the treaty of peace to Count Lamsdorff in person at 2 o'clock yesterday, the 15th instant.

Accept, etc.,

ELIHU ROOT.

*Chargé Eddy to the Secretary of State.*

No. 222.]

AMERICAN EMBASSY,  
St. Petersburg, October 16, 1905.

SIR: I have the honor to inform you that at 11 o'clock on Saturday, the 14th of October, the treaty of peace was signed at Peterhoff by His Majesty the Emperor. \* \* \* On Sunday morning your telegram came to hand, in which you gave the wording of the notification which I was to hand to Count Lamsdorff.

In accordance with an arrangement which I had made some days previously with the minister for foreign affairs, I was received by Count Lamsdorff at 2 o'clock yesterday afternoon, when I formally presented to him the notification expressed in the exact words of your telegram.

Count Lamsdorff expressed his profound satisfaction at the receipt of my note and informed me that it had been arranged for the French minister in Tokyo to deliver the Russian notification at as nearly the same moment as possible. I then telegraphed you as follows:

Accordance with instructions I presented the formal notice of ratification of treaty to Count Lamsdorff in person at 2 o'clock p. m. to-day, Sunday, 15th.

I have the honor to inclose herewith a copy of your telegram received yesterday, as well as a copy of my note to Count Lamsdorff, in accordance with your instructions.

I have, etc.

SPENCER EDDY.

[Inclosure.]

*Chargé Eddy to the Minister for Foreign Affairs.*AMERICAN EMBASSY,  
*St. Petersburg, October 15, 1905.*

EXCELLENCY: The treaty of peace concluded between Russia and Japan at Portsmouth on the 5th of September last, provides for the announcement of the Governments of Russia and Japan of the ratification of the treaty by Their Majesties the Emperor of Russia and the Emperor of Japan, through the medium of the French legation at Tokyo and the American embassy at St. Petersburg.

I now have the honor to advise your excellency in pursuance of a formal communication made to the Secretary of State by the Japanese minister at Washington, and transmitted to me by the Secretary of State, that the treaty was duly ratified on yesterday, the 14th instant, by His Majesty the Emperor of Japan.

I avail, etc.,

SPENCER EDDY.

*The Japanese Minister to the Secretary of State.*

No. 62.]

LEGATION OF JAPAN,  
*Washington, October 16, 1905.*

SIR: Referring to your conversation on Thursday, the 12th instant, I have the honor to inform you that I have received this morning a telegram from His Majesty's minister for foreign affairs, advising that the French minister at Tokyo handed him yesterday, the 15th instant, notification regarding ratification of the treaty of peace by His Majesty the Emperor of Russia.

Accept, etc.,

K. TAKAHIRA.

*The Emperor of Japan to President Roosevelt.*

[Telegram.]

TOKYO, *October 18, 1905.*

The formalities necessary to bring the treaty of Portsmouth into full force and vigor having been accomplished and peace having been definitely reestablished between Japan and Russia, I desire again to express to you my very high appreciation of your distinguished and important services in the cause of peace, and also to thank you most sincerely for the gracious hospitality to my plenipotentiaries, by which they were enabled to perform their important labors under the most favorable auspices.

MUTSUHITO.

*Memorandum from the Russian Ambassador handed to the Secretary of State, October 19, 1905.*

The Russian Ambassador is ordered to express to the President in the name of the Emperor the feelings of sincere satisfaction experienced by His Imperial Majesty at the reestablishment of peace for the good of all peoples and their further prosperity. At this historical hour his august sovereign can not but recollect with sincere pleasure the efforts put forward by the President in order to cooperate in the attainment of that great result. These efforts have been the more highly appreciated as they entirely responded to the sentiments of friendship and regard which animate His Imperial Majesty toward the President personally and toward the American people.



*President Roosevelt to the Emperor of Japan.*

[Telegram.]

THE WHITE HOUSE,  
Washington, October 20, 1905.

I thank Your Majesty for your kind expression of appreciation of the services I was permitted to render in the cause of peace. It is to me very gratifying that the treatment accorded to the Japanese plenipotentiaries in the United States was such as to merit so cordial a recognition on the part of Your Majesty.

THEODORE ROOSEVELT.

*Memorandum to the Russian Ambassador.*

DEPARTMENT OF STATE,  
Washington, October 20, 1905.

The President has been gratified to receive the memorandum of the Russian Ambassador, conveying to the President, by the orders of His Imperial Majesty the Emperor, the expression of His Imperial Majesty's sincere satisfaction at the reestablishment of peace.

The President is cordially pleased to learn that, in his Imperial Majesty's opinion, his efforts have cooperated in the attainment of that great result.

The President desires to assure His Imperial Majesty that in his course of action he has been animated by the sentiment of friendship and regard, which he has ever entertained for His Imperial Majesty personally and for the Russian people.

*Ambassador Meyer to the Secretary of State.*

No. 341.]

AMERICAN EMBASSY,  
St. Petersburg, December 13, 1905.

SIR: In conformity with the Department's cable instructions of October 16 and 23, I have the honor to forward herewith twelve copies of the treaty of peace, concluded between Russia and Japan on the 5th of September, 1905, at Portsmouth.

In this connection I cabled the Department to-day as follows:

Am forwarding to-day to Department twelve copies Portsmouth Treaty.

I have, etc.,

G. V. L. MEYER.

[Inclosure.—Translation.]

*Ratification of the treaty of peace signed at Portsmouth August 23, 1905, between Russia and Japan.*

By the helping grace of God, we, Nicholas II, Emperor and Autocrat of all the Russias etc., hereby declare that, in consequence of a mutual agreement between us and His Majesty, the Emperor of Japan, our plenipotentiaries concluded and signed at Portsmouth, August 23, 1905, a treaty of peace which, word for word, reads as follows:

His Majesty, the Emperor of all the Russias, on the one hand, and His Majesty, the Emperor of Japan, on the other hand, being animated by the desire to restore the benefits

of peace for their countries and their peoples, have decided to conclude a treaty of peace and have appointed for this purpose their plenipotentiaries, to wit:

His Majesty the Emperor of Russia—

His Excellency, Mr. Sergius Witte, his secretary of state and president of the committee of ministers of the Empire of Russia, and

His Excellency, Baron Roman Rosen, master of the Imperial Court of Russia and his ambassador extraordinary and plenipotentiary to the United States of America;

And His Majesty, the Emperor of Japan—

His Excellency, Baron Komura Iutarō, Iusammi, knight of the Imperial Order of the Rising Sun, his minister of foreign affairs, and

His Excellency, Mr. Takahira Kogoro, Iusammi, knight of the Imperial Order of the Sacred Treasure, his envoy extraordinary and minister plenipotentiary to the United States of America;

Who, after having exchanged their full powers, found in good and due form, concluded the following articles:

#### ARTICLE I.

There shall be in the future peace and friendship between Their Majesties the Emperor of all the Russias and the Emperor of Japan, as well as between their respective nations and subjects.

#### ARTICLE II.

The Imperial Government of Russia, recognizing that Japan has predominant political, military, and economic interests in Korea, agrees not to interfere or place obstacles in the way of any measure of direction, protection, and supervision which the Imperial Government of Japan may deem necessary to adopt in Korea.

It is agreed that Russian subjects in Korea shall be treated in exactly the same manner as the citizens of other foreign countries; that is, that they shall be placed on the same footing as the citizens of the most-favored nation.

It is likewise agreed that, in order to avoid any cause of misunderstanding, the two high contracting parties shall refrain from adopting, on the Russo-Korean frontier, any military measures which might menace the security of the Russian or Korean territory.

#### ARTICLE III.

Russia and Japan mutually engage:

1. To completely and simultaneously evacuate Manchuria, with the exception of the territory over which the lease of the peninsula of Liaotung extends, in accordance with the provisions of additional Article I annexed to this treaty, and

2. To entirely and completely restore to the exclusive administration of China all parts of Manchuria now occupied by Russian and Japanese troops, or which are under their control, with the exception of the above-mentioned territory.

The Imperial Government of Russia declares that it has no territorial advantages or preferential or exclusive concessions in Manchuria of such a nature as to impair the sovereignty of China or which are incompatible with the principle of equal opportunity.

#### ARTICLE IV.

Russia and Japan mutually pledge themselves not to place any obstacle in the way of general measures which apply equally to all nations and which China might adopt for the development of commerce and industry in Manchuria.

#### ARTICLE V.

The Imperial Government of Russia cedes to the Imperial Government of Japan, with the consent of the Government of China, the lease of Port Arthur, of Talien, and of the adjacent territories and territorial waters, as well as the rights, privileges, and concessions connected with this lease or forming part thereof, and it likewise cedes to the Imperial Government of Japan all the public works and property within the territory over which the above-mentioned lease extends.

The high contracting parties mutually engage to obtain from the Government of China the consent mentioned in the foregoing clause.

The Imperial Government of Japan gives on its part the assurance that the property rights of Russian subjects within the above-mentioned territory shall be absolutely respected.

#### ARTICLE VI.

The Imperial Government of Russia obligates itself to yield to the Imperial Government of Japan, without compensation and with the consent of the Chinese Government, the

Chan-chun (Kwan-Chien-Tsi) and Port Arthur Railroad and all its branches, with all the rights, privileges, and property thereunto belonging within this region, as well as all the coal mines in said region belonging to this railroad or being operated for its benefit.

The two high contracting parties mutually pledge themselves to obtain from the Chinese Government the consent mentioned in the foregoing clause.

#### ARTICLE VII.

Russia and Japan agree to operate their respective railroads in Manchuria for commercial and industrial purposes exclusively, but by no means for strategic purposes.

It is agreed that this restriction does not apply to the railroads within the territory covered by the lease of the Liao-tung peninsula.

#### ARTICLE VIII.

The Imperial Governments of Russia and Japan, with a view to favoring and facilitating relations and traffic, shall conclude, as soon as possible, a separate convention to govern their operations of repair on the railroads in Manchuria.

#### ARTICLE IX.

The Imperial Government of Russia cedes to the Imperial Government of Japan, in perpetuity and full sovereignty, the southern part of the island of Saghalin, and all the islands adjacent thereto, as well as all the public works and property there situated. The fiftieth parallel of north latitude is adopted as the limit of the ceded territory. The exact boundary line of this territory shall be determined in accordance with the provisions of additional Article II annexed to this treaty.

Japan and Russia mutually agree not to construct within their respective possessions on the island of Saghalin, and the islands adjacent thereto, any fortification or similar military work. They likewise mutually agree not to adopt any military measures which might hinder the free navigation of the Straits of La Perouse and Tartary.

#### ARTICLE X.

The right is reserved to Russian subjects inhabiting the territory ceded to Japan to sell their real property and return to their country; however, if they prefer to remain in the ceded territory, they shall be guarded and protected in the full enjoyment of their property rights and the exercise of their industries provided they submit to the laws and jurisdiction of Japan. Japan shall have perfect liberty to withdraw the right of residence in this territory from all inhabitants laboring under political or administrative incapacity, or to deport them from this territory. It pledges itself, however, to fully respect the property rights of these inhabitants.

#### ARTICLE XI.

Russia obligates itself to reach an understanding with Japan in order to grant to Japanese subjects fishing rights along the coast of the Russian possessions in the Seas of Japan, Okhotsk, and Bering.

It is agreed that the above-mentioned obligation shall not impair the rights already belonging to Russian or foreign subjects in these regions.

#### ARTICLE XII.

The treaty of commerce and navigation between Russia and Japan having been annulled by the war, the Imperial Governments of Russia and Japan agree to adopt as a basis for their commercial relations, until the conclusion of a new treaty of commerce and navigation on the basis of the treaty in force before the present war, the system of reciprocity on the principle of the most favored nation, including import and export tariffs, custom-house formalities, transit and tonnage dues, and the admission and treatment of the agents, subjects, and vessels of one country in the territory of the other.

#### ARTICLE XIII.

As soon as possible after the present treaty takes effect, all prisoners of war shall be mutually returned. The Imperial Governments of Russia and Japan shall each appoint a special commissioner to take charge of the prisoners. All prisoners in the custody of one of the governments shall be delivered to the commissioner of the other government or to his duly authorized representative, who shall receive them in such number and in such suitable ports of the surrendering nation as the latter shall notify in advance to the commissioner of the receiving nation.

The Governments of Russia and Japan shall present to each other, as soon as possible after the delivery of the prisoners has been completed, a verified account of the direct expenditures made by them respectively for the care and maintenance of the prisoners from the date of capture or surrender until the date of their death or return. Russia agrees to refund to Japan, as soon as possible after the exchange of these accounts, as above stipulated, the difference between the actual amount thus spent by Japan and the actual amount likewise expended by Russia.

## ARTICLE XIV.

The present treaty shall be ratified by Their Majesties the Emperor of all the Russias and the Emperor of Japan. This ratification shall, within the shortest possible time and at all events not later than fifty days from the date of the signature of the treaty, be notified to the Imperial Governments of Russia and Japan, respectively, through the ambassador of the United States of America at St. Petersburg and the minister of France at Tokyo, and from and after the date of the last of these notifications this treaty shall enter into full force in all its parts.

The formal exchange of the ratifications shall take place at Washington as soon as possible.

## ARTICLE XV.

The present treaty shall be signed in duplicate, in the French and English languages. The two texts are absolutely alike; however, in case of difference of interpretation the French text shall prevail.

In witness whereof the respective plenipotentiaries have signed the present treaty of peace and affixed thereto their seals.

Done at Portsmouth, New Hampshire, the twenty-third day of August (fifth of September) of the year one thousand nine hundred and five, corresponding to the fifth day of the ninth month of the thirty-eighth year of Meiji.

IUTARO KOMURA.	[L. S.]
K. TAKAHIRA.	[L. S.]
SERGIUS WITTE.	[L. S.]
ROSEN.	[L. S.]

In conformity with the provisions of Articles II and IX of the treaty of peace between Russia and Japan under this date, the undersigned plenipotentiaries have concluded the following additional articles:

## I. To Article III:

The Imperial Governments of Russia and Japan mutually agree to begin the withdrawal of their military forces from the territory of Manchuria simultaneously and immediately after the entrance into force of the treaty of peace; and within a period of eighteen months from this date the armies of the two powers shall be entirely withdrawn from Manchuria, with the exception of the leased territory of the peninsula of Liao-tung.

The forces of the two powers occupying advanced positions shall be withdrawn first.

The high contracting parties reserve the right to maintain guards for the protection of their respective railroad lines in Manchuria.

The number of these guards shall not exceed 15 men per kilometer, and within the limit of this maximum number the commanders of the Russian and Japanese armies shall, by mutual agreement, fix the number of guards who are to be employed, this number being as low as possible and in accordance with actual requirements. The commanders of the Russian and Japanese forces in Manchuria shall reach an understanding regarding all the details connected with the evacuation, in conformity with the principles herein above set forth, and shall, by mutual agreement, adopt the measures necessary to carry out the evacuation as soon as possible and at all events within a period not exceeding eighteen months.

## II. To Article IX:

As soon as possible after the present treaty takes effect, a boundary commission composed of an equal number of members appointed respectively by the two high contracting parties shall mark on the spot and in a permanent manner the exact line between the Russian and Japanese possessions on the island of Saghalin. The commission shall be obliged, as far as topographical conditions permit, to follow the 50th parallel of north latitude for the line of demarcation, and in case any deviations from this line are found necessary at certain points compensation shall be made therefor by making corresponding deviations at other points. It shall also be the duty of said commission to prepare a list and description of the adjacent islands which are comprised within the cession, and finally the commission shall prepare and sign maps showing the boundaries of the ceded territory. The labors of the commission shall be submitted to the approval of the high contracting parties.

The additional articles mentioned hereinabove shall be considered as being ratified by the ratification of the treaty of peace, to which they are annexed.

Portsmouth, August 23 (September 5), 1905, corresponding to the 5th day, 9th month, and 28th year of Meiji.

IUTARO KOMURA.  
K. TAKAHIRA.  
SERGIUS WITTE.  
ROSEN.

Therefore, after mature consideration of this treaty and the two additional articles, we approved, confirmed, and ratified them, and do hereby approve, confirm, and ratify them in their full purport, pledging our imperial word for ourselves, our successors, and our heirs, that everything set forth in the above-mentioned acts shall be inviolably observed. In witness whereof we, having signed this, our imperial ratification, with our own hand, have ordered affixed thereto our imperial seal.

Given at Peterhoff, the first day of October, in the year of our Lord one thousand nine hundred and five and of our reign the eleventh.

On the original is written in His Imperial Majesty's own hand:

L. s.

"NICHOLAS."

countersigned:

COUNT LAMSDORFF,

*Secretary of State, Minister of Foreign Affairs.*

### PROPOSAL FOR A SECOND INTERNATIONAL PEACE CONFERENCE AT THE HAGUE.

*Memorandum from the Russian Embassy handed to the President, September 13, 1905.*

In view of the termination, with the cordial cooperation of the President of the United States, of the war and of the conclusion of peace between Russia and Japan, His Majesty the Emperor, as initiator of the International Peace Conference of 1899, holds that a favorable moment has now come for the further development and for the systematizing of the labors of that international conference. With this end in view and being assured in advance of the sympathy of President Roosevelt, who has already last year pronounced himself in favor of such a project,<sup>a</sup> His Majesty desires to approach him with a proposal to the effect that the Government of the United States take part in a new international conference which could be called together at The Hague as soon as favorable replies could be secured from all the other states to whom a similar proposal will be made. As the course of the late war has given rise to a number of questions which are of the greatest importance and closely related to the acts of the first conference, the plenipotentiaries of Russia at the future meeting will lay before the conference a detailed programme which could serve as a starting point for its deliberations.

*The Russian Ambassador to the Secretary of State.*

Personal.]

RUSSIAN IMPERIAL EMBASSY,

*Washington, October 5, 1905.*

MY DEAR MR. SECRETARY: The inclosed is the text of the communication I have just been instructed to hand to the representatives of those South American governments with whom we have no diplomatic relations.

<sup>a</sup>See Foreign Relations, 1904, p. 10.

The text of the Emperor's message to the President I had the honor to deliver to him personally and left it in his hands.

You will see from the inclosed paper that it is merely a preliminary inquiry such as has been sent to all other governments. Count Lamsdorff in his dispatch forwarding to me the original says in a post scriptum that formal invitations to the Second Peace Conference will be issued subsequently when the consent of all governments to the proposal shall have been received and when it will be possible to fix a date for the meeting of the conference.

The reason I mentioned the matter to-day was that when I transmitted by cable the President's most graceful and gratifying reply to His Majesty's message, I added, in conformity with what the President told me, that a formal reply would be made after you had entered upon the discharge of your duties as Secretary of State early in October.

Yours, sincerely,

ROSEN.

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[Inclosure.]

In view of the termination of the war and the conclusion of peace between Russia and Japan, His Majesty the Emperor, as initiator of the International Peace Conference of 1899, considers that the time has come for a further development of the labors of that international conference.

With this end in view, His Imperial Majesty, having ascertained that President Roosevelt is in sympathy with his undertaking, addresses to the Government of ——— a proposal to take part in a new International Peace Conference which could be called together at The Hague as soon as favorable replies could be received from other governments to whom similar proposals are communicated.

As the late war has given rise to several extremely important questions closely related to the acts of the first conference, the plenipotentiaries of Russia at the next conference will submit a detailed programme which could serve as a starting point for the labors of the conference.

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*The Secretary of State to the Russian Ambassador.*

DEPARTMENT OF STATE,  
Washington, October 12, 1905.

DEAR MR. AMBASSADOR: Responding to the wish expressed in your personal note of the 5th instant, I have the pleasure to send you herewith a memorandum communicating the reply of the President to the message of His Imperial Majesty the Tsar, which you delivered to the President on the 13th ultimo, relative to the convocation of a Second International Peace Conference at The Hague.

I have taken note of the preliminary inquiry addressed to all the other governments looking to their acquiescence in the calling of such a conference by the formal invitation of His Majesty.

I am, etc.,

ELIHU ROOT.

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[Inclosure.]

MEMORANDUM.

DEPARTMENT OF STATE,  
Washington, October 12, 1905.

On the 13th of last month, at Sagamore Hill, his excellency the ambassador of Russia presented to the President a memorandum, being a message from His Majesty the Tsar to

the President, to the effect that in view of the termination, with the cordial cooperation of the President, of the war, and of the conclusion of peace between Russia and Japan, His Imperial Majesty, as initiator of the International Peace Conference of 1899, deems the present a favorable moment for further developing and systematizing the labors of that conference, and that to this end, upon being assured in advance of the sympathy of the President, who last year pronounced himself in favor of such a project, His Majesty desires to approach the President with a proposal to the effect that the Government of the United States take part in a new international conference, which could be called together at The Hague as soon as favorable replies may be obtained from all the other states to which a similar proposal is to be made.

The Secretary of State, by direction of the President, has the honor to confirm to his excellency the ambassador of Russia the assurances which the President had the sincere pleasure to give to his excellency at the time of the presentation of the memorandum of September 13. The President's circulars to the powers, pertaining to the acts of The Hague Conference, which the late Secretary of State communicated to the several signatory states through the American envoys accredited thereto, dated, respectively, October 21 and December 16 of last year, have demonstrated the President's keen desire that upon a favorable occasion the labors of the First International Peace Conference might be supplemented and completed by an accord to be reached by a second conference of the powers. The suggestion so put forth having been accepted in principle by the signatories, it only remained for the opportune moment to come for the powers to agree upon the place and time for their renewed assemblage in order to perfect the beneficial agreements of the first conference.

The President most gladly welcomes the offer of His Imperial Majesty to again take upon himself the initiation of the steps requisite to convene a Second International Peace Conference, as the necessary sequence to the first conference, brought about through His Majesty's efforts, and in view of the cordial responses to the President's suggestion of October, 1904, he doubts not that the project will meet with complete acceptance and that the result will be to bring the nations of the earth still more closely together in their common endeavor to advance the ends of peace.

As respects the further statement of his excellency's memorandum of September 13, that, as the late war has given rise to a number of questions which are of the greatest importance and closely related to the acts of the first conference, the plenipotentiaries of Russia, at the future meeting, will lay before the conference a detailed programme which could serve as a starting point for its deliberations, the President finds it in consonance with the indications of his circular of October 21, 1904, touching the questions to come before a second conference for discussion, and the importance of completing the work of the first conference by ample exchange of views and, it is to be hoped, full concord upon the broad questions specifically relegated by the final act of The Hague to the consideration of a future conference.

[Continued in Foreign Relations, 1906.]

### PROTECTION OF JAPANESE INTERESTS IN RUSSIA.

NOTE.—For previous correspondence see Foreign Relations, 1904, page 714.

*The Secretary of State to Ambassador Meyer.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, October 20, 1905.

At request of Japanese Government you will, upon consent being given by Russia, continue your friendly offices in behalf of Japanese Government and subjects pending the reestablishment of the Japanese legation, and will instruct our consuls to same effect by telegraph.

ROOT.

## TREATMENT OF JEWS IN RUSSIA.

*The Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 22, 1905.

(Mr. Root informs Mr. Meyer that many influential Hebrews in this country are endeavoring to raise relief funds, being greatly distressed over the reports of Jewish loss of life and suffering in the recent outbreaks. Requests him to furnish as accurate report of these occurrences as possible, giving the number of killed, wounded, sick, and destitute, and the losses sustained.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, November 25, 1905.

(Mr. Eddy reports that about 100 Jews were killed and wounded in Warsaw; that great destitution prevails among the poorer classes, but that Jews have suffered no more than Christians. Bread and provisions to the value of 10,000 rubles are being distributed daily. As far as known no Jews have been killed in the district of Batum. Seven Jews were killed and 25 wounded in the Riga district, and little or no destitution prevails there. Suffering and destitution at Odessa are great; 560 Jews were killed and 2,000 are in the hospitals.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, November 26, 1905.

(Mr. Eddy reports that 15 Jews were killed and 30 wounded at Rostoff, that about 11,000 were ruined financially, the loss to Jews there amounting to about 7,000,000 rubles. In the neighboring towns the losses of the Jews were severe, chiefly in Marinopol, Ghenitchesk, Lugansk, Bahmut, and Ekaterinoslav.)

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*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
St. Petersburg, November 29, 1905.

(Mr. Eddy reports that no further accurate information in regard to destitution of the Jews and the losses sustained by them can be obtained. No Jews were injured at St. Petersburg and Moscow.)



**EXCLUSION OF JAPANESE FROM VLADIVOSTOK.***The Secretary of State to Ambassador Meyer.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, November 11, 1905.*

(Mr. Root informs Mr. Meyer that representations have been made by the Japanese Government that while other foreigners are allowed to land at Vladivostok Japanese are refused on the ground that Russians are denied access to Port Arthur. The Japanese Government explains that no discrimination exists against Russians at Port Arthur, as the restriction extends to all, Japanese and foreigners alike, unless special permission be granted in advance. For these reasons Japan requests the good offices of the commercial agent at Vladivostok to have the discrimination against the Japanese removed. Instructs him to give the substance of this telegram to the foreign office and to inform the commercial agent at Vladivostok.)

*Chargé Eddy to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,  
*St. Petersburg, November 12, 1905.*

(Mr. Eddy reports that the commercial agent at Vladivostok has informed him that the restriction against the Japanese at that place has been removed.)

**JAPANESE PROTECTORATE OVER KOREA.***The Secretary of State to the Russian Ambassador.*DEPARTMENT OF STATE,  
*Washington, December 29, 1905.*

DEAR MR. AMBASSADOR: I answer your inquiry, in our conversation of yesterday, respecting the view of this government with regard to the treaty relations with Korea following the taking over of the conduct of her foreign affairs by Japan, by saying that, in view of the convention signed November 17 last between Japan and Korea by which Japan becomes the medium for conducting the foreign relations of Korea, and upon receiving assurance that the treaty relations between the United States and Korea remain in full force, the American legation at Seoul has been withdrawn. Notice has been given here by the representatives of Japan and of Korea that the Korean legation in this capital has been withdrawn in like manner. It is the understanding of this government that in all diplomatic matters affecting the persons, rights, and property of American citizens in Korea, under our treaty with that country, our recourse to Korea as a treaty-contracting party remains intact, but that in the discussion and adjustment of such matters the Japanese Government acts as the medium of communication.

I am, etc.,

ELIHU ROOT.

## SIAM.

### TREATY BETWEEN FRANCE AND SIAM FOR THE DELIMITATION OF THE BOUNDARY BETWEEN FRENCH AND SIAMESE TERRITORY AND FOR THE ESTABLISHMENT OF A SYSTEM OF JURISDICTIONS.

*Minister King to the Secretary of State.*

No. 225.]

AMERICAN LEGATION,  
*Bangkok, Siam, March 30, 1905.*

SIR: I have the honor to inclose a copy of the convention between Siam and France concluded February 13, 1904, together with a copy of the protocol bearing the date of June 29, 1904. The consummation of this treaty, which is the outgrowth of previous negotiations concerning a convention between Siam and France, abandoned in 1902, is largely due to the efforts of Mr. Edward H. Strobel, the general adviser of His Siamese Majesty's Government, an American citizen, both while he was in Paris previous to his coming to Siam and during his residence in Bangkok since March 19, 1904.

The conditions of this convention have now been largely fulfilled, and on the return to Bangkok of the commission appointed to delimitate the boundaries between the Great Lake and the sea—Battambang and Krat on the south—I have deemed it an opportune time to report on the same.

Taking up the treaty by its several points of importance: First. It provides for a redelimitation of the entire frontier between the Siamese and French territory, as set forth in Articles II and III. This gives to France the new territory of Luang Prabang, on the right bank of the Mekong River, abolishes the 25 kilometer neutral zone which was established along the right bank of the Mekong in the 1893 treaty, and further gives to France the new territory of Bassac and Meloupey, on the right bank of the Mekong and to the east of the Great Lake, and Krat on the south. The part of the delimitation of the frontier as outlined in Articles I and II of the treaty has not yet been accomplished, but as it is already as definitely defined as a crudely surveyed area well can be it is expected that no serious questions will arise therefrom.

As soon as Mr. Strobel arrived in Siam, March 19, 1904, he set about consummating an understanding to fix the principal points of the delimitation in the region between the Great Lake and the sea, which in the form of a protocol also fixed the point, that ten days after the territories ceded by the Siamese were placed at the disposal of the French the French troops should evacuate Chantaboon (Art. V). This protocol was dated June 29, 1904. On December 30, 1904, the Siamese flag was lowered at Krat and the French flag raised, and the French were notified that all the above-named territories were at their disposal. On January 9, 1905, the last French soldier left Chantaboon, the French flag came down and the Siamese flag was raised, twenty-four hours before the stipulated time had expired.

The delimitation boundary commission having completed their work between the Great Lake and the sea the Siamese portion of the commission have reported at Bangkok with their data. Later the entire commission will meet in this city, where the several questions arising will be settled. \* \* \*

The lists of protégés mentioned in Article X have been compared and all questions arising from this article have already been settled. Heretofore decedents of all French protégés have claimed French protection without a well-defined limit as to time or generation. This arrangement is a decided advantage to the Siamese Government, for from the undefined condition of her French protégé question was as constantly springing a brood of pin pricks and annoyances as the various occasions might demand. \* \* \*

Following the lines of the British treaty as regards jurisdiction in the far northern provinces by recognizing to a large degree the so-called international court of Siam, \* \* \* France further agrees to recognize the Bangkok Siamese court of appeal in all cases of appeal from the northern courts, thus giving all the French cases arising in these northern provinces entirely into the hands of the Siamese for final decision, while it is worthy of note that the power of final decision in British cases coming from these provinces is vested in the British consular court. In the attempt to relieve this feature of the treaty and to allay the opposition raised by the French upon the ground an agreement was made whereby it was provided that a French legal adviser should be appointed by the Siamese Government, which adviser should sit as one of the judges in the Bangkok Siamese court of appeal when French interests were involved. This point concerning jurisdiction in itself is a large advance for Siam and is sure to have a large influence on the further treaties now in contemplation.

The French advantages arising from this treaty may be summed up as follows:

1. Siamese territory ceded to France: Luang Prabang, Bassac, Meloupey, and Krat.
2. French influence in questions of public improvements in the territory of Korat.
3. A French legal adviser to sit in the Bangkok Siamese court of appeals.

The Siamese advantages arising from this treaty may be summed up as follows:

1. Chantaboon returned to Siam.
2. The neutral 25 kilometer zone abolished.
3. Siam's French protégé question favorably settled.
4. Reduction in the jurisdiction accorded the French courts in Siam.
5. A truce in which Siam has her first opportunity to evidence her ability to govern herself.

\* \* \* \* \*

\* \* \* Notwithstanding the hindrances that have been placed in her way growing out of her extraterritorial relations with the world \* \* \* Siam has made marked advancement during the last ten years. The spirit of progress is in the air. The general adviser to His Majesty is proving a splendid force in directing governmental affairs. One of the results already to be seen is the confidence shown in Siam's credit abroad, her loan of £1,000,000, divided

between England and France, having been subscribed eight times over in forty-five minutes at the figures of 95½ at 4½ per cent. European governments are showing a willingness to revise their antiquated treaties with the country. Denmark has just negotiated a new treaty. Italy is expected to sign a new treaty this week, and others are under consideration.

Mr. Riffault, the recently arrived envoy extraordinary and minister plenipotentiary for France, is in harmony with his government's friendly attitude toward Siam. These friendly relations are daily improving. \* \* \*

A truce at such a time as this, if it be for a few years only, in which time Siam may have the opportunity to show the stuff of which she is made, must prove of large value to the country.

This is the first real opportunity ever given to Siam to go forward, and coming at just such a time I consider this treaty, if favorably completed, as the open door of opportunity for large things in Siam, and on her ability to take advantage of the opportunity will depend largely the character of her government in the future.

This treaty was ratified December 9, 1904.

I have, etc.,

HAMILTON KING.

[Inclosure 1.—Translation.]

*Convention between Siam and France, concluded February 13, 1904.*

His Majesty the King of Siam and the President of the French Republic, desirous of strengthening the relations of friendship and mutual confidence which exist between their respective countries, and of arranging certain difficulties which have arisen regarding the interpretation of the treaty and of the convention of October 3, 1893, have decided to conclude a new convention. For this purpose they have appointed as their plenipotentiaries:

His Majesty the King of Siam, Phya Suriya Nuvatr, his envoy extraordinary and minister plenipotentiary, accredited to the President of the French Republic, grand cross of the most honorable Order of the Crown of Siam, grand officer of the Legion of Honor, etc.; and the President of the French Republic, Mr. Théophile Delcassé, deputy minister for foreign affairs, etc.,

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed on the following provisions:

ARTICLE I.

The frontier between Siam and Cambodia starts on the left bank of the Great Lake, from the mouth of the river Stung Roluou and follows the parallel from this point in an easterly direction till it meets the river Prec Campong Thiam; then, running northward, it unites with the meridian of the point of the above-mentioned meeting as far as the mountain range of Pnom Dang Rak; thence it follows the ridge of the watershed between the basins of the Nam Sen and of the Mekong on the one side and of the Nam Moun on the other side and joins the Pnom Padang range, the crest of which it follows toward the east as far as the Mekong. Upward from this point the Mekong remains the frontier of the Kingdom of Siam, in conformity with Article I of the treaty of October 3, 1893.

ARTICLE II.

With regard to the frontier between Luang Prabang, on the right bank, and the provinces of Muang Pichai and Muang Nan, it starts from the Mekong at its confluence with the Nam Huong, and following the thalweg of that river as far as its confluence with the Nam Tang; then ascending the course of the said Nam Tang, it reaches the ridge of the watershed between the basins of the Mekong and of the Menam at a point situated near Pou Dène Dine. From that point the frontier runs northward, following the watershed between the two basins as far as the sources of the river Nam Kop, the course of which it follows till it meets the Mekong.

## ARTICLE III.

The delimitation of the frontier between the territories forming French Indo-China and the Kingdom of Siam shall be carried out. This delimitation shall be effected by mixed commissions composed of officers appointed by the two contracting countries. The work will have as its object the frontier determined by Articles I and II, as well as the region comprised between the Great Lake and the sea.

With a view to facilitate the labors of the commissions and with a view to avoid every possible difficulty in the delimitation of the region comprised between the Great Lake and the sea, the two governments will come to an understanding before the appointment of the mixed commissions to fix the principal points of the delimitation in this region, especially the point at which the frontier will reach the sea. The mixed commissions shall be appointed and shall commence their work within four months after the ratification of the present convention.

## ARTICLE IV.

The Siamese Government renounce all prerogatives of suzerainty over the territories of Luang Prabang situated on the right bank of the Mekong. Trading vessels and rafts of wood, belonging to Siamese, shall have the right to navigate freely that portion of the Mekong traversing the territory of Luang Prabang.

## ARTICLE V.

As soon as the understanding provided for in paragraph 2 of Article III, relative to the delimitation of the frontier between the Great Lake and the sea shall have been established, and as soon as it has been officially notified to the French authorities that the territories resulting from this understanding and the territories situated to the east of the frontier, as indicated in Articles I and II of the present treaty, are at their disposal, the French troops which occupy provisionally Chantabon in virtue of the convention of the 3d of October, 1893, shall leave that town.

## ARTICLE VI.

The provisions of Article IV of the treaty of October 3, 1893, shall be replaced by the following:

His Majesty the King of Siam undertakes that the troops which he will send or maintain in the whole of the Siamese basin of the Mekong will always be troops of Siamese nationality commanded by officers of this nationality. There is only one exception to this rule in favor of the Siamese gendarmerie, at present commanded by Danish officers. In case the Siamese Government should wish to replace these officers by foreign officers belonging to another nationality, they should previously come to an understanding with the French Government.

With regard to the provinces of Siem Reap, Battambang, and Sisophon, the Siamese Government undertake to maintain there only contingents of police necessary for the maintenance of order. These contingents shall be recruited exclusively on the spot from among the natives.

## ARTICLE VII.

In the future, in the Siamese part of the basin of the Mekong, if the Royal Government desire to undertake the execution of ports, canals, railways (particularly railways destined to connect the capital with any point whatever in this basin), they will come to an understanding with the French Government if such works could not be executed exclusively by a Siamese personnel and with Siamese capital. This would naturally also apply to the working of the said enterprises.

With regard to the use of ports, canals, railways in the Siamese part of the basin of the Mekong, as well as in the remainder of the Kingdom, it is understood that no differential dues shall be established contrary to the principle of commercial equality stipulated in the treaties signed by Siam.

## ARTICLE VIII.

In the execution of Article VI of the treaty of October 3, 1893, plots of land of a superficial area to be determined shall be conceded by the Siamese Government to the Government of the Republic at the following points situated on the right bank of the Mekong:

Chieng Khan, Nong Khay, Muang Saniabouri, mouth of the Nam Khan (right or left bank) Bang Mouk Dahan, Kemmarat and mouth of the Nam Moun (right or left bank).

The two governments will come to an understanding in order to clear the course of the Nam Moun between its confluence with Mekong and Pimoun of the obstacles which hinder navigation. In case of these works being found impossible to execute or too costly, the two governments will concert together for the establishment of communication by land between Pimoun and the Mekong.

They will also come to an understanding for the establishment between Bassac and the frontier of Luang Prabang, as it results from Article II of the present treaty, of railroads which might be recongized as necessary to make up for the defects of the navigability of the Mekong.

## ARTICLE IX.

From the present it is agreed that the two governments will facilitate the establishment of a railway connecting Pnom Penh with Battambang. The construction and the working shall be undertaken either by the two governments themselves, each undertaking the portion which is on its territory, or by a Franco-Siamese company agreed upon by the two governments.

The two governments are agreed on the necessity of carrying out the work for the improvement of the course of the river of Battambang between the Great Lake and that town. For this purpose the French Government are ready to place at the disposal of the Siamese Government the technical agents they may need for the execution as well as for the maintenance of the said works.

## ARTICLE X.

The Government of His Siamese Majesty accept the lists of French protégés such as they exist at present, with the exception of persons whose inscription may be recognized by both parties as having been unduly obtained. A copy of these lists shall be communicated to the Siamese authorities by the French authorities.

The descendants of the protégés thus maintained under French jurisdiction shall have no right to claim their inscription if they do not fall under the category of persons described in the following article of the present convention.

## ARTICLE XI.

Persons of Asiatic origin born on a territory subject to the direct domination or placed under the protectorate of France, except those who have established their residence in Siam before the time when the territory of their origin was placed under such domination or under such protectorate shall have the right to French protection.

French protection will be granted to the children of those persons, but will not be extended to their grandchildren.

## ARTICLE XII.

With regard to the jurisdiction to which in the future, without any exception, all French subjects and French protégés in Siam will be subjected, the two governments agree to substitute for the existing provisions the following provisions:

1°. In criminal matters French subjects and French protégés shall be amenable only to French judicial authority.

2°. In civil matters all cases brought by a Siamese against a French subject or a French protégé shall be heard before the French consular court.

All cases in which the defendant is a Siamese shall be heard before the Siamese court of foreign causes instituted at Bangkok.

As an exception in the provinces of Chieng Mai, Lakhon, Lampoon, and Nan all civil and criminal cases involving French ressortissants shall be heard before the Siamese international court.

It is, however, understood that in all these cases the French consul shall have the right to be present at the trial or to be represented there by a duly authorized delegate, and to make any observations which he may deem proper in the interest of justice.

In case of the defendant being a French subject or a French protégé, the French consul may at any moment in the course of the proceedings, if he thinks it opportune, and by means of a written requisition, evoke the case before him.

This case shall then be transferred to the French consular court, which from this moment shall alone be competent and to which the Siamese authorities shall be bound to give their assistance.

The appeals against judgments delivered by the court of foreign causes, as well as by the international court established for the above-mentioned four provinces, shall be brought before the court of appeal of Bangkok.

## ARTICLE XIII.

With regard to the admission in the future to French protection of Asiatics who are not born on a territory subject to the direct authority or to the protectorate of France, or who are not legally naturalized, the Government of the Republic shall enjoy rights equal to those which Siam may grant to any other power.

## ARTICLE XIV.

The provisions of the former treaties, agreements, and conventions between Siam and France, not modified by the present convention, remain in full force.

## ARTICLE XV.

In case of difficulties arising from the interpretation of the present convention, which is drawn up in French and Siamese, the French text shall govern.

## ARTICLE XVI.

The present convention shall be ratified within a period of four months beginning from the day of signature, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the present convention and have affixed their seals.

Done at Paris in duplicate February 13, 1904.

[L. s.]

[L. s.]

PHYA SURIYA.

DELCASSÉ.

[Inclosure 2.—Translation.]

## PROTOCOL.

In the execution of Article III, paragraph 2, of the convention of February 13, 1904, and desiring to complete and rectify Articles I and II of the said convention, the Government of His Majesty the King of Siam and the Government of the French Republic have agreed as follows:

1. **KRAT.**—The frontier from the Great Lake shall continue the section of the delimitation marked in 1867 by following the river Prec Kampong Prac to its source. From this point the frontier shall follow in a western direction the line of watershed between the basin of the tributary rivers flowing toward the northern part of the Great Lake and the basin of the Strung Krevanh or Pursat River up to the mountain which is the source of this last river. The frontier shall then run toward the direction of the source of the river Barain, or Huay-Reng, the course of which it will follow until its junction with the Tungyai River, which flows into the estuary of Kratt. It shall then follow the said river to its junction with the Klong Dja River. This junction is about halfway between the junction of the Barain River with the Tungjai River and the mouth of this last river. The frontier shall then follow the Klong Dja to its source, which is supposed to be situated on the mountain called Kao Mai See. From this point it shall follow the range of mountains to the mountain called Kao Kanun, and from this point the range of mountains until it reaches the sea at the extremity of Cape Lem-Ling.

This frontier establishes a natural boundary, according to which the port of Kratt and the territories situated to the south are attributed to French Indo-China.

In consequence the islands situated near the coast from the said Cape Lem-Ling (such as Koh-Chang and the following), as well as the territories to the south of the frontier thus determined, will belong to French Indo-China. It must besides be well understood that the above-mentioned delimitation shall leave to French Indo-China the territories which might be actually occupied by her on the north of the said line.

Ten days after the French authorities have been officially notified that the territories above mentioned, as well as all those to which refer the Franco-Siamese convention of February 13, 1904, and the present agreement are at their disposal, the French troops will leave Chantaboon in execution of Article V of the said convention.

2. **LUANG PRABANG.**—With regard to the frontier of Luang Prabang, described in Article II of the convention of February 13, 1904, the two contracting powers have agreed by common consent upon the following modifications:

A. *Southern frontier.*—The frontier shall leave the junction of the Mekong and of the Nam-Huang, and instead of following the Nam-Tang shall follow the thalweg of the Nam-Huang, called in its upper part Nam-Man, until it reaches the line of watershed between the basins of the Mekong and of the Me-Nam at the point where the source of the Nam-Man is situated.

From this point and following that line it shall ascend toward the north, in conformity with the convention of February 13, 1904.

B. *Northern frontier.*—Instead of following the course of the Nam-Kop the frontier shall wing round the sources of that river in order to follow the first of mountains on the left bank of the Nam-Kop.

In witness whereof the undersigned, Phya Suriya, envoy extraordinary and minister plenipotentiary of His Majesty the King of Siam accredited to the President of the French Republic, and M Delecaissé, deputy, minister for foreign affairs of the French Republic, duly authorized to this effect, have drawn up the present protocol, to which they affix their seals.

Done in Paris in duplicate the 29th of June, 1904.

PHYA SURIYA.  
DELECAISSÉ.

**TREATY BETWEEN DENMARK AND SIAM FOR THE ESTABLISHMENT OF A SYSTEM OF JURISDICTIONS.**

*Minister King to the Secretary of State.*

No. 226.]

AMERICAN LEGATION,  
*Bangkok, Siam, March 30, 1905.*

SIR: I have the honor to inclose a copy of the treaty signed March 24, 1905, between Siam and Denmark. The explanatory statement prefixed comes from Mr. Strobel, and as such can be relied upon as the views of the Siamese Government.

I would call attention especially to Article VI on jurisdiction. This treaty acknowledges the Bangkok Siamese court of appeals, as does the French treaty. An endeavor was made to secure a Danish legal adviser to sit in this court when Danish interests were involved, but did not succeed. As indicating the tendency of the treaty powers toward Siam just now this treaty is of interest, following, as it does, so soon after the ratification of the Franco-Siamese treaty of December 9, 1904, \* \* \*

The general adviser for the Siamese Government informs me that the attitude of Denmark throughout these negotiations has been most cordial. And I can discover in the several concessions made on the part of Denmark evidence of nothing but a desire to assist the Siamese Government and to take as advanced a position in this direction as any of the treaty-making powers. \* \* \*

In this connection it is to be observed that the signatory for Denmark, Mr. A. E. Olarovsky, is the Russian minister resident at this court.

I have, etc.,

HAMILTON KING.

[Inclosure.]

*New treaty between Siam and Denmark.—System of jurisdictions.*

With the exception of the treaties with England and France, no plan of jurisdiction is provided by the present treaties. Most of those treaties contain merely an article to the effect that where a question is at issue between a Siamese and a foreigner the consul of the foreigner and a Siamese functionary should come together and try to settle the matter amicably. Such a provision is of course entirely impracticable under present conditions and is virtually a dead letter. It therefore becomes necessary to establish a definite system of jurisdiction with all the treaty powers, and the treaty with Denmark which was signed yesterday is the first of a series which will be negotiated by the Siamese Government for this purpose.

Article I of the treaty restricts the right of protection to those persons to whom the Danish law gives Danish nationality.

Articles II to V, providing for a joint inquiry, follow closely the English treaty of 1899. The last paragraph of Article III, however, providing for the submission of this question to a third person where there is a difference between the consular officer and the Siamese representative, is new.



Articles V to —, regarding jurisdiction, follow closely the recent French treaty. Where the defendant is a Dane, the case is brought before the Danish consul; where a Siamese, before the Siamese court of foreign causes. In the North the number of provinces in which the international court is to have jurisdiction includes the provinces mentioned both in the English treaty and the late French treaty, with the addition of Pray, which is not included in either the English or the French treaty. The articles in the Danish treaty are also fuller and clearer and provide that the international court shall have jurisdiction not only over questions between Danes and Siamese, but also in cases where a Dane is a defendant and the plaintiff a foreigner.

It will also be noticed that in the Danish treaty, as in the French treaty, appeals from the North are to the Siamese court of appeals of Bangkok.

#### TEXT OF TREATY.

The following is the full text of the new treaty:

His Majesty Somdetch Phra Paramindr Maha Chulalongkorn, King of Siam and all its dependencies, Laos Chiang, Laos Kao, Malays, Kareans, etc., and His Majesty Christian the Ninth, King of Denmark, of the Vandals and Goths, Duke of Schleswig Holstein, Stormarn, the Ditmarshes, Lauenburg, and Oldenburg;

Desiring to facilitate and extend the relations of friendship and good understanding between their respective countries, have resolved to conclude a convention concerning the registration of and jurisdiction over Danish subjects in Siam, and have to that end appointed the following plenipotentiaries:

His Majesty the King of Siam, His Royal Highness Prince Devawongse Varoprakar, minister for foreign affairs;

And His Majesty the King of Denmark, A. E. Olarovsky, esquire, minister resident of his Majesty the Emperor of Russia, charged with Danish interests in Siam, commander of the Royal Danish Order of Danebrog;

Who, after having communicated to each other their respective full powers and found them to be in good and due form, have agreed upon and concluded the following articles:

I. The registration of Danish subjects residing in Siam shall comprise all persons residing in Siam upon whom the Danish laws confer Danish nationality, and no other person shall be entitled to any protection from the Danish Government.

II. The lists of registration shall be open to the inspection of the Siamese Government on proper notice being given.

III. If any question arises as to the right of any person to be registered at the Danish consulate or as to the validity of a certificate of registration issued by that consulate, a joint inquiry shall be held by the consul for Denmark and a duly authorized representative of the Siamese Government, who will settle the question, giving due regard to the evidence to be produced in behalf of the validity of the certificate or of the right of the person to be registered.

If the representative of the Siamese Government and the consul for Denmark can not agree, they shall be entitled to submit the evidence in the case to a third person to be agreed upon by them both, whose decision shall be final.

IV. Should any action, civil or criminal, be pending while such inquiry is going on which by its nature can not be deferred until the result of the inquiry is known, the question of the court in which such action shall be heard shall be determined conjointly by the Danish consul and the representative of the Siamese Government.

If the person in respect of whom the inquiry is held come within the conditions for registration laid down in Article I of this agreement he may, if not yet registered, forthwith be registered as a Danish subject and provided with a certificate of registration at the Danish consulate; otherwise he will be recognized as falling under Siamese jurisdiction, and if already on the lists of the Danish consulate his name shall be erased therefrom.

VI. With regard to the jurisdiction to which in the future without any exception all Danish subjects in Siam will be subjected the two governments agree:

A. (1) In criminal matters if the offender be a Danish subject, he shall be tried and punished by the Danish consular officer.

(2) In civil matters all actions brought by a Siamese against a Danish subject shall be heard before the Danish consular court. If the defendant is a Siamese, the action shall be heard by the Siamese court for foreign causes.

B. (1) But all civil or criminal cases arising in the provinces of Chiengmai, Lakhon, Lam-poon, Pray, and Nan brought or instituted either by the Siamese Government or by Siamese or foreign subjects, in which a Danish subject may be a defendant, and likewise all civil and criminal cases in which a Danish subject may be the plaintiff or complainant, the defendant being a person under Siamese jurisdiction, shall be heard before the Siamese international court.

陸(2) In any of the cases mentioned in the last preceding paragraph the Danish consul shall have the right to be present at the trial or to be represented there by a duly authorized delegate and to make any observation which he may deem proper in the interest of justice.

(3) In cases where the defendant is a Danish subject, the Danish consul may, at any stage of the proceedings, if he thinks proper, by means of a written requisition evoke the case before him. Such case shall then be transferred to the Danish consular court, which shall from that time alone be competent to try the case, and to which the Siamese authorities shall be bound to give their assistance.

(4) In all criminal cases where the law allows bail, the accused shall be admitted to bail instead of being imprisoned.

VII. Appeals from the judgments rendered by the court for foreign causes, as well as by the international court established in the provinces of Chiangmai, Lakhon, Lamphoon, Pray, and Nan, shall be brought before the court of appeal of Bangkok.

VIII. All enactments in former treaties, agreements, or conventions between Denmark and Siam that are not modified by the present convention remain in full force.

IX. The present convention shall be ratified and the ratifications shall be exchanged within six months from date of its signature.

In witness whereof the respective plenipotentiaries have signed the present convention and have affixed their seals.

Done at Bangkok in two copies in English as the language of communication between the high contracting parties on this the 24th day of March, in the year 1905 of the Christian era.

DEVAWONGSE VAROPRAKAR.  
A. E. OLAROVSKY.

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## ABOLITION OF GAMBLING HOUSES AND SLAVERY IN SIAM.

*Minister King to the Secretary of State.*

No. 227.]

AMERICAN LEGATION,  
*Bangkok, Siam, March 31, 1905.*

SIR: The Siamese Government has decided upon a systematic move against gambling in the Kingdom. There are now 103 large gambling houses throughout the interior. It has been decided to abolish 80 of these 103 on the beginning of next April; the remainder of the 103 shall be abolished the 1st of April, 1906; and there will be made a serious endeavor to abolish all the large gambling houses in this city on the 1st of April, 1907. To meet the very large falling off of revenue which will be caused by this move a readjustment of the land tax has already begun. By this plan it is calculated that all the loss in revenue caused by the abolishment of the gambling houses outside of the city will be fully met. To meet the loss of revenue caused by the abolishment of the houses within the city is a doubtful endeavor. For remedy for the loss in the country Siam depends upon herself by increasing the land tax; but in doing this she feels that she is placing all the burden upon her people that they should bear. For the loss of revenue caused by the abolishing of the houses in the city she will have to depend upon the cooperation of the Christian nations, and, anomalous as it may seem, herein she will find her difficulty. She proposes to meet the loss in the city by raising her import dues to a moderate degree. Being an extraterritorial country the treaties with the outside nations which now fix import dues at 3 per cent can be changed only by the permission of the Christian nations. \* \* \*

Preparatory to this endeavor I have been approached by both Mr. Strobel and the department of the interior, His Royal Highness Prince Krom Luang Damrong, with the request that I make known to my government the full import of this decree and with the request

that I should use my influence to secure the good offices of my government in support of this endeavor. I am assured by these gentlemen that the government is a unit on this question, and hence that there can be no difference or party feeling on the matter, so far as the Siamese are concerned.

Outside of the American missionaries there are very few American citizens in Siam and outside of missionary interests very few American interests represented in Siam. The American missionaries have been a very potent factor in bringing about this decree. Only yesterday Prince Krom Luang Damrong said in my hearing: "I consider the American missionaries are my most efficient agents in carrying forward my endeavors for the progress of Siam;" hence to lend the influence of our government to this work is not only to help Siam toward better things, but to forward the American interests which are most prominent in Siam to-day. That the American missionary is the advance guard of American commerce finds no stronger proof in any country than in this country; hence for the American Government to support the interests of the American missionary as they are to day prosecuted in Siam is, on the large, to support and to advance the interests of America in Siam. It is a real pleasure to be able to say this, and still more of a pleasure to see the many evidences that the Siamese Government recognize the value of our people in the country. Within the past six months Siam has sold to our mission station at Nan, hundreds of miles outside the real-estate foreign-purchase limit as defined by the treaty, a fine piece of real estate, and given them the first clean deed issued to a foreigner in Siam. \* \* \*

This one concrete case I trust will serve to illustrate the relation of Siam to the American missionaries, of the American missionaries to the progress of Siam, and the reason why Siam turns with expectation to the American Government at such a time as this.

I have, etc.,

HAMILTON KING.

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[Inclosure.]

*Notification by the Minister of Finance on the abolition of gambling, 124.*

The minister of finance has been commanded by His Most Gracious Majesty the King to issue the following notification:

His Majesty has long been impressed by the fact that although the revenue derived from gambling is an important factor in the finances of the Kingdom the evils resulting therefrom are much greater than the benefits. People expend in gambling not only their own wealth but the wealth of others. They devote to gambling time during which they should be attending to their work. Under present conditions large sums of money which come into the hands of the gambling farmers are sent out of the kingdom. Gambling is also responsible for much of the crime that is committed. The abolition of gambling would, therefore, not only result in an improvement in the morals of the people and in increased industry, but money now expended therein would remain in circulation within the country, thereby adding to the wealth of the community.

In order, however, to replace the loss of the revenue derived from gambling, some taxes must be increased and new taxes devised. In the increase of certain of these taxes it will be necessary to enter upon negotiations with foreign powers. Gambling can not, therefore, be suppressed at once, but must be gradually abolished. His Majesty, therefore, has been pleased to order the abolition of gambling within the period of three years, as follows:

In the year 124 gambling shall be entirely abolished in Phitsnuloke, Puket, Udon, Burapha, and Chantaboon, just as it was abolished in the year 117 in Chumpon and Nakhon Sritamarat.

In the same year gambling shall be abolished in the other Monthons and in all those places where the revenue derived is less than 50,000 ticals. This includes the following 84 places in the provinces, namely: \* \* \*

In the year 125 His Majesty decrees that the remaining gambling houses in the provinces, amounting to 22 in number, shall be abolished.

As a result of the above, at the beginning of the year 126 the only gambling places left in the Kingdom will be those within the limits of the city of Bangkok. The revenue necessary to replace the loss resulting to the government from the abolition of the places in the provinces mentioned above which is to be effected during the years 124 and 125 will be replaced by some modifications in the present system of internal taxation. In order to replace the revenue sacrificed by the abolition of gambling in Bangkok, it will be necessary to enter into negotiations with the treaty powers. Negotiations will be begun for that purpose with those powers, and as soon as a satisfactory result is obtained His Majesty will be pleased to decree the abolition of gambling within the limits of the city of Bangkok, and thus throughout the Kingdom, and it is hoped that this aim will be accomplished so that this entire abolition will take place in the year 126.

Dated the 9th day of February, 1905.

MAHISRA,  
*Minister of Finance.*

*Minister King to the Secretary of State.*

No. 233.]

AMERICAN LEGATION,  
*Bangkok, Siam, April 21, 1905.*

SIR: I inclose the copy of a royal decree issued by His Majesty on March 31, 1905, abolishing the last remnant of debt slavery in the Kingdom, another evidence of Siam's vitality.

I have, etc.,

HAMILTON KING.

[Inclosure.—Translation.]

*Abolition of slavery in Siam—New law.*

By a new law now passed the Government of Siam is completing the task of the gradual entire abolition of all such remnants of the old system of slavery as still remain in existence. The text of the new law is as follows:

Although slavery in our realm is very different from slavery as it has existed in many other countries—most slaves being persons who have become so voluntarily and not by force and the powers of the master over the slaves being strictly limited—yet we have always considered that the institution, even in this modified form, is an impediment to the progress of our country. We have, therefore, from the commencement of our reign taken steps, by the enactment of laws and otherwise, for the abolition of slavery, notably by the law of Pee Chau (corresponding to Ratanakosindr Sok 93 and the year 1874 of the Christian era).

We now deem it time to take more sweeping measures which will gradually result in the entire disappearance of slavery from Siam, and to that end we are pleased to decree as follows:

SECTION 1. This law shall be known as the law for the abolition of slavery, Ratanakosindr Sok 124.

SEC. 2. This law shall come into force on the 1st of April, Ratanakosindr Sok 124, throughout the Kingdom, except in the Monthons of Bayap and Burapha where we have already enacted special laws on the subject, and also except in the Monthon of Saiburi and in Kelantan and Tringganu, where the laws of the religion of the people are still in force.

SEC. 3. All children born of parents who are slaves shall be free without the execution of the condition stated in the law of Pee Chau.

SEC. 4. No person now free can be made a slave. If any person now a slave shall hereafter become free he can not thereafter again become a slave.

SEC. 5. Wherever any person is now held a debt slave, the master shall credit upon the principal of the debt for which he is held a slave the sum of four (4) ticals for each month after the 1st of April, 124, provided that no credit shall be allowed for any time during which the slave may desert his master.

SEC. 6. If a slave changes his master, no increase shall be made in the debt for which he is actually held—that is to say, when the slave is transferred from one master to another, he can be held by the new master only for the amount of the debt actually due the old master at the time of the transfer.

Done in Bangkok on this the 31st day of March, Ratanakosindr Sok, 123.

*The Acting Secretary of State to Minister King.*

No. 135.]

DEPARTMENT OF STATE,  
*Washington, May 20, 1905.*

SIR: The Department has received and read with much interest your dispatch No. 227, of March 31 last, with inclosure, relating to the royal decree for the abolition of gambling in Siam.

It appears from your dispatch and the accompanying decree that it is intended to abolish gambling throughout Siam, excepting only in Bangkok, on April 1, 1906, and in that city on April 1, 1907, that the deficiency in revenue caused by the application of this measure to the interior of the country is to be met by an increase of the land tax, while the Siamese Government will have to depend upon the cooperation of the Christian nations for indemnification for the loss of revenue entailed by the suppression of the gambling houses operating in the capital city, and that the good offices of this government are desired in support of this endeavor.

You may inform the Siamese Government that the Department is disposed to give all proper aid to His Majesty's Government in effectuating the contemplated reform, and is much gratified to learn of the recognition extended in Siam to the resident American missionaries who have been, it appears, a very potent factor in bringing about the decree abolishing gambling, as also in the advancement in general of endeavors for the progress of that country.

As regards giving effect to the desire of the Siamese Government for an increase in a moderate degree of the import-duty rate of 3 per cent, fixed by a provision contained in Article VII of the existing treaty of amity and commerce, concluded between the United States and Siam May 29, 1856, it would seem necessary to the accomplishment of that end that assent to the proposed change be obtained from all the Christian nations which are parties to conventions establishing the present rate of duty, as the right of this country to most-favored-nation treatment must in any event be maintained.

I am, etc.,

F. B. LOOMIS.

**BOYCOTT OF AMERICAN GOODS BY CHINESE IN SIAM.***Chargé Schuyler to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Bangkok, Siam, August 10, 1905.*

(With reference to the boycott of American goods, Chargé Schuyler reports that 3,000 Bangkok Chinese at a meeting held here have telegraphed to their agents at Singapore and Hongkong not to ship any more American goods to Siam.)

*Minister King to the Secretary of State.*

No. 248.]

AMERICAN LEGATION,  
*Bangkok, Siam, November 28, 1905.*

SIR:

\* \* \* \* \*

AMERICAN INTERESTS.

The boycott has been felt here to some extent. It is completely organized among the Chinese and is in close touch with the organization at Shanghai. Thus far the Standard Oil interests, which have just entered Bangkok, have suffered slightly, both in handling and selling their goods, and the British-American Tobacco Company have felt it somewhat in their trade; but although nominally yet in force it is in fact about dead.

Handicapped by none of the questions, territorial or political, that affect the European nations here, and with an American in the position of general adviser to His Siamese Majesty's Government who has the entire confidence of the country and whose cooperation can be depended upon by this legation in all right measures, the influence of America in Siam is daily improving. \* \* \*

I have, etc.,

HAMILTON KING.

## SPAIN.

### ATTEMPT ON THE LIFE OF THE KING OF SPAIN.

*The Spanish Chargé to the Secretary of State.*

[Translation.]

LEGATION OF SPAIN,  
*Washington, June 1, 1905.*

MR. SECRETARY: I have the honor to advise your excellency to the end that you kindly transmit the information to the President that, according to a telegram received this day at the legation, my august sovereign on leaving the opera house in Paris last night, in company with his excellency the President of the French Republic, was the object of an anarchist attempt by means of an explosive bomb.

I am glad, however, to add that Don Alfonso and Monsieur Loubet escaped unscathed from the abominable attempt and were given an enthusiastic ovation by the people of Paris.

I avail, etc.,

L. PASTOR.

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*President Roosevelt to the King of Spain.*

[Telegram.]

THE WHITE HOUSE,  
*Washington, June 1, 1905.*

I congratulate Your Majesty upon the providential escape from the wicked attempt upon Your Majesty's safety and life.

THEODORE ROOSEVELT.

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*President Roosevelt to the President of France.*

[Telegram.]

THE WHITE HOUSE,  
*Washington, June 1, 1905.*

I congratulate Your Excellency upon your providential escape from imminent and deadly peril.

THEODORE ROOSEVELT.

### SWINDLE PRACTICED ON AMERICAN CITIZENS.

*Minister Collier to the Secretary of State.*

No. 25.]

AMERICAN LEGATION,  
*San Sebastian, July 26, 1905.*

SIR: During the past week information has reached me of the renewal of operations by a band of swindlers located in Madrid, and two instances have come under my observation where Americans

have been cruelly victimized. The swindle consists in the dispatch of letters from a person in Spain, who represents himself as the son of a distant relative of the person to whom the letter is sent. While there is an occasional slight variance in the stories, almost invariably the writer represents himself as having acquired an immense fortune, in an honest manner, but to be the victim of persecution by powerful enemies, who have caused his arrest and imprisonment. His property, frequently stated to be as high as \$500,000, is always represented as being in securities, which have been hidden by him generally in the secret drawer of a trunk, which has been seized by the police authorities, who, ignorant of the papers hidden in it, will release it upon payment of costs of process. The writer invariably represents himself as having lost his wife and as being left with an only daughter, whom, because of the disgrace attaching to his name, he desires to send to America to be placed under the protection of the "relative" to whom the letter is addressed. He also states that he is in a grievous condition of health, usually caused by wounds received by him while resisting the efforts of the police to capture him. He declares that he has made a will leaving all his property to his child except a portion of it, which he has left to the recipient of the letter, on condition that he accepts the guardianship of the daughter and offers her a home until she reaches her majority or marries. He declares that his possession of the enormous fortune mentioned is unknown to anyone, and that the greatest secrecy must be observed in order that no one should learn of it, otherwise it would be appropriated by the government. He always represents that a worthy priest, the prison chaplain, has taken an interest in him and in the little daughter; that through the priest as intermediary he is able to send the letter, and the writer requests that the answer to his letter be inclosed in an envelope addressed to the priest. This first letter is but the introduction to the swindle. In it no request for money is made. It is a letter calculated merely to arouse the cupidity of the recipient and at the same time to impress upon him the necessity of secrecy. If a reply is received (and the fact that the swindle has now been going on for many years shows that hundreds of replies must be received), others follow, until finally one comes from the alleged priest, written upon stationery with a letter heading with a cross, and sometimes with a forged parochial seal, announcing the death in prison of the writer of the first letter and the appointment of the priest as executor of the will, in which the child is named as principal legatee, but in which the American relative, to whom the letter was sent, is named as guardian and as a legatee. There is also invariably inclosed that which appears to be a newspaper clipping telling of the death of the prisoner, also giving some fact which to the reader is corroboratory of the report of vast wealth, and always there is a reference to the orphaned daughter, who is in despair until she can learn whether American relatives will receive her into their homes. In addition a great number of instruments, doubtless all forged, but bearing revenue stamp, notarial seals, court certificates, and court seals, so perfectly executed that they resemble the originals very decidedly, are inclosed. These papers consist of the reputed will of the deceased, letters of guardianship, letters testamentary, etc., all tending to confirm the false statements made in the earlier letters. However little excuse there is for being deceived by the first letters



which are received, the subsequent documents are so authentic in appearance that anyone might, without appearing credulous, give full faith to them.

After the party has been convinced of the existence of the property, etc., a request is made for money to pay court expenses or to release the trunk with its valuables from attachment or to pay the traveling expenses of the orphaned child to America or for some other purpose.

That the swindle results in many victims there can be no doubt. Within three days of last week I received a letter from a party in Iowa inclosing a draft for approximately \$590 to be turned over to the bogus executor to pay the expenses of "Mary," the daughter, to America and to settle a few unpaid claims. The same day two young men from Montana came into my office. They had made the journey all the way from that state to Madrid in order to get "Mary" and were prepared to pay several hundred dollars to settle up expenses that had been incurred. The same day I received from a priest in Columbus, Ohio, copies of swindle letters of the same tenor which had been received by a parishioner of his who came to him for advice. The priest had had a similar—an almost identical—attempt of the same band of swindlers brought to his knowledge three years ago by another of his parishioners who was on the point of mortgaging his house to raise the money to send to Madrid. The priest fortunately saved both of his parishioners from being victimized and very kindly sent me all the letters received from the swindlers in the last case, in hopes that I could use them as evidence with which to secure the prosecution and conviction of the swindlers in the Spanish courts.

In May and early in June six or eight letters from different parts of the United States were received by me from persons who had received letters from the swindlers. The writers, of course, were by me promptly informed of the fraudulent character of the scheme, but that there are many victims is shown by the fact that the swindle, which must occupy the time of many persons, has gone on, I am told, for years. I would have reported the matter to you in June had it not been stated in the Madrid press at that time that the gang of swindlers had been raided by the police. The renewal of their efforts convinces me that the only effective way of breaking up the scheme is by giving the widest publicity to its fraudulent character through the press of the United States, and I most urgently recommend that the Department endeavor to do so through the associated press or other proper agencies. I will at once lay the matter before the police authorities and aid them in any way I can, but with the recipients of the letters thousands of miles away it is most difficult to secure evidence sufficient to secure conviction. The extreme "gullibility" of the victims of the swindle does not make the police authorities feel particularly solicitous for their welfare, but the forgery of official seals and signatories and of the signatures of church authorities will, I am sure, be resented by the Spanish Government and the offense be punished.

The vice-consul at Madrid has just informed me that scores, if not hundreds, of letters have been received by him during the last two or three years from persons in the United States who have received these letters, and that a few months before my arrival at my post an American came into his office who had come to Madrid to obtain

custody of the orphaned daughter, and that this man informed him  
 that to obtain the funds to make the trip he had mortgaged his home.  
 \* \* \* \* \*

I have, etc.,

WM. MILLER COLLIER.

*Minister Collier to the Secretary of State.*

No. 26.]

AMERICAN LEGATION,  
*San Sebastian, July 28, 1905.*

SIR: The typewriting of dispatch No. 25 was just finished when I  
 received two more letters from victims of the fraud, one living in New  
 Hampshire, another in Minnesota. The New Hampshire letter was  
 from a pastor of a church who wrote that one of his parishioners had  
 sent to the swindlers over \$500 and with difficulty was dissuaded from  
 sending \$1,500 more. \* \* \*

Will the Department kindly instruct me as to the extent to which  
 it desires me to urge Spanish officials to prosecute the swindlers, the  
 extent to which it advises that I participate in the prosecution, or aid  
 Americans (who may have been lured here) to act as informants or  
 complainants, and particularly whether the Department of State or  
 the Department of Justice can make any allowance to cover expenses  
 incident to this work. A few hundred dollars might greatly aid in  
 obtaining evidence, which could be laid before the Spanish author-  
 ities, which they might use, but which they will not seek to obtain.  
 \* \* \*

I have, etc.,

WM. MILLER COLLIER.

*The Acting Secretary of State to Minister Collier.*

No. 16.]

DEPARTMENT OF STATE,  
*Washington, August 21, 1905.*

SIR: I have to acknowledge the receipt of your No. 25 of the 26th  
 and your No. 26 of the 28th ultimo, relative to the Spanish estate  
 swindle.

In reply I have to say that this Department has had this matter  
 before it for fifteen or twenty years.

It has repeatedly warned the public through the press, and the  
 matter has been brought to the attention of the Spanish Government  
 both by this Department and the Post-Office Department. A press  
 dispatch some months ago stated that the Spanish police had cap-  
 tured the gang, but their operations, as you state, still continue.

Under the laws of most of the states, it is impossible for the Spanish  
 courts to secure evidence against the swindlers by means of letters  
 rogatory, and there are very few of the sufferers in this country who  
 are able or willing to go to Spain to give their evidence.

The Department has communicated the substance of your No. 25 to  
 the press.

I am, etc.,

ALVEY A. ADEE.

**MEASURES TAKEN FOR THE ATTRACTION OF FOREIGN VISITORS TO SPAIN.**

*Charge Winthrop to the Secretary of State.*

No. 43.]

AMERICAN LEGATION,  
*Madrid, October 7, 1905.*

SIR: I have the honor to inclose a copy and translation of a royal decree which appeared in the Gaceta of to-day and which the Department may consider of sufficient interest and far-reaching in its practical scope as to secure some publicity therefor in order that the ever-increasing number of American citizens who travel may be less deterred from visiting Spain, a country which has so much in the way of interest to offer to the tourist. The decree is also interesting as furnishing evidence of the national awakening to the need of a wider intercourse with the outside world, both from the educational as well as from the pecuniary point of view. As regards the latter, it appears to be realized by all thinking Spaniards how directly the pecuniary resources of the country may be benefited by an influx of travelers, and how much this has contributed to the prosperity of such countries as Switzerland, as well as to the rehabilitation of Italy.

In some recent newspaper discussions of the recent very startling fall in the rate of exchange on Paris, this having now fallen to 26.75 (this being the premium in pesetas paid for a 100-franc note, whereas most of the summer it has hovered about 31 and last year it fluctuated between 32 and 34), a realization of the desirability of fostering the aim of this decree is voiced in no uncertain terms. The approaching visit of the President of France will unquestionably do much good in developing this idea and in making Spaniards see the practical good which will come to them in furthering the provisions of the said decree.

I have, etc.,

ROBERT M. WINTHROP, JR.

[Inclosure.—Translation.]

ROYAL DECREE.

Upon the advice of the minister of fomento and in accord with the council of ministers, I decree as follows:

ARTICLE 1. A national commission is herewith created charged with encouraging in Spain, by whatever means are at its disposal, the visit of foreigners, either those coming for pleasure or improvement.

ART. 2. This commission will be presided over by the minister of fomento, and will be composed of members to be designated by him.

ART. 3. Among the adequate means for encouraging the influx of foreign travelers, to the study and establishment of which the national commission named in the preceding article will at once begin to devote itself, will be the following:

(a) Preparing and publishing in foreign countries itineraries for travel, in order that the chief national and artistic monuments, landscapes, etc., may be visited most easily and profitably.

(b) To study means and take the proper steps with the railway companies in order to organize and establish special tariffs and fast comfortable trains, which, starting from the frontier, and, if possible, from the seaports as well, may convey travelers on these tours, making the journey attractive and comfortable.

(c) In concert with deputies, town councils, or other bodies as may be expedient to see that an improvement be arrived at in the lodging and services of all kinds relating to travelers, and when it may be done legitimately to attract and retain the subjects of other nations.

(d) To publish and diffuse in foreign countries, in the appropriate language, historical facts, descriptions of our monuments, and whatever may be considered useful for the better

appreciation of beauties, artistic as well as natural, and for giving a knowledge of our history and for awakening the curiosity of foreigners.

(e) Whatever other work or steps to be taken, which, in the judgment of the above-named commission, and with the approbation of the government, if such be necessary, will be considered as contributing to the design of favoring the coming into Spain of the foreign traveling public.

ART. 4. The minister of fomento will include in the next national budget the amount which, in the judgment of the above-named commission, is considered necessary in order to attend to the printing and propagation of the work which is to be accomplished in the carrying out of the preceding articles.

ART. 5. The minister of fomento is authorized to arrange what dispositions are necessary to carry out the present decree.

Given in the Palace, October 6, 1905.

ALFONSO.

ALVARA FIGUEROA,  
*Minister of Fomento.*

## SWEDEN AND NORWAY.

### TREATY BETWEEN THE UNITED STATES AND NORWAY AMENDING THE EXTRADITION TREATY OF JUNE 7, 1893, BETWEEN THE TWO COUNTRIES.

*Signed at Washington, December 10, 1904.*

*Ratification advised by the Senate, January 6, 1905.*

*Ratified by the President, April 1, 1905.*

*Ratified by the King, February 3, 1905.*

*Ratifications exchanged at Washington, April 4, 1905.*

*Proclaimed April 6, 1905.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

### A PROCLAMATION.

Whereas a treaty between the United States of America and His Majesty the King of Sweden and Norway amending the last paragraph of Article II of the treaty of extradition between the United States and Norway, concluded June 7, 1893, was concluded and signed by their respective plenipotentiaries at Washington on the 10th day of December, 1904, the original of which treaty, being in the English and Norwegian languages, is word for word as follows:

Whereas the Kingdom of Norway has enacted a new penal code, taking effect January 1, 1905, by which the penalty of imprisonment at hard labor is abolished, the United States of America and His Majesty the King of Sweden and Norway have deemed it expedient to conclude a treaty amending, in this respect, the treaty of extradition concluded between the same high contracting parties on June 7, 1893, and have appointed for that purpose the following plenipotentiaries:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and His Majesty the King of Sweden and Norway, J. A. W. Grip, his majesty's envoy extraordinary and minister plenipotentiary to the United States of America; who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

#### ARTICLE I.

The last paragraph of Article II of the treaty of extradition, concluded June 7, 1893, between the United States of America and His Majesty the King of Sweden and Norway, is hereby amended, to take effect on January 1, 1905, by striking out after the word "Norway," the words "by imprisonment at hard labor," and inserting in their place "by a higher penalty than imprisonment for three months."

The paragraph in question shall then read, as amended:

"Extradition is also to take place for participation in any of the crimes and offenses mentioned in this treaty, provided such participation may be punished in the United States as a felony, and in Norway by a higher penalty than imprisonment for three months."

## ARTICLE II.

The ratifications of the present treaty shall be exchanged as soon as possible, and it shall remain in force as long as the treaty of extradition hereby amended and shall be terminable on the same notice.

In witness whereof the respective plenipotentiaries have signed the above articles, both in the English and Norwegian languages, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this 10th day of December, 1904.

JOHN HAY. [SEAL.]  
J. A. W. GRIP. [SEAL.]

And whereas the said treaty has been duly ratified on both parts and the ratifications of the two governments were exchanged in the city of Washington on the 4th day of April, 1905;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

Done at the city of Washington this sixth day of April, in the year of our Lord one thousand nine hundred and five, and of [SEAL] the Independence of the United States of America the one hundred and twenty-ninth.

THEODORE ROOSEVELT.

By the President:

FRANCIS B. LOOMIS,  
*Acting Secretary of State.*

**DISSOLUTION OF THE UNION BETWEEN THE KINGDOMS OF SWEDEN AND NORWAY.**

*Minister Graves to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Stockholm, June 7, 1905.*

(Mr. Graves reports that the cabinet of Norway has been unanimously authorized by the Norwegian Storting to conduct the administration of the Kingdom of Norway with regent authority. A friendly address was sent to King Oscar by the Storting, asking him to designate a member of the Bernadotte dynasty to ascend the throne of Norway. Arctander has been appointed Norwegian minister for foreign affairs.)

*Minister Graves to the Secretary of State.*

No. 15.]

AMERICAN LEGATION,  
*Stockholm, June 21, 1905.*

SIR: I have the honor to transmit herewith a printed copy of the King's speech from the throne, delivered on the occasion of the solemn opening of the extra session of the Riksdag, accompanied by a translation made at this legation.

This extra session of the Riksdag has been called to decide upon the necessary steps to be taken on account of the action of the Norwegian Storthing in declaring a dissolution of the union between Sweden and Norway.

I have, etc.,

CHARLES H. GRAVES.

[Inclosure.—Translation.]

*Speech of His Majesty King Oscar II in the Hall of State at the opening of the Swedish Riksdag, extra session, June 21, 1905.*

GOOD GENTLEMEN AND SWEDISH MEN: More than ten years have passed since I last called you, representatives of the Swedish people, to an extra session of the Riksdag. It was then a question of the interior affairs of the country.

It is matters of quite a different nature which have prompted me, so soon after the close of the regular session of the Riksdag, to ask you again to assemble for an extra session, setting aside all other public and private affairs.

To my sorrow, the Kingdom which for nearly a century has been united with Sweden by lawful bonds has, against my will and contrary to sworn agreement, taken steps with a view of freeing itself from these bonds. Accusations have been made against me for having caused these steps by transgressing the constitution; but I have acted as my conscience dictated, and I am convinced that everyone who impartially considers the circumstances will vindicate me and find that my action, while it is in every respect in accordance with the constitution, has been prompted by a sincere and honest consideration of the welfare of both Kingdoms.

Meanwhile, what has happened is not only an infringement upon my rights as Norwegian King, but it also has as its object the dissolution of the union which by agreement with Sweden has hitherto existed. Thus this intimately concerns the Swedish people, and under these circumstances, in accordance with my duty, I have called you together in order that you may have an opportunity of consulting with me as to the steps and measures which are called for by the decision of the Storthing, and that we may take the steps which may be found most suitable for counteracting consequences thereof, which would be injurious for Sweden.

The proposition which I intend to lay before you in this matter does not imply the meeting of injustice by force. No matter how important the union may be for the security of the Scandinavian peoples, it is not worth the sacrifices which would be rendered necessary by acts of force. Surely a union thus forced upon Norway would be of slight use to Sweden.

Nay, may the Swedish people be led by wise self-control, and may God give Sweden strength and unity to regain within its own boundaries what it might lose by a dissolution of the union.

Invoking God's blessing on you and your labors, I remain, good gentlemen and Swedish men, with all royal grace and favor, ever well disposed toward you.

*Mr. Hauge, late Chargé d'Affaires of Sweden and Norway, to the Secretary of State.*

BAR HARBOR, ME., *July 12, 1905.*

SIR: In view of the conditions existing in Norway and the likelihood of a request being made in the near future by the government of that country for its recognition by the United States, as late chargé d'affaires and secretary of the Norwegian and Swedish legation at

Washington, I take the liberty of supplying herewith certain information which may not be without interest in the consideration of this matter.

While I am well aware that your excellency is acquainted with the main facts in connection with the formation of the union of Norway and Sweden in 1814, as well as its historical development down to the time of its dissolution quite recently, I think it may not be amiss to respectfully furnish certain historical sketches dealing with the union period in question, and in such behalf I beg herewith to hand you the following recently published works:

1. "Sovereign Norway and her state rights," by A. C. Drolsum (librarian in chief of the University of Christiania).
2. "Norway; a few facts from Norwegian history and politics," by the Norwegian national council of women.
3. "Norway and the union with Sweden," by Prof. Fridtjof Nansen.

In particular I can not recommend too highly the last of these books for giving a clear, concise, and unbiased presentation of the matter, written by the distinguished Norwegian explorer, scientist, and author, who is entirely familiar with his subject, and who was assisted in its composition by several of the leading men of the country of the most divergent political views.

The momentous events that have taken place in Norway since the publishing of the above-mentioned works, that is to say after May 26, 1905, and which include particularly the proceedings had at the Norwegian council of state, held on May 27, and the proceedings taken by the Norwegian ministers and by the Norwegian Storting on June 7, 1905, have in so many ways been brought to the notice of the world as hardly to require any mention here. However, I think it well to make an exception in the case of the resolution, unanimously passed by the Norwegian Storting on June 7, 1905, which reads as follows:

Whereas all the members of the council of state have laid down their offices;  
Whereas His Majesty the King has declared himself unable to establish a new government for the country; and

Whereas the constitutional regal power thus becomes inoperative, the Storting authorizes the members of the council of state, who retire to-day, to exercise until further notice as the Norwegian Government the power appertaining to the King, in accordance with Norway's constitution and existing laws, with those changes which are necessitated by the fact that the union with Sweden under one King is dissolved in consequence of the King having ceased to act as a Norwegian King.

It will be seen that the course and significance of the momentous events referred to was briefly as follows:

The Norwegian Storting unanimously passed an act providing for a separate consular service for the country, and this law so passed was thereafter in due course submitted to the King for approval. In the council meeting of May 27, 1905, in the face of the said unanimous action of the Storting, the King refused to approve the law. The Norwegian ministers, who are responsible to the people for governmental acts (a responsibility not shared by the King himself) consequently handed in their resignations. The King refused to accept these resignations, knowing full well that he could form no new ministry owing to the concerted stand of the Storting and the absolutely unanimous wish of the Norwegian people with respect to the consular act, and the King admitted this to be his position. The ministers insisted upon their incontestable right to resign, and they affirmed and



put this right into effect on June 7, 1905, in the meeting of the Norwegian Storthing held that day. According to the constitution of Norway, the King can not govern without his council, which, as already stated, alone is responsible to the people for governmental acts. Consequently, it devolved upon the Norwegian people itself, by its representatives in Storthing assembled, to procure a government for the country; and this right and duty it exercised in requesting the retired ministers to immediately form and constitute themselves the Norwegian Government. They complied with the request, and this action necessarily implied the cessation of the discharge of the executive functions by the King at the same time as the resolution passed in this behalf by the Storthing also necessarily implied the dissolution of the union with Sweden.

On the same day the Storthing passed another resolution which was forwarded to the King, being a request for his cooperation in having one of the princes of the house of Bernadotte ascend the throne of Norway. No official reply has as yet been given to this request, although made more than a month ago.

As there may be considerable further delay in receiving the desired or any reply, it is only natural that the Norwegian Government should not wish to continue indefinitely without foreign relations, nor should the interests of its citizens abroad be made to suffer from inattention during a protracted period of delay, I therefore take the liberty of respectfully submitting for your consideration the following questions:

First. Will the United States Government officially receive diplomatic envoys and recognize consuls appointed by the Norwegian Government?

Secondly. Will the United States Government be inclined to permit its consular officials in different countries to take charge of the interests of Norwegian citizens there that may require such attention until such consuls can be appointed and sent to such countries by the Norwegian Government?

In connection with these questions I beg respectfully to state the following:

The recent events in Norway above related, culminating in the resolutions of the Storthing of June 7, 1905, have in no wise created any new state or sovereignty. It is not a case of a new state springing into existence, nor has there been any splitting up of or separating from any sovereign entity. Norway has, under its own constitution of 1814, reaffirmed by the so-called "Union Act" (defining the relations involved in the late union with Sweden), ever been a separate and distinct sovereign state, and on absolute equality with the other sovereign state joined in the union. Besides the express and plain language providing for this sovereignty of Norway, contained repeatedly in the constitution and the union act, this is amply evidenced by the absolute separation of institutions, governmental and otherwise, of the two countries. Each had its separate constitution, government (cabinet responsible to its own people alone), parliament, or legislative assembly, judiciary, army, navy, treasury, and state church. The King's household, including all the officials thereof, has been separate and distinct in each country. Still more significant perhaps is the fact that the tariff systems of the two countries have been entirely different, one being practically free trade and the other protection;

that there has been no tariff reciprocity between the two countries; and even that goods from one country were subject to full tariff duty in entering the other. It will therefore be seen that the union was of the very loosest kind, not even sufficiently close and potent to break down a tariff barrier between the two countries.

By virtue of its separate sovereignty Norway has, entirely by itself, independent and unjoined by Sweden, concluded numerous commercial treaties with foreign nations. On many occasions in like manner independent of and unjoined by Sweden, Norway has, through its own separate representatives, taken part in congresses, conferences, expositions, etc., abroad.

It will further be seen that the form of government has by the recent events undergone no change, but remains a kingdom, as it has been since A. D. 872, and a constitutional monarchy, as it has been nearly a century. There neither has been nor is question of altering the constitution of the country, except only as such refers to the union with Sweden. In conclusion, then, it is manifest that the only real change occasioned by the recent events, as far as Norway's governmental functions are concerned, was the creation of a vacancy in the office of the chief executive, and the termination of the joint proprietorship existing with Sweden in the diplomatic and consular services abroad.

It may not be improper to add that the recent events in Norway took place without any violence or even the slightest disturbance of any kind. After June 7, 1905, the entire governmental machinery in all its ramifications continued to run along as it had before and no official in any department, civil or military, for a moment questioned or was inclined to question the new order of things under which he found himself acting. The unanimous action of the Storting was acquiesced in and supported by the entire people itself. Not one dissenting voice was heard in the whole country, although the slightest opposition or lack of harmony could have found most easy utterance under the singularly favorable conditions of liberty of press and expression existing in Norway.

Accept, etc.,

CHR. HAUGE.

P. S.—It is perhaps superfluous to say that the above is not intended as any exhaustive argument for recognition. Such would doubtless be forthcoming in the event of the Norwegian Government officially preferring a request for recognition.

C. H.

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*Mr. Hauge, late Chargé d'Affaires of Sweden and Norway, to the Acting Secretary of State.*

BAR HARBOR, ME., July 27, 1905.

SIR: In addition to my letter of the 12th instant, I have the honor to forward translation of a letter to His Majesty King Oscar from the members of the Norwegian Government, dated June 6, 1905, translation of a resolution passed by the Storting on June 7, 1905, translation of an address from the Storting to His Majesty King Oscar, dated June 7, 1905.

Accept, etc.,

CHR. HAUGE.

[Inclosure 1.—Translation.]

*Letter to His Majesty King Oscar from the members of the Norwegian Government, dated June 6, 1905.*

TO THE KING: In a state council at the palace of Stockholm on May 27, it has pleased your Majesty, in reply to our humble resignations, to resolve as follows:

"It being evident to me that no other government can now be formed, I do not comply with the resignations tendered by the ministers."

According to the fundamental law of Norway it is incumbent on the King of Norway to procure for the country a constitutional government. At that very moment the policy of the King prevents the formation of a responsible council the Norwegian royal power has ceased to be in function.

By Your Majesty's resolution the constitutional relationship between Your Majesty and the responsible ministers of the crown has, further, been brought into a position which does not admit of being maintained. In a constitutional country no government, nor any single member of the same, can be forced to continue against his will, with the responsibility of a minister when their responsible advice in important questions vital to the country is not followed by the King, who according to the constitution is free from responsibility. As it is in these circumstances the unquestionable right of every single member of the ministry as a free man to resign his charge, so this will generally also be a duty toward the country for the maintenance of its constitutional rights.

Your Majesty has declared that no other government can now be formed. Your Majesty has found this to be so evident that the King of Norway has, during these serious days, remained at the palace of Stockholm without making any attempt to restore the country to a constitutional position.

The policy which has found its expression in Your Majesty's attitude toward the question of sanctioning the consular law is, in our opinion, incompatible with the Norwegian constitution. But no more than any new government can assume the responsibility for this policy can we by remaining in our offices render ourselves accessory to it. It is therefore our duty to retire from the management of our offices and instantly to give the Storting due notice hereof.

This will now be done.

Profound and irreconcilable political incongruities have thus broken the frame of the constitutional Norwegian Kingdom. Matters and circumstances have been stronger than the wills of individuals. But the solution of the union which has now been initiated by Your Majesty's above-named resolution—certainly taken with a heavy heart, but also with a clear understanding of its consequences—may yet, so is our hope, within a short time prove to have been the beginning of better and happier days for the two nations, whose prosperity and welfare Your Majesty has always had at heart.

Finally, we beg to present to Your Majesty our most humble thanks for the personal graciousness and kindness shown to us during the time we have had the honor of being members of Your Majesty's council.

We beg Your Majesty to receive the assurance that we fully realize Your Majesty's difficult position, and we beg to profess our unaltered high esteem. But before all things go our duties toward the country.

(Signatures of all the members of the ministry.)

[Inclosure 2.—Translation.]

*Resolution passed by the Storting on June 7, 1905.*

Whereas all the members of the ministry have resigned their offices;

Whereas His Majesty the King has declared himself unable to procure for the country a new government; and

Whereas the constitutional royal power has thus ceased to be in function,

The Storting authorizes the members of the ministry resigning to-day for the present in the capacity of the Norwegian Government, to exercise the authority vested in the King, in accordance with the fundamental law of the Kingdom of Norway and the laws in force, with such modifications as are necessitated by the fact that the union with Sweden under one King has been dissolved, in consequence of the King having ceased to act as Norwegian King.

[Inclosure 3.—Translation.]

*Address from the Storthing to His Majesty King Oscar dated June 7, 1905.*

YOUR MAJESTY: All the members of the ministry having this day in the Storthing resigned their offices, and Your Majesty having in a protocol of May 27 of the present year officially declared that Your Majesty is unable to procure for the country a new government, the constitutional royal power in Norway has thus ceased to be in function.

It has therefore been the duty of the Storthing, as representing the Norwegian people, immediately to authorize the members of the resigning ministry in the capacity of the Norwegian Government to exercise for the present the authority vested in the King, in accordance with the fundamental law of the Kingdom of Norway and the laws in force, with such modifications as are necessitated by the fact that the union with Sweden which implies a joint King has been dissolved, in consequence of the King having ceased to act as Norwegian King.

The evolution of events which has been mightier than the desires and wills of individuals, has led to this result.

The union entered upon in 1814 has from the very first moment been differently construed by the two peoples both as regards its nature and contents. From the Swedish side exertions have been directed toward extending the partnership, from the Norwegian side toward limiting it to what has been prescribed in the act of union, and otherwise to maintain the exclusive right of both kingdoms to decide for themselves in all matters which are not described in the act of union as being of a union character. This radical opposition in the conception of the union's character has given rise to much misunderstanding between the peoples and caused many frictions, and in the views which during the last negotiations between the kingdoms have been maintained by the Swedish Government toward Norway the Norwegian people has, necessarily, seen violation of its constitutional right, its independence, and its national honor.

The union was justified as long as it was able to contribute to furthering the welfare and prosperity of both peoples with the maintenance of their independence as sovereign states; but above the union stands for us Norwegians, our Norwegian, for the Swedes, the Swedish native land; and more valuable than a political union is the feeling of solidarity and free concord of both peoples. To this sympathy between the Norwegian and the Swedish people, which ought to secure the prosperity of both peoples and be their strength outwardly, the union has become a danger.

Now that the union is being dissolved the Norwegian people has no higher desire than to live in peace and good understanding with everyone, and not least with the people of Sweden and with the dynasty under whose rule our country, despite much bitter union strife, has made such important intellectual and material progress.

As a testimony that the Norwegian people's work and struggle for the complete independence of the country has not arisen from any animosity against the royal house or the Swedish people and has left no bitterness against any of them, the Storthing respectfully begs to solicit Your Majesty's concurrence with a view to obtain permission for a prince of Your Majesty's house to be elected King of Norway, the prince having to renounce his hereditary right to the throne of Sweden.

The day when the Norwegian people elects its own King to ascend the old throne of Norway will initiate an era of tranquil working years for Norway, of a good and hearty relationship to the Swedish people, and of peace, unity, and faithful concord in the north, for the defence of the culture of the nations, their freedom and independence.

Fully satisfied hereof, the Storthing ventures to express the confident hope that that which has now happened will turn out for the best of everyone, and of Your Majesty as well, for whose person the Norwegian people will maintain unabated its high esteem and affection.

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*Mr. Hauge, late Chargé d'Affaires of Sweden and Norway, to the Acting Secretary of State.*

BAR HARBOR, ME., August 10, 1905.

SIR: In order to complete the documents already sent you in my letters of July the 12th and 27th last, concerning Norway, I take the liberty also to forward translation of "Abstract from Parliamentary Document No. 66 (1904-1905.)" Documents relating to the question of sanction of the act passed by the Storthing with regard to the Norwegian consular service, etc.

Receive, etc.,

CHR. HAUGE.

[Inclosure.—Translation.]

*Abstract from Parliamentary Document No. 66. (1904-1905.)*

Documents relating to the question of sanction of the act passed by the Storting with regard to the Norwegian consular service.

To the President of the Norwegian Government:

The section of the Norwegian council of state, resident in Stockholm, hereby begs to make the following report:

In a council of state before His Majesty, at the palace of Stockholm on May 27, was submitted the report of the Norwegian Government with reference to the sanction of the act passed by the Storting with regard to the Norwegian consular service. The members of the section of the council of state thereupon expressed their assent to the report and urgently submitted to His Majesty to approve it. They pointed out the significance of the reform for the development of the country nationally and economically, and how it had now unanimously united the national assembly under the equally unanimous approval of the nation. There might be much divergence of opinion and discord with regard to the various public affairs, but in this case there was complete unity within all parties and all classes of society. Cooperating with the government the Storting had kept apart from the law every question that might give rise to doubts in those quarters that objected to touching the political foreign administration and diplomacy, and the law had reference only to the consular service. It was therefore anticipated that every ground for resistance, even from this side, was removed. It was now the certain hope of the nation that His Majesty the King would herein accommodate himself.

The King thereupon read a statement, as follows:

"In a combined council of state, held on April 5 last, the crown prince in his capacity of regent has already pointed out the only way in which this important affair should be furthered, and whereby it will be possible to adjust all difficulties, viz, by way of negotiations. I absolutely agree to this statement, and consequently for the present do not find it expedient to sanction this law which is an alteration of the existing community in the consular service which can not be broken without mutual consent. The present arrangement has been established in accordance with a resolution passed in a combined council of state, and consequently a separate consular service for Norway or for Sweden can not be resolved upon until the case has been treated in the same constitutional forms in accordance with the act of union, section 5.

"When I now refuse to give my assent to the law, I found this refusal on the right warranted to the King in the fundamental law, sections 30 and 78. It is my equally great love to both peoples which makes it a duty to exercise this right."

The section of the Norwegian council of state first suggested to postpone the case for further treatment in a council of state to Christiania in order to enable His Majesty to arrange this important question which might lead to the most serious crisis in a sitting of the entire government.

The King declared himself unable to comply with this suggestion and pointed out that the report of the Norwegian Government had been made and submitted.

The section of the Norwegian council of state thereupon made the most urgent representations with reference to the statement His Majesty had just read, which would be regretted in Norway where it had been hoped that the protracted and loyal exertions to settle the question—among which repeated negotiations with Sweden—would have led to a favorable result adequate to the requirements of the kingdom and to its rights. Norway's interests here coincided with those of the union and with those of Sweden, the security in the union being conditional upon the rights of Norway being respected. A decision according to the statement of His Majesty against the unanimous recommendation of the government and based upon a declaration formed without Norwegian advice would entail consequences beyond computation. It would be at variance with constitutional usage, a reversal of the kingdom's constitutional right to settle the question alone, and a violation of its liberty, independence, and sovereignty. It would probably lead to the dissolution of the union.

The section of the council of state further stated that no member of the present government would be able to countersign such a resolution and thereby give it constitutional validity. They must, consequently, tender their resignations.

His Majesty the King then read the following statement:

"It being evident to me that no other government can now be formed, I do not comply with the resignations of the ministers."

His Majesty further referred to the fundamental law, section 30, and urged that the ministers had now, according to their duty, "freely pronounced their opinion" and "made urgent representations" against his resolution; they were, thereby, free from responsibility. But the same section reserved to the King the right to decide "according to his own opinion." He therefore had the constitutional right to adopt a resolution, as he had done, and

it was the duty of the ministers to draw up and countersign minutes (protocol) of the treatment of the affair and the decision taken in the same.

The section of the council of state in reply stated that according to the fundamental law, section 15, the minister of state was responsible for the carrying out of the resolutions adopted. As long as there was no counter signature the resolution was not final. A report of the transactions might certainly be given, but no regular minutes (protocol), which is at the same time a royal order. The counter signature gave expression to the fact that responsible men indorsed the royal decisions, but in this case the government could not take upon itself the responsibility. The fundamental law, section 31, prescribed such counter signature for all orders passed by the King (military commands excepted). But this provision was not a reglementary rule for the members of the council of state; it was a direction as regards the forms to be observed to give validity to a royal order. There might, consequently, be cases in which it was not only right but also one's duty to refuse counter signature. The section of the council of state had obtained information regarding this question from the ministry of justice, showing that on several occasions the same views as here set forth had been maintained on the Norwegian side. The ministry still arrives at the same conclusion as in 1847 when pronouncing on the question in another connection, viz, in its considerations on the proposal then submitted for a new act of union. It is there asserted, with regard to the Norwegian constitution, that "there is nothing to deprive a member of the council of state of the natural right to refuse counter signature and resign his office." This opinion is shared by the then government: Løvenskiold, Krog, Sibbern, Schmidt, Petterson, Herm. Foss, and Fr. Stang, and by the then members of the section of the council of state resident in Stockholm: Due, J. H. Vogt, and Fleischer. It is stated in the same considerations that the obligation to countersign can not be based on the fundamental law, and that it is a misunderstanding to try to deduce such an obligation from its provisions.

The section of the council of state finally repeated that as a refusal of sanction in this case would be not only evidently injurious to the kingdom, but also a denial of its independence, they held themselves bound to refuse counter signature in order not to be accessory to this. A Norwegian who did so would from that very moment be without fatherland.

Thereupon resignations from the Norwegian Government and from the section of the council of state abiding with the King were presented and read. As regards this affair regular minutes have been taken.

J. LØVLAND.  
E. HAGERUP BULL.  
HERALD BOTHNER.

CHRISTIANIA, May 30, 1905.

*Mr. Hauge, late Chargé d' Affaires of Sweden and Norway, to the Acting Secretary of State.*

BAR HARBOR, ME., August 18, 1905.

SIR: Supplementing my letters of July 12 and 27 last and of the 10th instant, I submit as follows:

On July 27 last the Norwegian Government put before the Norwegian Storting a proposition for a referendum vote concerning the question of the dissolution of the union with Sweden. In this proposition, *inter alia*, it is said:

By the extraordinary decision, made necessary by the existing conditions, which decision on behalf of the nation was taken by the Storting through its resolution of June 7, 1905, the Storting has acted within its authority and with consciousness of the full consent and approval of the Norwegian people. Outside of Norway an attempt has been made to raise a doubt of the existence of such public opinion. It was probably on account of this doubt that the Swedish Riksdag (Parliament) expressed its wish to have another manifestation of the will and opinion of the Norwegian people.

A free referendum vote of the Norwegian citizens concerning the dissolution of the union will also give foreign observers full insight as to the wishes of the Norwegian people and remove any wrong impression that may have been created abroad, and, furthermore, will awaken among our own countrymen a fuller realization of their patriotism and their willingness to make sacrifices.

On the following day, to wit, July 28, the Storting unanimously agreed to the government's proposition.

I beg to quote from the Storthing's resolution as follows:

ARTICLE 1.

On August 13, at 1 o'clock p. m., a referendum vote shall take place over the whole country, by which those who have suffrage under the constitution shall give their answer to the question whether or not they agree to the already effected dissolution of the union.

ARTICLE 9.

The ballots shall only contain the word "Yes" or the word "No" (printed or written). If the voter agrees to the dissolution of the union, he shall answer, "Yes;" if he does not agree, he shall answer, "No."

I beg to add that according to the Norwegian constitution there is universal suffrage (for men) since 1898.

Article 50 of the constitution says:

The right of voting shall belong to every Norwegian citizen who has completed his twenty-fifth year, has resided in the country for five years, and is residing there.

As above said, the referendum vote took place on August 13, and I have just received a cable stating that 368,200 voters pronounced themselves in favor of the dissolution of the union with Sweden and only 184 voted for the union, an overwhelming majority, a practically unanimous vote being for the dissolution.

In the last elections (1903) of representatives to the Storthing 236,641 voters balloted, and it was considered that the voters showed great interest in that election; but now 368,384 voters cast ballots. Never before have the voters been as anxious to show their interest. There are in Norway about 50,000 persons of Swedish birth, and of course thousands of them are naturalized and can vote, and it is very probable that the 184 votes against the dissolution of the union were such. Considering the great number of Swedes living in Norway, it is astonishing that the minority was so small. I beg to add that the voting in Norway is absolutely secret, so that nobody risks anything by voting according to his free will.

By the referendum it is clear that the present Norwegian Government represents the unanimous Norwegian people. This government has now been ruling in Norway for nearly three months, and it has been obeyed by the whole people, by the army and navy, and by all civil officers of the country.

Therefore it seems to me that at present the political situation in Norway is so clear that the recognition of the Norwegian Government by the Government of the United States might be expected.

I respectfully beg to suggest that at earlier occasions the United States has recognized provisory governments very soon after their establishment. Thus the provisory French Government of September 4, 1870, was recognized by the United States as early as the 7th of the same month; also the provisory French Government in 1848 and the Brazilian Republican Government 1889 were recognized almost immediately.

Finally, I beg to express as my opinion that it would contribute much to a quick and easy settlement of the different questions still pending between Norway and Sweden if the Norwegian Government were recognized by the United States.

I hope to receive an early answer to the questions set forth in my letter of the 12th of July last and trust that I may soon be able to inform my government that the Government of the United States is willing to recognize the Norwegian Government and to receive its envoy as soon as an official demand for that purpose is made.

Accept, etc.,

CHR. HAUGE.

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*Minister Graves to the Secretary of State.*

No. 30.]

AMERICAN LEGATION,  
*Stockholm, October 18, 1905.*

SIR: I have the honor to report that the special session of the Swedish Riksdag, which was called to consider the dissolution of the union of Sweden and Norway, completed its labors and adjourned this day.

The historical importance of the session caused the King to hold a formal and ceremonious reception of the Riksdag in the throne room of the palace. Preceded by the same elaborate ceremonial as is observed on the opening of annual sessions of the Riksdag, and in presence of the royal family, the Duke and Duchess of Connaught of England, all officers of the State, and the diplomatic corps, King Oscar delivered an impressive and touching address to the Riksdag, a copy and translation of which is herewith transmitted.

This historical event marks the dissolution of the century-old union between the nations of Sweden and Norway.

I have, etc.,

CHARLES H. GRAVES.

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[Inclosure.—Translation.]

*King Oscar's address to the Swedish Riksdag, October 18, 1905.*

GOOD GENTLEMEN AND SWEDISH MEN: It is an important moment when I now raise my voice in this throne room.

The union formed in 1814 between the two peoples of the Scandinavian peninsula, which during former centuries were separate nations, is now dissolved and the Swedish Riksdag, by its decision of the 16th instant, has confirmed my proposition in favor of its dissolution.

In truth it is not without great pain that I see the former separation of these two closely related peoples again take place, and the disadvantages and perils which during the nearly century-old union seemed to be forever removed again possibly brought to life. I will, however, not suppress the hope that, notwithstanding the political union no longer exists, a lasting peace between the peoples of Sweden and Norway may nevertheless be preserved during the future, to the happiness and security of both nations, and I am convinced that a good foundation for this has been laid by the agreements with Norway which you now by my suggestion have approved.

At this moment may I, not without deep emotion, proclaim my warm and heartfelt thanks for all the fidelity and devotion which has been shown to me by the noble people of Sweden during the time, so painfully trying to me, which has elapsed since June 7 this year. The memory thereof I shall not only cherish in my heart till the last moment of my life, but it will constantly encourage me to use all the strength which is still left me in my old age to the best benefit of the country and people who have shown me such fidelity and love.

I hereby declare this Riksdag adjourned, and remain, good gentlemen and Swedish men, with all royal grace and favor, always well disposed toward you.



*The Legation of Sweden and Norway to the Department of State.*

[Memorandum.]

LEGATION OF SWEDEN AND NORWAY,  
*Washington, October 27, 1905.*

The legation has just received from the foreign office at Stockholm a telegram announcing that after the consent given by the Swedish Diet the King has yesterday, the 26th, recognized Norway as entirely separated from Sweden and has renounced the crown of Norway for himself and his house.

The legation has been ordered to inform the Government of the United States of the above said statement and to add that a circular note to the powers, which is now on its way by mail, will in a more formal manner bring the subject to the knowledge of the United States Government.

*The Minister of Foreign Affairs of Norway to the Secretary of State.*

[Telegram.]

CHRISTIANA, *October 29, 1905.*

The union between Norway and Sweden having been dissolved, notice of which was given by Sweden, the Norwegian Government desires to enter into official relations with the United States as soon as possible and would be glad if the North American Government were pleased to recognize Mr. Ch. Hauge in the capacity of chargé d'affaires ad interim pending the appointment of a minister plenipotentiary.

LÖVLAND.

*The Department of State to the Legation of Sweden and Norway.*

[Memorandum.]

DEPARTMENT OF STATE,  
*Washington, October 30, 1905.*

The Department of State has received the memorandum of the legation of Sweden and Norway, dated October 27, 1905, and takes note of the fact that the legation has received from the foreign office at Stockholm a telegram announcing that after the consent given by the Swedish Diet, the King had, on October 26, recognized Norway as entirely separated from Sweden and had renounced the crown of Norway for himself and his house.

The Department of State takes note also of the further information furnished by the legation of Sweden and Norway that a circular note to the powers is now on its way by mail, which will, in a more formal manner, bring the subject to the knowledge of the Government of the United States.

*The Secretary of State to the Minister of Foreign Affairs of Norway.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, October 30, 1905.*

The Government of Sweden, through its legation at Washington, having officially informed the Government of the United States of the King's renunciation of crown of Norway for himself and his house and his recognition of Norway as entirely separated from Sweden, I shall be pleased to receive Mr. Ch. Hauge as chargé d'affaires of Norway, as you request in your telegram of October 29.

Root.

*The Minister of Foreign Affairs of Norway to the Secretary of State.*

[Telegram.]

CHRISTIANIA, *November 1, 1905.*

Norwegian Government presents heartiest thanks for kind telegram 30 October. Hauge ordered to go Washington immediately as chargé d'affaires.

LÖVLAND.

*The Secretary of State to the Minister of Foreign Affairs of Norway.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, November 4, 1905.*

With regard to your telegram of October 29 informing me of the selection of Mr. Christian Hauge as chargé d'affaires of Norway, I beg to suggest that his reception in that capacity would be facilitated by the simultaneous delivery of letters recalling, so far as Norway is concerned, the present envoy whom this government has received in the dual capacity of representative of Norway as well as of Sweden. This government is without any official information that the minister's representation of Norway has been changed.

ELIHU ROOT.

*The Minister for Foreign Affairs of Norway to the Secretary of State.*

[Telegram.—Translation.]

CHRISTIANIA, *November 6, 1905.*

In reply to your excellency's telegram of the 4th of November, I have the honor to submit that the recognition of the dissolution of the union by the United States implies, according to international law, that Mr. Grip's mission has come to a natural end, so far as Norway is concerned. In order to continue in this mission he should have new letters of credence, according to international precedents. The Norwegian Government therefore consider letters of recall to be out of the question, and none of the governments with which the Norwegian Government has entered into diplomatic relations has asked such

letters under the circumstances. I hope that your excellency will see no objection to receiving Mr. Hauge in the capacity of chargé d'affaires of Norway, in accordance with the impression conveyed in your telegram of October 30.

LÖVLAND.

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*The Secretary of State to the Swedish Minister.*

No. 362.]

DEPARTMENT OF STATE,  
Washington, November 8, 1905.

SIR: I have the honor to inform you that on the 29th ultimo I received a telegram from the minister for foreign affairs of Norway, a translation of which reads as follows:

The union between Norway and Sweden having been dissolved, notice of which was given by Sweden, the Norwegian Government desires to enter into official relations with the United States as soon as possible and would be glad if the North American Government were pleased to recognize Mr. Ch. Hauge in the capacity of chargé d'affaires ad interim pending the appointment of a minister plenipotentiary.

The Government of the United States having previously been informed by the Government of Sweden, through its legation at Washington, of the King's renunciation of the crown of Norway for himself and his house, and his recognition of Norway as entirely separate from Sweden, I replied to the minister for foreign affairs of Norway, on October 30, that I should be pleased to receive Mr. Hauge as chargé d'affaires ad interim of Norway.

Inquiry was subsequently made of the minister whether letters recalling you, so far as Norway is concerned, should not be delivered simultaneously with the reception of the chargé d'affaires.

To this the minister replied in a telegram dated the 6th instant, reading as follows:

In reply to your excellency's telegram of the 4th of November, I have the honor to submit that the recognition of the dissolution of the union by the United States implies, according to international law, that Mr. Grip's mission has come to a natural end, so far as Norway is concerned. In order to continue in this mission he should have new letters of credence, according to international precedents. The Norwegian Government therefore considers letters of recall to be out of the question, and none of the governments with which the Norwegian Government has entered into diplomatic relations has asked such letters under the circumstances. I hope that your excellency will see no objection to receiving Mr. Hauge in the capacity of chargé d'affaires of Norway, in accordance with the impression conveyed in your telegram of October 30.

Mr. Lövland's views coincide with those of this government, which is of the opinion that the situation thus evolved terminates your representation of Norway near the Government of the United States and calls for the issuance of a new letter of credence to you. Pending its receipt I shall be pleased to continue to communicate with you in regard to all matters of interest to the Government of Sweden.

Accept, etc.,

ELIHU ROOT.

*The Norwegian Chargé to the Secretary of State.*

LEGATION OF NORWAY,  
Washington, November 10, 1905.

SIR: Having been recognized by your government as the chargé d'affaires ad interim of Norway, I have the honor to inform you, in view of the fact that the consular question is still pending, that I have directed all of the Swedish and Norwegian vice-consuls in this country to continue to act as vice-consuls of Norway until further notice.

Accept, etc.,

CH. HAUGE.

*The Japanese Minister to the Secretary of State.*

[Memorandum.]

NOVEMBER 9, 1905.

(1) Are the treaties hitherto concluded and existing between the United Kingdom of Sweden and Norway and other powers to be considered to have ceased to be valid at this juncture so far as regards Norway, and has Norway temporarily to lose its treaty relations with such other powers?

(2) Are such treaties as referred to above to be considered valid so far as regards Sweden?

(3) Are the diplomatic agents and consular officers hitherto accredited by the United Kingdom of Sweden and Norway to the other powers to be hereafter recognized as the diplomatic agents and consular officers of Sweden?

(4) Are the diplomatic agents and consular officers hitherto accredited by foreign powers to the United Kingdom of Sweden and Norway to be recognized hereafter as the diplomatic agents and consular officers of Sweden alone? If so, is it not required at this juncture to renew the credentials presented to the King of Sweden and Norway by the diplomatic agents of foreign powers or to take any such course in order to continue the terms of office of these diplomatic agents and consular officers as are accredited to Sweden alone?

*The Secretary of State to the Japanese Minister.*

[Memorandum.]

DEPARTMENT OF STATE,  
Washington, November 10, 1905.

The Secretary of State has considered the questions in regard to the treaties of Sweden and Norway and the diplomatic and consular relations of those countries with other powers propounded in the memorandum left with him by the Japanese minister on the 9th instant.

The first and second points therein brought up remain for future adjustment. The views of this government as to their treatment may be thus stated. The queries are:

(1) Are the treaties hitherto concluded and existing between the United Kingdom of Sweden and Norway and other powers to be considered to have ceased to be valid at this juncture so far as regards Norway, and has Norway temporarily to lose its treaty relations with such other powers?

(2) Are such treaties as referred to above to be considered valid so far as regards Sweden?

The treaty of 1816 (which was terminated in 1826) and that of 1827, still extant, were concluded by the United States with the sovereign of Sweden and Norway acting on behalf of each country. Sweden and Norway are not therein described as a United Kingdom, but the obligations contracted and privileges granted by their common King are separately specified in each instance as to the territories, shipping, and commerce of each country. This government would regard the treaty provisions in regard to Norway and to Sweden as severally binding upon each country and unaffected by the dynastic change in Norway. In point of fact the Government of Norway and the Government of Sweden have hitherto acted independently in execution of their treaty engagements, each within its sovereign jurisdiction. In the matter of extradition the United States has concluded separate treaties with the Governments of Norway and of Sweden.

(3) Are the diplomatic agents and consular officers hitherto accredited by the United Kingdom of Sweden and Norway to the other powers to be hereafter recognized as the diplomatic agents and consular officers of Sweden?

This government has been notified by the Government of Norway that the functions of the diplomatic representatives of Sweden and Norway have ceased, *ipso facto*, so far as Norway is concerned, and that representatives of Norway will be appointed. It is understood that the Swedish Government regards its diplomatic agents as the representative of the sovereign, and that with the termination of the King's sovereignty over Norway his ministers cease to represent Norway; but that their representation of Sweden is unaffected thereby and that no new credentials are needed. It is presumed that each country holds the same position with regard to its consular representatives.

(4) Are the diplomatic agents and consular officers hitherto accredited by foreign powers to the United Kingdom of Sweden and Norway to be recognized hereafter as the diplomatic agents and consular officers of Sweden alone? If so, is it not required at this juncture to renew the credentials presented to the King of Sweden and Norway by the diplomatic agents of foreign powers or to take any such course in order to continue the terms of office of these diplomatic agents and consular officers as are accredited to Sweden alone?

The United States will, upon provision therefor by the Congress, accredit a diplomatic representative to Norway.

As under our constitutional system the President is not a sovereign, but the mandatory of the sovereign powers of the States of the Union, the relations of the United States with foreign countries are as between government and government, rather than as between sovereign and sovereign. Consequently the United States will in due time accredit its diplomatic representative to Sweden alone; but in the meanwhile it is disposed to regard its present minister as dually accredited to the two Kingdoms, and therefore competent to transact affairs with the Government of Norway. As the consuls of the United States in Sweden and Norway act under exequaturs, defining their territorial jurisdiction it is not thought necessary to seek a new exequatur for a consul who already has a Norwegian exequatur. A consul who has a Swedish exequatur is of course unaffected by the change.

*The Swedish Minister to the Secretary of State.*

[Translation.]

LEGATION OF SWEDEN,  
Washington, November 13, 1905.

MR. SECRETARY OF STATE: Following the events of the 7th of June last in Norway and the decision taken by the public powers in Sweden to give, under certain conditions destined to safeguard the honor and the interests of Sweden, their consent to the dissolution of the union existing since 1814 between the two countries, negotiations took place at Karlstad with a view to bringing about an understanding on the subject of these conditions and to determine for the future by eliminating, as far as possible, all causes of misunderstanding—a solid and durable base for the relations between the two countries.

This understanding having been established and the Swedish Parliament having, upon the King's proposition, consented in so far as concerns Sweden to the abrogation of the act of union of 1815 and to the dissolution of that union, the King has now promulgated a law for the abrogation of the said act of union and for the recognition of Norway as a state completely separated from Sweden. At the same time His Majesty has renounced for himself and for his house the crown of Norway.

While having, in conformity with the orders of His Majesty, the honor to bring the foregoing to the knowledge of the Government of the United States of America, I take, etc.,

A. GRIP.

*The Swedish Minister to the Secretary of State.*

[Translation.]

LEGATION OF SWEDEN,  
Washington, November 13, 1905.

MR. SECRETARY OF STATE: The dissolution of the union between Sweden and Norway being at present legally effected, His Majesty King Oscar II has changed his official title for that of "King of Sweden, of the Goths, and of the Vandals."

I have the honor, by order of my government, to inform your excellency of this, and I take this occasion, etc.,

A. GRIP.

*The Swedish Minister to the Secretary of State.*

[Translation.]

LEGATION OF SWEDEN,  
Washington, November 13, 1905.

MR. SECRETARY OF STATE: By a letter dated the 8th instant, your excellency was pleased to inform me that you are of the opinion that the legation of the King, Oscar II, in this capital no longer represents Norway.

The two notes which I have had the honor by order of my government to address to you this day relative to the dissolution of the union leave no doubt that my government shares your view. In fact, the

circumstance that the King has removed Norway from his official title clearly shows that his representative or his legation here is no longer charged with the interests of Norway—without, according to the opinion of my government, new letters of credence being required to establish this fact.

Be pleased, etc.,

A. GRIP.

*The Secretary of State to the Swedish Minister.*

No. 364.]

DEPARTMENT OF STATE,  
Washington, November 13, 1905.

SIR: I have had the honor to receive the three several notes of this day's date which you have addressed to me concerning the action of His Majesty King Oscar II of Sweden in renouncing the sovereignty of Norway heretofore pertaining to him.

I take particular note of your statement that the circumstance that the King has removed Norway from his official title "clearly shows that his representative or his legation here is no longer charged with the interests of Norway—without, according to the opinion of my [your] government, new letters of credence being required to establish this fact."

This statement, meeting as it does the suggestion made in my note of the 8th instant, is entirely satisfactory to the Government of the United States.

Be pleased, etc.,

ELIHU ROOT.

*The Secretary of State to the Minister of Foreign Affairs of Norway.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 13, 1905.

I have the honor to advise your excellency that the President has directed that Mr. Charles H. Graves, hitherto accredited as envoy extraordinary and minister plenipotentiary to the sovereign of the several Governments of Norway and of Sweden, shall continue to discharge the functions of his office toward the Government of Norway separately for the time being until other arrangements may be made.

ELIHU ROOT.

*The Secretary of State to the Minister of Foreign Affairs of Norway.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, November 13, 1905.

Will it be agreeable to the Government of Norway that the consuls of the United States and their dependent agencies in Norway shall continue in their functions under the exequaturs they already hold from the Government of Norway?

ELIHU ROOT.

*The Secretary of State to Minister Graves.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 13, 1905.

(Mr. Root advises Mr. Graves that, official notification having been received from Minister Grip of the cessation of his functions as the representative of Norway and of his continuance as minister of Sweden without new credentials, the Norwegian minister for foreign affairs has been informed to-day that Mr. Graves, heretofore the accredited envoy extraordinary and minister plenipotentiary to the Governments of Sweden and Norway, has been instructed to continue to exercise such functions toward the Government of Norway separately until other arrangements may be made. Instructs him to inform the minister for foreign affairs of Norway of his readiness to transact with him any necessary diplomatic business.

Advises him that his dual status as envoy extraordinary and minister plenipotentiary to the King of Sweden remains effective without new credentials.)

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*Minister Graves to the Secretary of State.*

No. 35.]

AMERICAN LEGATION,  
Stockholm, November 14, 1905.

SIR: I have the honor to acknowledge the receipt this day of a cable telegram from yourself of the following wording:<sup>a</sup>

I have the honor to report that I have this day addressed to the minister for foreign affairs at Christiania, Norway, a note, of which the inclosed is a copy.

I have, etc.,

CHARLES H. GRAVES.

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[Inclosure.]

*Minister Graves to the Minister for Foreign Affairs of Norway.*

AMERICAN LEGATION,  
Stockholm, November 14, 1905.

EXCELLENCY: I am directed by the President of the United States to continue to exercise the functions of my office as envoy extraordinary and minister plenipotentiary to the Government of Norway separately, and have the honor to notify your excellency of my readiness to transact with yourself any necessary diplomatic business. I respectfully request the honor of calling upon you to pay my respects at such time as may be convenient and agreeable to your excellency.

I avail, etc.,

CHARLES H. GRAVES.

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*The Minister of Foreign Affairs of Norway to the Secretary of State.*

[Telegram.]

CHRISTIANIA, November 16, 1905.

United States consular representatives in Norway having been recognized by Norwegian Government new exequaturs for these officers are not required.

LÖVELAND.



*The Norwegian Chargé to the Secretary of State.*

LEGATION OF NORWAY,  
Washington, November 18, 1905.

SIR: At the request of my government I have the honor to inform your excellency that to-day Prince Carl of Denmark was unanimously elected King of Norway by the Storting.

Accept, etc.,

CH. HAUGE.

*The Swedish Minister to the Secretary of State.*

[Translation.]

LEGATION OF SWEDEN,  
Washington, November 20, 1905.

MR. SECRETARY OF STATE: One of the direct consequences of the dissolution of the union between Sweden and Norway is the cessation of the two countries' community in regard to the conventions and arrangements of every character entered into jointly by them with another power or several powers. Hence the Swedish Government deems itself released from any responsibility by reason of the obligations stipulated in the said common conventions and arrangements in which Norway is concerned. As for the treaties or other agreements concluded in the name of His Majesty the King of Sweden and Norway for Norway separately, it is obvious—and I hardly need point it out here—that His Majesty's government is in no wise answerable, after the separation of the two states, for the obligations incumbent upon Norway.

On the other hand, the Swedish Government is of opinion that the above-mentioned instruments jointly concluded by Sweden and Norway, continue in full force and effect as regards the relations between Sweden and the other contracting party or parties, without any modification whatever of the provisions that have heretofore regulated such relations being required by the dissolution of the union between Sweden and Norway.

The Swedish Government reserves the right to make, after a more thorough examination, a further communication on the point of deciding whether, and in what measure, a revision of the existing treaties is necessary or expedient.

In the meanwhile, the Swedish Government deems all agreements concluded by Sweden, whether separately or jointly with Norway, to be valid without modifications in regard to the relations therein considered between Sweden and the respective states.

I have the honor to bring the foregoing to your excellency's knowledge in compliance with directions received by me, and to beg that you will be so good as to acknowledge the receipt of this communication.

Be pleased, etc.,

A. GRIP.

*Minister Graves to the Secretary of State.*

No. 36.]

AMERICAN LEGATION,  
*Stockholm, November 20, 1905.*

SIR: I have the honor to report that I have been informed by the minister of foreign affairs of Norway at Christiania that the plebiscite held on the 12th and 13th of November, 1905, relative to the question of form of government of Norway, had resulted in 259,563 votes in favor of a monarchy and the election of His Highness Prince Charles of Denmark as King of Norway, and 69,264 votes in favor of a republic.

I have, etc.,

CHARLES H. GRAVES.

*The Secretary of State to the Swedish Minister.*

No. 367.]

DEPARTMENT OF STATE,  
*Washington, December 4, 1905.*

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo, in which you point out that His Majesty's government, in view of the dissolution of the union between Sweden and Norway, deems itself released from all liabilities existing under the treaties between Sweden and Norway and foreign powers, so far as Norway is concerned, but that it will continue to regard the treaties as in full force so far as the relations of Sweden and the other foreign contracting party are concerned.

Accept, etc.,

ELIHU ROOT.

*The Secretary of State to Minister Graves.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, December 4, 1905.*

(Mr. Root instructs Mr. Graves to convey to His Majesty King Haakon cordial congratulations in the name of the President and the Government of the United States, with wishes for his welfare and the prosperity of Norway, with earnest desire to promote the best relations between Norway and the United States.)

*The Norwegian Chargé to the Secretary of State.*

[Translation.]

LEGATION OF NORWAY,  
*Washington, December 7, 1905.*

MR. SECRETARY OF STATE: One of the direct consequences of the dissolution of the union between Norway and Sweden is the cessation of any community between the two states as regards the conventions and international agreements jointly concluded by them with one or several other states. If these conventions and agreements could be heretofore considered as involving the joint responsibility of Norway and Sweden for the obligations placed upon each thereby, the Nor-

wegian Government then deems itself from this time responsible only for the obligations in the said joint conventions and agreements which concern Norway. This likewise applies to the international conventions to which Norway and Sweden have jointly adhered. As for the conventions and agreements concluded separately by Sweden during the union and adhered to by Norway the Norwegian Government holds that it can not be considered to be responsible for the fulfillment of obligations thereby placed upon Sweden.

On the other hand, the Norwegian Government is of the opinion that all the conventions and international agreements concluded by Norway with one or several other states, either jointly with Sweden, or separately, or as an adhering party, continue in full force and effect, as heretofore, between Norway and the other contracting party or parties without any change in their provisions being effected by the dissolution of the union.

The Norwegian Government, however, reserves the right to make, after fuller consideration, a further communication as to whether and to what extent there shall be occasion to take up a revision of the texts of existing treaties between Norway and the United States of America.

While bringing the foregoing to your excellency's knowledge, by order of my government, I avail, etc.,

CH. HAUGE.

## TURKEY.

### DISPLAY OF FOREIGN FLAGS OVER PRIVATE ESTABLISHMENTS.

*Chargé Jay to the Secretary of State.*

No. 973.]

AMERICAN LEGATION,  
*Constantinople, January 11, 1905.*

SIR: I have the honor to inform you that I have recently been requested to authorize the numerous American religious, charitable, and educational institutions in the interior to fly the American flag on Sundays and holidays.

While there appears to exist no Turkish law prohibiting private individuals and private institutions of foreign nationality from displaying their national flag, yet such action, especially in the interior, meets with the strongest disapproval of the Imperial authorities and generally causes complications.

Certain reputable foreign institutions and a few private citizens at Constantinople, especially in the Christian districts of Pera and Galata, are tacitly permitted to fly their national flags, and this is also the case at several of the larger seaports in the Empire.

In the interior, however, the presence of a foreign flag denotes the residence of a consular officer or of some quasi government institution, such as the subventioned French schools.

Though doubtless in many cases where our missionaries are on good terms with the local authorities, no objection would be raised to their flying the flag, yet in many others I fear that such a step would lead to open complaint and annoyances ostensibly founded on other grounds. I have drawn the attention of those interested to the above, but I am nevertheless requested to state whether the American institutions have the right to fly the flag; and, if so, whether the legation will support them in this right. I have, therefore, the honor to respectfully request instructions from the Department upon this matter, as I am unable to find in the published Foreign Relations or in the legation's archives any decision of the Department covering this particular point other than the right of American citizens to hoist the flag on their property in times of insurrection or riot.

I have, etc.,

PETER AUGUSTUS JAY.

*The Acting Secretary of State to Chargé Jay.*

No. 757.]

DEPARTMENT OF STATE,  
*Washington, February 1, 1905.*

SIR: I have to acknowledge the receipt of your No. 973 of the 11th ultimo, asking whether American religious, charitable, and educational institutions in Turkey are authorized to fly the American flag on Sundays and holidays.

In reply, I inclose for your information a copy of an instruction addressed to the American minister to Haiti in regard to a similar inquiry which came from that country, and refer you to Foreign Relations for 1903, pages 596 et seq., wherein you will find the Department's views on the subject.

I am, etc.,

F. B. LOOMIS.

[Inclosure.]

*The Secretary of State to Minister Powell.*

No. 354.]

DEPARTMENT OF STATE,  
Washington, July 20, 1899.

SIR:

\* \* \* \* \*

The flag incident you describe in your No. 593 deserves separate treatment. It appears that the Compagnie Haitienne, in anticipation of the seizure of certain property, raised the flag of the United States above a station of the aerial tramways it has established in the interior of the island. The Haitien Government has requested that this practice cease, on the ground that such display of a foreign flag tends to excite popular feeling. You defend the practice as a right, while, however, requesting the company not to fly the flag pending the receipt by you of instructions on the subject.

The request of the Haitien Government appears not to be unreasonable. The right to display a foreign flag over foreign-owned property is by no means established except in the oriental countries where the extraterritorial jurisdiction of the foreign flag is secured by treaty. In some countries it is forbidden so to fly a foreign flag. In Mexico the privilege of showing their national ensign is forbidden even to foreign consuls. The right of Haiti to regulate or forbid by law the display of foreign flags within Haitien territory could not well be questioned. It does not, however, appear that the request of the Haitien Government rests on any domestic law; on the contrary it seems to rest on motives of policy and domestic expediency, having regard to the particular circumstances of the case.

In Mr. Sandham's letter to you, of June 21, he admits that the flag was raised above a station "owing to a threatened seizure of logwood" stored therein and that "this action was not diplomatic." In this latter statement the Department concurs. The national flag is the symbol of the paramount authority of its government, which authority obviously does not extend, in the case of the United States, over private property situated in a sovereign foreign jurisdiction. In the present case, moreover, the property belongs to a company operating under Haitian charter and possessing no delegated authority to raise the flag as the emblem of any exercisable power of the United States Government in that quarter.

As the incident appears to have been terminated by the company's own admission of the irregularity of its action in Mr. Sandham's letter to you, and by its agreement to lower the flag in order to preserve harmonious relations, it does not appear necessary to pursue the subject further.

I am, etc.,

JOHN HAY.

**PROPOSED INCREASE OF CUSTOMS DUTIES AND ESTABLISHMENT OF PETROLEUM DEPOTS.**

*Minister Leishman to the Secretary of State.*

No. 1031.]

AMERICAN LEGATION,  
Constantinople, April 6, 1905.

SIR: I beg to confirm the telegram sent you this day regarding proposed increase in the Turkish customs rate, as per copy on overleaf.

The question of increasing the duties from 8 to 11 per cent has been a matter of negotiations between the Sublime Porte and the European powers for the past two years, and has now reached a point when definite action will probably be taken, but up to the present time the legation has not been approached, notwithstanding the assurance given me by the minister for foreign affairs many months ago that the American Government would of course be consulted. \* \* \*

Although resting under the impression that the Department would not under ordinary circumstances be disposed to object to a reasonable increase in the import duties into Turkey, I feel quite certain that you would not feel disposed to accept any increase in the rates in the absence of a proper understanding and agreement.

In the negotiations with the European powers they have all demanded concessions of one kind or another as the price of their consent to the 3 per cent increase; for example, the Germans have indicated that they would agree to the increase providing a certain portion of the additional revenue was set aside to help pay the kilometeric guarantee on the Bagdad railway, etc.; the French demanded settlement of dispute concerning Syrian railway and the quays at Constantinople, etc.; the English, the settlement of certain mining claims, concession concerning gendarmerie in Macedonia, etc., and my idea was that if the United States Government was willing to accept the increase that, if the matter was left entirely in the hands of the legation, possibly I might be able to facilitate the execution of the school settlement and other pending questions by temporarily withholding consent to the proposed new schedules.

Having learned through one of my colleagues that the matter was being actively pushed and that a final settlement was apt to be reached in the near future, I thought wise to cable you as above, fearing that the Sublime Porte might possibly approach you direct through the Ottoman minister at Washington before my dispatch explaining existing conditions could reach you.

Awaiting your advices and instructions,  
I have, etc.,

JOHN G. A. LEISHMAN.

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*The Acting Secretary of State to Minister Leishman.*

No. 810.]

DEPARTMENT OF STATE,  
*Washington, April 27, 1905.*

SIR: The Department has received your very interesting dispatch, No. 1031, of the 6th instant, touching the proposed increase in the Turkish customs rate from 8 to 11 per cent.

You are correct in your impression that the Department would not under ordinary circumstances object to a reasonable increase in the import duties into Turkey. In view, however, of the fact which you report that in the negotiations with the European powers they have all demanded concessions of one kind or another as the price of their consent to the proposed increase, it would seem that the United States may also properly demand adequate compensation for its assent to the measure in question.

In response to your suggestion that you might possibly be able to facilitate the execution of the school settlement and other pending questions by temporarily withholding consent to the proposed measure if this government were willing to accept the increase and if the matter were left entirely in the hands of the legation, the Department authorizes you to give your consent thereto upon condition of the adjustment along the lines indicated, and in the largest measure that may be found practicable, of the pending just claims of the United States against the Ottoman Government.

The Department has not been approached upon this subject by the Turkish minister at this capital.

I am, etc.,

ALVEY A. ADEE.

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*Minister Leishman to the Secretary of State.*

No. 1074.]

AMERICAN LEGATION,  
*Constantinople, May 27, 1905.*

SIR: I beg to inclose herewith for the Department's information copy of a circular note issued by the Sublime Porte concerning the establishment of petroleum depots in the populous centers, together with a copy of the legation's reply, which I trust will meet with your approval.

While the Sublime Porte's note bears on its face the establishment of what would naturally be viewed as a very proper municipal regulation, the rates for storage mentioned are out of all proportion for the services to be rendered, and I learn privately that the new act was drawn up by the financial commission with a view of establishing a new source of revenue.

In any event I deemed it wise to guard against any infringement upon certain principles, such as the establishment of a new monopoly which might be far-reaching, and indirectly increasing the customs tax upon an article which intimately concerns American trade. Even allowing that the government would not be disposed to offer any serious objections to a slightly increased tax, I viewed the matter that whatever the government might be disposed to grant as a favor it could not afford to allow the Sublime Porte to usurp as a right, consequently I thought it just and proper to protest against the introduction of the new law in the absence of a proper understanding and agreement.

A similar protest was filed by the legation in 1882 against the granting of a monopoly to a certain Sami Bey for the establishment of a central petroleum depot at Constantinople, but the matter was afterwards dropped, as the correspondence between the legation and the Department at that time will show.

Unless otherwise instructed by the Department, my idea is to treat the matter pretty much upon the same lines as the question of a 3 per cent increase in the customs dues. See legation's dispatch No. 1031, April 6, 1905, and the Department's reply thereto, No. 810, April 27, 1905.

I have, etc.,

JOHN G. A. LEISHMAN.

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[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Leishman.*

NOTE VERBALE.

SUBLIME PORTE,  
MINISTRY FOR FOREIGN AFFAIRS,  
*April 27, 1905.*

In order to prevent the danger to the public security resulting from the storage in populous centers of large quantities of petroleum, alcohol, and other inflammable materials, the imperial government has decided to have warehouses constructed for the storage of said

materials in such places where they do not exist as yet and to buy at a reasonable price those which have already been built by private persons with a view of securing uniform regulations to which these materials are subject.

In order to cover the expense of construction, of repairs, and of insurance of the above-mentioned warehouses, as well as the salaries of the officials, there will be uniformly collected on every case of petroleum stored, petroleum passing in transit to other parts of the Empire being excepted, a tax of 60 paras for the time included between one day and one month and a tax of 1 piaster for each of the following months or fraction of a month.

On petroleum not in cases there will be collected on each quintal a tax equivalent to the double of the tax collected on each case.

Alcohol, naphtha, benzine, and other similar materials will be subject to the same charges as petroleum.

The imperial ministry requests the legation of the United States of America to kindly bring the preceding to the knowledge of its citizens interested in the matter.

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[Inclosure 2.]

*Minister Leishman to the Minister for Foreign Affairs.*

NOTE VERBALE.

AMERICAN LEGATION,  
*Constantinople, May 19, 1905.*

The American legation has the honor to acknowledge the receipt of the Sublime Porte's note verbale of April 27, 1905, concerning the proposed measure which the Imperial Ottoman Government has in contemplation with a view of establishing under official control petroleum depots in the populous centers.

If, as stated in the above-mentioned circular, the object of establishing petroleum depots near the large cities is merely in order to give the public greater security from fires which may result from the indiscriminate storage of such inflammable material as petroleum and alcohol, the legation would be inclined to view the establishment of storage depots (for such highly inflammable material) as a proper municipal regulation, whether instituted directly or indirectly by the municipalities or by private enterprise under proper municipal regulations. Under these circumstances the legation would not be disposed to offer any objection to the establishment of such depots, providing the charges for storage be fixed at a figure sufficient only to cover the necessary expense connected with the establishment and proper conduct of such depots.

If aforesaid understanding of above-mentioned circular be correct, the charges for storage must of necessity be materially modified, as the proposition as outlined in the Sublime Porte's circular note would appear more in the line of a fiscal measure, which could only be viewed by the legation as an indirect increase in the customs duty agreed upon between the Imperial Ottoman Government and the Government of the United States of America, or as a monopoly, against both of which the legation would be forced to enter a protest.

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*The Acting Secretary of State to Minister Leishman.*

No. 845.]

DEPARTMENT OF STATE,  
*Washington, June 21, 1905.*

SIR: Your dispatch No. 1074, of the 27th ultimo, with inclosures, relating to the proposed establishment by the Turkish Government of petroleum depots in the populous centers of the Empire, has been received and has had attention.

The Department approves your course in protesting against the introduction of this measure in the absence of a proper understanding and agreement, and also your view that the matter should be treated much upon the same lines as the question of the 3 per cent increase in the Turkish customs dues, considered in the Department's instruction No. 810, of April 27, 1905.

I am, etc.,

F. B. LOOMIS.



## CRETAN CLAIMS COMMISSION AWARDS.

*Minister Leishman to the Secretary of State.*

No. 1070.]

AMERICAN LEGATION,  
*Constantinople, May 22, 1905.*

SIR: I beg to inclose herewith copy of statement received through the British embassy, showing awards allotted to American claimants by the Cretan commission.

In reply to my question as to when, where, and how the money was to be paid, the English ambassador smilingly remarked that "that is a matter for the future."

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

*The British Ambassador to Minister Leishman.*CONSTANTINOPLE, *May 9, 1905.*

SIR: I have the honor to transmit herewith a list of claims made by United States citizens in Crete on account of losses incurred during the Cretan revolutions of 1896, 1897, and 1898, which I have received from his majesty's consul-general at Canea for communication to your excellency.

Mr. Howard states that these claims have been examined, together with those of other foreigners in Crete, by a commission composed of consuls, and the sums awarded, as stated in the inclosed list, were ratified by a full consular session held on the 27th of March last.

I have, etc.,

N. R. O'CONNOR.

[Subinclosure.]

## CRETAN INDEMNITIES.

*American claims.*

Claimants.		Sum allowed.
		<i>Francs.</i>
1	N. Frankiades.....	2,400
2	George Georgiades.....	12,000
3	John Kassinatis.....	6,134
4	Madame Veriki.....	18,000
	Total.....	38,534

RIGHT OF FOREIGN CORPORATIONS TO OWN REAL ESTATE IN  
TURKEY.*The Acting Secretary of State to Minister Leishman.*

No. 839.]

DEPARTMENT OF STATE,  
*Washington, June 9, 1905.*

SIR: I inclose herewith a copy of a letter from Mr. C. S. Calemkarian, of Boston, Mass.,<sup>a</sup> in which he asks whether an American corporation could acquire and hold real estate in Turkey for the purpose of manufacturing articles for exportation to the United States.

<sup>a</sup> Not printed.

The Department will be pleased to receive a report embodying any information in your possession which may be pertinent to the subject of Mr. Calemkarian's inquiry.

I am, etc.,

F. B. LOOMIS.

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*Minister Leishman to the Secretary of State.*

No. 1092.]

AMERICAN LEGATION,  
*Constantinople, June 27, 1905.*

SIR: In reply to your dispatch of the 9th instant, No. 839, I have the honor to inform you that corporations unless specially authorized by imperial irade can not acquire and hold real property in Turkey.

Directors of corporations, however, often purchase real property, which they hold in the individual name or names of one or more persons. Legally and apparently such person or persons appear as the owners, but they give deeds of trust to the corporation, declaring that they hold the property for the corporation.

American citizens, whether born or naturalized before 1869, may acquire and hold real property in Turkey except in the vilayet of Hedjaz.

Citizens of Ottoman origin who have been naturalized without imperial iradé since 1869 or their children are not authorized, as foreign citizens, to hold real property in Turkey, as the Ottoman Government does not recognize their naturalization.

Children of such citizens who have been naturalized before 1869 are treated as native-born citizens.

In matters relative to the tenure of real property in Turkey, foreign citizens or subjects are assimilated to Ottoman subjects and the Ottoman law is applied to all.

In these matters foreigners can not take advantage of capitulations. Trusting that this will furnish all the information desired,

I have, etc.,

JOHN G. A. LEISHMAN.

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**DIPLOMATIC IMMUNITIES—ARREST OF THE DRAGOMAN OF THE  
AMERICAN LEGATION.**

*Minister Leishman to the Secretary of State.*

No. 1103.]

AMERICAN LEGATION,  
*Constantinople, July 12, 1905.*

SIR: I regret to have to report a most unpleasant incident. On Saturday last the dragoman of the legation was arrested by a stupid police agent and taken to the prefecture, where he was detained for about an hour, owing to the fact that the minister of police had not yet arisen, but as soon as the minister learned the character of his involuntary visitor he immediately ordered his release and hastened himself to express the most abject regrets and apologies.

Under ordinary circumstances I would have simply treated the matter as one of those unpleasant incidents that sometimes occur through the stupidity of ignorant subordinates and would have been disposed

to consider the very correct actions of the minister of police as sufficient satisfaction, but as the police agent continued in detaining Mr. Gargiulo after he had amply demonstrated the fact that he was the dragoman of the legation, I considered it necessary to call upon the minister of foreign affairs in order to lodge a formal protest against such a breach of international agreement and diplomatic immunities.

The minister of foreign affairs expressed deep regret and promised to report the matter at once to the palace, with the result that early the following morning I received a visit from Ghalib Bey, the introducteur of ambassadors and one of the sultan's chamberlains, who informed me that the Sultan had commanded him to call and express the deep regrets of his majesty at the unfortunate occurrence and to inform me that the agent who had committed the wrong had already been dismissed in disgrace from the service, and that his majesty had expressed the hope that I would accept this apology as closing the incident.

The trouble arose through the issuance of a general order to arrest persons found purchasing arms and ammunitions, the importation of these articles into Turkey being forbidden, but several stores owned by foreign subjects have for some time past been smuggling arms into the country, and as the several governments \* \* \* declined to assist the local authorities in preventing the sale of the forbidden articles the police attempted to stop the practice by arresting the customers when issuing from the stores with their purchases, and as the police were not sufficiently cautioned against arresting foreign subjects, and especially anyone connected with the diplomatic corps, Mr. Gargiulo was arrested upon coming out of the store of a certain Austrian after having purchased a small box of cartridges.

In the absence of the slightest evidence that would warrant the assumption that the matter was other than the stupid work of an overzealous police agent, and in view of the very correct attitude assumed by the minister of police the moment the case was presented to him, I assumed the responsibility of accepting the expression of regrets upon the part of His Majesty as closing the incident without waiting to refer the matter to the Department.

Trusting that my action will meet with your approval,  
I have, etc.,

JOHN G. A. LEISHMAN.

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*The Acting Secretary of State to Minister Leishman.*

DEPARTMENT OF STATE,  
*Washington, August 2, 1905.*

SIR: I have to acknowledge the receipt of your dispatch No. 1103, of the 12th ultimo, in regard to the arrest of the dragoman of your legation, and to express to you the Department's gratification at the prompt closing of the incident.

I am, etc.,

ALVEY A. ADEE.

**ATTEMPT ON THE LIFE OF THE SULTAN OF TURKEY.***The Turkish Minister to the Acting Secretary of State.*

[Telegram.—Translation.]

ATLANTIC CITY, July 22, 1905.

I have the honor to communicate to you hereinbelow the text of two telegrams which I have just received from the Sublime Porte.

“To-day, upon leaving the mosque at the conclusion of the ceremonies of the Selamlik, a bomb burst in the courtyard of the mosque. Divine Providence miraculously saved our august master. His Imperial Majesty again showed great coolness and courage on this occasion, for, seated in the victoria, which he was driving himself, he returned to the imperial palace, graciously saluting the public as if nothing had happened two minutes before. There were a few people killed and wounded, and the whole population of the capital is indignant at this act of infamous villainy.”

“As a continuation of my telegram of to-day, the author of this abominable attempt at assassination, who committed his criminal act beyond the courtyard of the mosque and at the place where the carriages of the visitors were standing, is being vigorously hunted, and all measures have been taken for his arrest. Our august sovereign, immediately after his return to the imperial palace, received the ambassador of Austria-Hungary, who had repaired thither in order to perform a mission with which he had been charged by His Majesty the Emperor-King. All the foreigners and natives present at the ceremonies of the Selamlik were well received by His Imperial Majesty, who saluted them with his customary grace and good will. The entire assembly present gave an enthusiastic ovation to our august and magnanimous sovereign, cheering him loudly.

CHEKIB.

*President Roosevelt to the Sultan of Turkey.*

[Telegram.]

THE WHITE HOUSE,  
Washington, July 22, 1905.

I felicitate Your Majesty on your fortunate escape.

THEODORE ROOSEVELT.

**DETENTION OF TYPEWRITING MACHINES SHIPPED FROM THE UNITED STATES.***The Acting Secretary of State to Minister Leishman.*

No. 877.]

DEPARTMENT OF STATE,  
Washington, August 14, 1905.

SIR: I inclose herewith for your information a copy of a letter from Mr. J. B. Hammond,<sup>a</sup> in regard to 19 typewriting machines shipped by him to Messrs. Bond, Sellar & Co., of Constantinople, Turkey, which have been detained in the custom-house.

<sup>a</sup> Not printed.

You are requested to give this matter your attention and advise the Department of the result.

I am, etc.,

ALVEY A. ADEE.

*Minister Leishman to the Secretary of State.*

No. 1154.]

AMERICAN LEGATION,  
*Constantinople, September 14, 1905.*

SIR: I have to acknowledge the receipt of your No. 877, of August 14, 1905, inclosing copy of a letter from Mr. J. B. Hammond, complaining against the action of the customs officials at Constantinople in detaining a certain shipment of typewriting machines consigned by him to Messrs. Bond, Seller & Co.

The facts in the case are that the Turkish Government issued a practically prohibitive order some months ago against the introduction of typewriting machines on the ground that they could be used by illy disposed people for the circulation of revolutionary literature, as it would be much more difficult to trace the authors of such typewritten letters than in the case of ordinary hand-written circulars.

I am quite convinced that the reason given is the only one and one that seems to carry much weight with the Turks, ridiculous as it may appear, and all the efforts of the British ambassador and myself have been up to the present time unavailing except to induce the Porte to instruct the custom-house to permit machines consigned in individual names (when the party was known) to pass.

The greatest difficulty seems to have been experienced by the Oliver Typewriting Machine Company, this company as well as the Hammond Company being represented here by English agents who purchase the machines outright, and are consequently the owners, which insures the active cooperation of the English embassy.

As the embargo affects a very legitimate and commendable American industry, it is scarcely necessary for me to add that the legation will continue to make every proper effort to have the objectionable order rescinded.

I have, etc.,

JOHN G. A. LEISHMAN.

*Minister Leishman to the Secretary of State.*

No. 1179.]

AMERICAN LEGATION,  
*Constantinople, October 20, 1905.*

SIR: Referring further to my dispatch, No. 1154, of September 14, 1905, in regard to the difficulties encountered at the custom-house by the importers of typewriting machines, I beg to inclose copy of a note just received from the Sublime Porte, which will probably do away with the troubles complained of by Messrs. Hammond and others.

\* \* \* \* \*

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Leishman.*

SUBLIME PORTE,  
 MINISTRY FOR FOREIGN AFFAIRS.

MR. MINISTER: I have had the honor to receive the note which your excellency was good enough to address to me under date of September 4 last, No. 591, in relation to the difficulties which were raised by the customs authorities of Constantinople to the entry of American typewriting machines.

According to the information furnished by the "administration générale des contributions indirectes" no obstacle has been raised on this score. In fact, 21 machines which arrived the 10/23 May last, addressed to Mr. Biat, have been delivered. Very recently, also, 13 more cases containing these machines have arrived at the customs, but since the necessary bill of lading has not been produced and the consignee has not made application to the customs authorities the latter have naturally not been able to proceed with the regular examination.

As soon as he applies the usual formalities will be fulfilled, and after it has been shown by examination that the said machines are such as are employed in commercial houses and not lithographic machines for large work used exclusively in printing establishments they also will be delivered.

Please accept, etc.

TEWFIK.

**EXTRATERRITORIAL RIGHTS OF THE UNITED STATES IN TURKEY. TRIAL OF CHARLES VARTANIAN AND HOVHANES AFARIAN.**

*Minister Leishman to the Secretary of State.*

No. 1145.]

AMERICAN LEGATION,  
 Constantinople, September 4, 1905.

SIR: I have to report another case of arrest by the Turkish police of a naturalized citizen of Ottoman origin, more aggravated than the one reported in my dispatch (No. 1139), of August 28, 1905,<sup>a</sup> as the police first tried to hide the fact that the man claimed American nationality and when confronted with evidence showing that the man was the bearer of an American passport flatly refused to allow the consul to examine the man.

From information that has reached the consulate it appears that the man's name is Charles Vartanian and that he is the bearer of a passport issued by the Department of State in May or April last (No. 101639,) and at the time of his arrest was heard by bystanders to have declared himself to be an American citizen.

As the police officials declined to allow the consul to examine the man, it is impossible for me at this time to express an intelligent opinion as to whether the man is the bona fide holder of an American passport or whether it has been obtained by fraudulent means or borrowed for the occasion; but there is reason to believe that he was associated with Afarian, the man reported in my dispatch No. 1139, and that both these men are members of the Armenian revolutionary committee.

The charge upon which Vartanian was arrested can not be disputed, as he was caught red-handed in the act of killing a rich Armenian named Apik Effendi Ounjian, who it appears had refused to submit to the demands made upon him for a large subscription to the Armenian revolutionary cause.

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<sup>a</sup> Not printed.

In view of the doubtful character of the above-mentioned individuals and the crimes of which they are charged I was not disposed to push the matter, merely contenting myself with having the consul file a formal protest and demand for their surrender until such time as I could make a thorough investigation and secure the advice and instructions of the Department, as it is quite possible that Afarian and Vartanian may have obtained their passports in an irregular manner, as was found in the case of Arahamian and others at Smyrna two years ago under very similar conditions, which would have enabled the government to avoid having to raise the question of Article IV over such unworthy subjects. But in view of the action of the Turkish police in refusing the consul permission to examine a prisoner who claimed American nationality I could not delay action without running the risk of establishing a bad precedent, and consequently I immediately made a demand upon the Sublime Porte for the prompt surrender of both prisoners.

As the excitement over the present revolutionary movement is still very great and the feeling very bitter over the attempt upon the life of the Sultan, it is quite certain that the Turkish Government will make every effort to retain possession of Afarian and Vartanian, and that the dispute over "Article IV" will be strained to the utmost, as even the Belgians whose treaty more clearly resembles ours than those of the other powers, have, in the present instance, permitted the Turkish Government to retain possession of one of their citizens whose nationality is not in question.

While the men involved are not worthy of very much consideration, both on account of their questionable character as citizens and of the crimes with which they are charged, the principles involved are of too serious a character to admit of any temporizing measures, and as it is quite possible that our demands will not be complied with without a show of force I respectfully beg the Department to kindly instruct me in the matter.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

*Minister Leishman to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
Constantinople, September 3, 1905.

EXCELLENCY: It appears that two American citizens have been arrested and are being detained by the Turkish police officials instead of being promptly handed over to the custody of the American consul, as provided for in the treaty existing between the Imperial Ottoman Government and that of the United States of America.

One of the above-mentioned men is named Hovhanes Afarian, bearer of a passport issued at Washington on April 27 last (No. 102150), and I am informed that the excuse given for his arrest is that he has been suspicioned of being connected with the parties who committed the recent outrage at the palace. The name of the other man being Charles Vartanian, bearer of a passport issued at Washington in April or May last (numbered 101639), charged with having shot and killed a certain Apik Effendi Ounjian.

The consul reports that not only has the minister of police declined to surrender the above-named American citizen to the custody of the consulate, but that permission to see the accused has been denied to the consul and his dragoman.

Under these circumstances I am compelled to most formally protest against these flagrant violations of treaty rights, for which the Imperial Ottoman Government will be held strictly responsible, and at the same time to demand that the above-named American citizens be immediately surrendered to the custody of the American consul in order that they may be tried and properly punished, as provided for in the treaty existing between our two governments.

I take, etc.

JOHN G. A. LEISHMAN.

*Minister Leishman to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Pera, September 6, 1905.

(Mr. Leishman reports the arrest of a certain Vartanian, supposed to be an Armenian revolutionist, for the murder of a rich native Armenian of Constantinople, who claims to be an American citizen and bearer of a passport issued by the Department of State last spring. Permission to examine the man was refused to our consul, the Turkish police first denying that the murderer claimed to be an American citizen. Upon insistence by the legation the police authorities finally consented to allow the consul to examine the man, but when he arrived at the palace where the prisoner is detained he was again denied admittance. Under these circumstances Mr. Leishman felt compelled to file a protest with the Porte demanding Vartanian's immediate surrender to the custody of the consulate. This protest has been ignored and the man has been condemned to death as a Turkish subject. Unless demand be insisted upon it is feared that it would be useless in the future for the legation to take any steps on behalf of naturalized American citizens of Ottoman origin, as the high-handed manner in which the Turkish Government has acted shows very clearly its determination to refuse to recognize our control over such citizens and possibly to contest Article IV of the treaty of 1830. The point-blank refusal to permit the consul to even see a man who claimed American nationality made it imperative to the legation to insist upon his immediate surrender, although in view of the doubtful character of the man and the heinous offense with which he is charged it was intended to avoid this step until the matter could be examined into and a full report could be made to the Department. Mr. Leishman felt compelled to include in his demands the surrender of Afarian referred to in his dispatch of August 28 as being detained by the Turks on suspicion of complicity in the palace plot. As nothing short of an ultimatum and possible resort to drastic measures will induce the Turkish Government to abandon the position it has taken, Mr. Leishman requests instructions from the Department.)

*The Acting Secretary of State to Minister Leishman.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, September 7, 1905.

(Mr. Loomis advises Mr. Leishman that Charles Vartanian is an American citizen, having been naturalized on September 22, 1896, and a passport having been issued to him on April 20, 1905. Approves his action and states that the Turkish Government, although denying the right of extraterritorial trial, has repeatedly admitted that the treaty of 1830 provides for the punishment of American citizens by the minister or consul, and this government has been repeatedly assured of the usage observed toward other Franks. In this case the usage has not been observed, as access to the accused and presence at his trial have been denied. It appears that the proceeding has been



wholly *ex parte*, without regard to our treaty rights, even to the limited extent to which Turkey has voluntarily admitted them.

The President directs that a stay of proceedings against this man be demanded until the two governments shall consider and agree on the treatment of the case.)

*Minister Leishman to the Secretary of State.*

No. 1160.]

AMERICAN LEGATION,  
*Constantinople, September 13, 1905.*

SIR: In compliance with the instructions contained in your cablegram of September 7 I called upon the minister for foreign affairs and demanded that all proceedings against Hovhanes Afarian and Charles Vartanian be stayed pending an understanding and agreement between the two governments regarding these cases.

As your cable reached me on Friday morning, the Turkish Sunday, when all business at the Porte is suspended, I made my call at the minister's residence, as the circumstances did not admit delay, and I found his excellency quite disposed to listen to my demands, but unfortunately in this, as in all other cases, the general officers of the government are quite powerless, so that while the minister appeared to thoroughly appreciate my warning that serious complications would surely arise if the protest was not heeded he was unable to give me any more positive assurance than a promise to do all he could and that the matter would be at once reported to the palace.

The demand, however, evidently had its effect, as the minister for foreign affairs sent two different representatives to see me on Sunday, expressing regret at the action of the police authorities and assuring me that if I would send the consul to where the prisoners were being detained at the palace that he would be permitted to examine them.

From points dropped by the messengers of the foreign office, one of whom was the legal adviser attached to the ministry for foreign affairs, I judged that the Sublime Porte had come to the conclusion that the police authorities had acted hastily and gone too far, and that the Porte was considerably annoyed and embarrassed over the raising of the question of Article IV, as well as the question of naturalized citizens, and wished to avoid a conflict over these questions of principle.

\* \* \* \* \*

Under these circumstances I decided to stand pat for a few days on the demand I had made, \* \* \* and consequently begged Hakki Bey, the legal adviser to the foreign office, to report to the minister for foreign affairs that, while the legation was disposed to meet any reasonable request of the Sublime Porte compatible with the interests of the American Government, I could not see my way clear for the moment to accede to the request of his excellency, owing to the complication that had been forced upon me by the action of the police authorities in refusing the consul permission to see a man that claimed American nationality, and particularly by the action of the Porte in raising the important question of principle involved. \* \* \*

These men who, according to the Turkish law, are still regarded by the Porte as Ottoman subjects and as men who have returned to their native land with the intention of stirring up trouble against the Ottoman Government (which included the attack upon the life of the

Sultan, resulting in the killing of 35 or 40 innocent people), one of them being the self-confessed murderer of a rich Armenian who has been tried in the Ottoman courts as a Turkish subject and condemned to death, and from information received it appears that the other was his accomplice. \* \* \*

Vartanian has admitted that the murder was premeditated, but unless some way can be found to abandon Vartanian without sacrificing an iota of the principles involved it would be impossible to abandon our demand for his surrender without great loss of prestige and an increase in the difficulties with which the legation has to contend at all times.

There is no doubt that many injustices arise and that many criminals escape all punishment through the dispute over Article IV and the standing of naturalized citizens of Ottoman origin, as neither party can assist at the trials in the other court without admitting the incorrectness of their position on the matter of principle. In this way the wheels of justice are frequently blocked. While I am thoroughly convinced of the legality of our position and of our ability to maintain same, even by adhering to the most liberal interpretation of the Turkish text, the fact that the other Franks have changed their usage since the time our treaty was made has caused the Turks to assume a position toward us that results in a moral injustice which should be corrected. \* \* \*

Awaiting your advice and instructions in the matter,  
I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Leishman.*

SUBLIME PORTE,  
IMPERIAL MINISTRY FOR FOREIGN AFFAIRS,  
*Constantinople, September 7, 1905.*

MR. MINISTER: I have received the note that your excellency was good enough to address me on the 3d of this month, concerning the arrest by the police authorities of two individuals called Hovhanes Afarian and Charles Vartanian.

A minute investigation was made of this matter by the competent departments. It appears from this that the above-mentioned individuals, born in the Empire, are Ottoman subjects, and did not produce any American passports.

Even admitting that they had previously gone to the United States and had become naturalized Americans, one knows that a change of nationality of this character should not take place without the permission of the Imperial Government, and after the promulgation of the law on Ottoman nationality is null and void in Turkey in accordance with the rules, which have a general application.

As regards the interpretation of Article IV of the Turco-American treaty, as your excellency knows the point of view held by the Imperial Government on this question, I consider it superfluous to come back to it once more on this occasion.

I trust that your excellency, when you have become aware of the above, will be good enough, owing to your just and enlightened appreciation, to recognize yourself that the method of procedure of the imperial authorities in this case was perfectly regular and thus does not constitute a violation of the treaties existing between the two countries.

I take, etc.,

TEWFIK.

[Inclosure 2.]

*Minister Leishman to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
Constantinople, September 9, 1905.

YOUR EXCELLENCY: I have to acknowledge the receipt of the note which your excellency had the kindness to address to me under date of September 7 relative to the arrest of Hovhanes Afarian and Charles Vartanian.

If the department which reported to your excellency the result of its inquiry regarding the above-mentioned individuals is as incorrect in its views concerning the general principles involved as it is on the facts of the particular cases in question, your excellency would do well to cause another inquiry to be made before advancing the matter further, as it is a well-known fact that not only did the said Hovhanes Afarian and Charles Vartanian proclaim their American nationality, but that they also substantiated their claims by producing their American passports, and as a matter of fact, the numbers and dates of their passports enumerated in the note which I had the honor to address to your excellency under date of September 3 were in reality furnished to the legation by the police authorities.

As the Ottoman police authorities assumed the responsibility in the above-mentioned cases of not only deviating from well-established usage of immediately surrendering prisoners claiming American nationality to the custody of their consul, but even went so far as to prevent the American consul from interviewing the said Afarian and Charles Vartanian, it is impossible for the legation to venture a positive statement as to whether they are the bona fide holders of American passports or not; but as the prima facie evidence shows them to be such the legation must continue to view them as American citizens and as such to extend to them the protection of the American Government, unless it should be found upon a careful examination by the American consul that the said Hovhanes Afarian and Charles Vartanian are not entitled to claim American protection.

The legation can not for a moment acquiesce in the views advanced by your excellency regarding naturalized citizens of Ottoman origin, nor is it aware of the Sublime Porte's ever having advanced an argument regarding interpretation of Article IV of the treaty existing between our two governments that would serve as a warrant for the illegal actions of the Turkish police, first, in their failure to surrender the prisoners to the custody of the consul the moment they produced their American passports, and, secondly, in their refusal to permit the consul to examine the prisoners, for even admitting for the sake of argument that the police authorities were not convinced that the accused men were bona fide American citizens the fact that they even claimed American nationality was sufficient to obligate them to permit the accused to communicate with the American consul, as the American courts alone are competent to judge whether a man is an American citizen or not.

It is true that the Imperial Ottoman Government has for the past thirty or forty years raised certain objections to the English translation of the Turkish text of the treaty of 1830, but even the Turkish text states quite clearly that American citizens can not be arrested or imprisoned by the Turkish authorities, and as the treaty simply mentions American citizens—no exception having been made for naturalized American citizens of Ottoman origin—this term must be construed to cover all American citizens, irrespective of origin, as American law makes no distinction between its citizens, no matter what race, creed, or former condition.

The Turkish law regarding naturalization which was promulgated by the Imperial Ottoman Government in 1869 may possibly be viewed as a very proper municipal regulation, but could scarcely be considered as affecting or curtailing in any way the rights and privileges guaranteed to American citizens by a solemn agreement entered into by our respective governments many years previous to the promulgation of said law, but in order to respect the municipal regulations of the Ottoman Empire as far as it was possible to do so. The American Government, moved by a spirit of fairness and friendship, has not only discouraged naturalized citizens of Ottoman origin from returning to Turkey, but has even refrained from raising any serious objection against the refusal of the Imperial Ottoman Government to permit such persons to reenter Turkey, and as a matter of fact the class represented by the said Afarian and Vartanian never enter Turkey upon an American passport, which the Turkish consular officers invariably decline to visé, but reenter Turkey by irregular means and not infrequently through the incompetency or venality of the Turkish police. So that the question of keeping such objectionable individuals as Afarian and Vartanian out of the country in reality rests with the Imperial Ottoman Government, as they are not assisted to enter by their adopted government.

Under these circumstances I not only can not admit the arguments advanced in your excellency's note of September 7, but must renew the demands contained in the note which I had the honor to address to your excellency under date of September 3.

I take, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 3.]

*Minister Leishman to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
*Constantinople, September 14, 1905.*

YOUR EXCELLENCY: In reply to your excellency's verbal communication I beg to say that while the legation is not only willing but anxious at all times to comply with any reasonable request of the Sublime Porte compatible with the interests of the American Government, the position in which the cases of Hovhanes Afarian and Charles Vartanian have been placed by the actions of the police authorities makes it extremely difficult for me to comply with your excellency's request.

My disposition, however, is to endeavor to find a way to accommodate your excellency, providing it can be done without prejudice to the interests of my government or interfering in any way with the important questions of principle which have been raised.

It is now impossible to return to the status quo ante, but if your excellency will undertake to stay all legal proceeding against the said Hovhanes Afarian and Charles Vartanian and cause them to be specially surrendered into the hands of the minister of police with instructions to permit the American consul or his delegate to interview and examine them as often as the consul may deem it necessary, I will, while reserving all rights, assume the responsibility of agreeing to refrain from pressing the demands contained in my note of September 3 until such time as the consul is able to arrive at a definite decision regarding their standing as American citizens, as it is always possible that a careful examination may develop the fact that they may have obtained their American papers by fraudulent representations, as was found in the case of Arahamian and others at Smyrna some two years ago, or that they have committed some act that may be viewed by my government as a practical renunciation of their acquired citizenship, in which event the legation would at once withdraw the demand for their surrender.

I take, etc.,

JOHN G. A. LEISHMAN.

*Minister Leishman to the Secretary of State.*

No. 1163.]

AMERICAN LEGATION,  
*Constantinople, September 22, 1905.*

SIR: I beg to inclose herewith for the further information of the Department copy of the consul-general's report<sup>a</sup> after making a preliminary examination of Charles Vartanian and Hovhanes Afarian, two naturalized citizens of Ottoman origin, who, besides admitting being sent here by the Armenian revolutionary committee in connection with the plot which resulted in the recent attempt upon the life of the Sultan, are charged with having killed a rich Armenian named Apik Effendi, Vartanian having been caught in the act, and it is quite evident that Afarian was his accomplice.

In view of the impolitic action of the Turkish police authorities, which brought the question of naturalized citizens as well as the disputed interpretation of Article IV most prominently to the fore, it would be impossible to abandon Vartanian and Afarian to the Turks without establishing a most dangerous precedent, unless the government should find itself in a position to withdraw the demand for their surrender upon the ground that they had obtained their naturalization by fraudulent representations, or had by their own voluntary acts practically forfeited their right to claim American protection.

As the preliminary report of the consul is not as conclusive as one would wish, I have requested him to pursue the examination further, but from the evidence at hand it appears that Afarian must have obtained his certificate of naturalization before being in the United States the requisite five years.

<sup>a</sup> Not printed.

Vartanian's case is not so clear, for while he has contradicted himself a number of times, evidence of fraud as to time of his naturalization is not so apparent, although a further investigation may also develop the fact that he too may have obtained his papers before he was properly entitled to them.

Both men appear to have applied to the Turkish consul at Chicago for passports in their original capacity as Ottoman subjects, but as they were refused, owing to a general order forbidding the issuance of passports to Turkish subjects, except in exceptional cases, I am not clear as to whether their act in merely demanding passports as Ottoman subjects can be properly construed as a practical abandonment of their acquired nationality, or whether Vartanian's acknowledgment of having donned a fez on his arrival here with a view of creating the impression that he was still an Ottoman subject and residing here as such can be construed as a voluntary reversion to his Ottoman subjection.

If the Department under all the circumstances can see its way clear to authorize me to view the actions of Afarian and Vartanian as a practical renunciation of their acquired rights, it would afford a very happy solution of this most unpleasant complication, as I could then retire gracefully without prejudice to the principles involved by merely notifying the Sublime Porte that as an examination of the prisoners showed that they had by their own voluntary acts practically renounced their right to claim American protection, that the demand for their surrender was withdrawn. \* \* \*

In view of our demand that all proceedings be stayed, the Turkish Government, finding itself in an embarrassing position on account of not being able to put the judgment against Vartanian into execution, has set aside the judgment condemning him to death, by ordering a new trial, on the plea that the court omitted to include his accomplices. This action has caused considerable commotion among the native population, who are not capable of taking nice questions of law, etc., into consideration, and I hear rumors of considerable feeling against the Americans for interfering with justice.

In conclusion I can add that unless the Department can see its way clear to abandon Afarian and Vartanian to their parent government on grounds similar to that outlined above, it would be difficult to withdraw the demand for their surrender without great loss of prestige, as even failure to press the demand would be construed as a practical abandonment of all right to protect naturalized citizens of Ottoman origin, and as the Porte finds itself in a most embarrassing position and is continually pressing me for a decision, I respectfully beg the Department to kindly wire me definitive instructions upon receipt of this note.

I have, etc.,

JOHN G. A. LEISHMAN.

*The Secretary of State to Minister Leishman.*

No. 915.]

DEPARTMENT OF STATE,  
Washington, October 19, 1905.

SIR: I have to acknowledge the receipt of your dispatches Nos. 1163 and 1166, dated, respectively, the 22d ultimo and the 2d instant, on the subject of the Vartanian and Afarian cases.

In reply to both dispatches, and particularly No. 1163, I have to say that the Department is not in a position yet to cable you definitive instructions in the matter. You appear to be awaiting a fuller report from the consul-general, his preliminary report being described by you as not being "as conclusive as one might wish."

The Department is without information that would lead it to a sound inference that Vartanian and Afarian are not entitled to protection because of any violation of their right thereto by reason of fraud in naturalization, deception in the procurement of passports, or return to Turkey as pretended Ottoman subjects. Their applications appear to have been regular and supported by certificates of naturalization, which are prima facie valid and unclouded by doubt except as to Afarian's discrepant statements about the date of his birth. Whether facts detrimental to their claim may be elicited by the further examination to be made by the consul-general remains to be seen.

The Department fully realizes the embarrassment which might ensue from the acquiescence of the Turkish Government in the claim of original and exclusive jurisdiction in these cases under the disputed text of Article IV of the treaty of 1830, if, as would be likely, the Turkish Government should withhold, as on a former occasion, the evidence necessary to a conviction, to the consequent miscarriage of justice. It is not thought probable, in the light of past discussion of the question, that such acquiescence would be graciously given, and the occasion seems inopportune for an active assertion of our right, in view of the heinousness of the crimes imputed to those two men. This government can have no less desire than that of Turkey to see the majesty of law upheld and exact justice done. Our own statutes conferring extraterritorial jurisdiction upon our agents abroad expressly provide for cognizance of the offenses now charged, and mete out appropriate penalties.

If the Turkish Government were to show a disposition to cooperate with the United States toward the trial of these men according to the plain language of Article IV and without prejudice to the equities of the question, a way might be opened to prevent miscarriage of justice and to enter upon a cordial discussion of the merits of the matter with a view to concluding a conventional settlement of the vexed questions of jurisdiction and naturalization. But such cooperation would seem to be a remote possibility.

On the other hand, the disposition of the case which the Turkish Government appears to have made by ordering a new trial of the accused men, would seem to contemplate the adoption on its part of "the usage observed toward other Franks," which is understood to consist mainly in permitting the attendance of the dragoman. This would be merely an insistence upon the Turkish claim in its full extent, and, if acquiesced in, would yield the whole question. This the United States could not do without, in effect, tearing up Article IV, which admittedly provides that American citizens accused of crime shall be punished through the instrumentality of their minister or consul, according to their offense. Such a course, if followed by Turkey, would leave the difference between the two governments in this regard as strongly accentuated as it ever has been, perhaps still more so.

The first instruction in Vartanian's case, cabled to you on September 7, contemplated the stay of proceedings in that instance (and by

analogy in Afarian's case also) until the two governments should discuss and agree upon a disposal of the matter. That course still appears to be alike rational and expedient. International usage does not advocate the decision of a treaty dispute *ex parte* by one of the contestants, and instances are so numerous as to constitute an almost unassailable precedent where such action by one of the treaty signatories has turned out to be not a settlement of the difference, but, instead, the initiation of a more acute stage of the dispute, terminating in arbitration or a rupture.

The present moment seems most opportune for the two governments to come together and convene in a spirit of equity and friendliness upon an accommodation of their differences which shall remove the causes of friction that now ceaselessly arise between them in regard to jurisdiction and naturalization. As to the latter point, it may be observed that upon several occasions agreement upon nearly every essential feature has been reached, and there is no reason why a renewed endeavor should not meet with success. As to the former, this government, for its part, is willing to approach its discussion in the fairest spirit and with every regard for the conditions of the present age and the tenets of international law, in the hope of reaching a practical adjustment of the conflicting claims of the two governments by an intelligent interpretation or modification of the treaty of 1830.

I am, etc.,

ELIHU ROOT.

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*Minister Leishman to the Secretary of State.*

No. 1180.]

AMERICAN LEGATION,  
*Constantinople, October 20, 1905.*

SIR: Referring further to my several dispatches regarding Charles Vartanian and Hovhanes Afarian, two naturalized citizens of Ottoman origin arrested by the Turkish police for the murder of a rich Armenian merchant at Constantinople who had refused to contribute money for the revolutionary movement, I beg to inclose a clipping from to-day's issue of the *Levant Herald*, showing that despite our protests and the promises of the imperial minister for foreign affairs that all proceedings would be stayed the above-mentioned men were taken to the criminal court at Stamboul yesterday, where they were tried and condemned, the former, who was the principal, to death, and the latter, as an accomplice, to fifteen years' imprisonment at hard labor.

No doubt exists as to the guilt of the men, and they richly deserve the punishment to which they have been condemned, but this does not dispose of the important question of principle which the case involves, and unless the government is prepared to practically abandon its right to protect American citizens of Ottoman origin who return to Turkey it seems to me that under all the circumstances the demand for their surrender to the custody of the consulate must be insisted upon, even if in order to enforce the demand it should be found necessary to adopt extreme measures.

As this matter has already been fully explained in my previous dispatches, it is scarcely necessary for me at this time to enter into further details, and pending the receipt of the Department's instructions

asked for in my dispatch No. 1160 of September 13, I have not felt warranted in taking any more aggressive action than the filing of a formal protest.

I have, etc.,

JOHN A. G. LEISHMAN.

[Inclosure.—Translation.]

*Minister Leishman to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
*Constantinople, October 20, 1905.*

YOUR EXCELLENCY: It appears from the semiofficial publication in to-day's local newspapers that the understanding reached with your excellency regarding the case of Charles Vartanian and Hovhanes Afarian has not been respected, these two men having been taken late yesterday afternoon to the criminal court at Stamboul, where they were tried and condemned by the said court on the charge of killing one named Apik Effendi Oundjian, the former to death, and the latter to fifteen years' hard labor, no notice evidently having been taken of the arrangement concluded between the Sublime Porte and the legation that all proceedings in this case would be stayed until our respective governments should have reached a definite agreement upon the final treatment of the case.

The views of the legation on the subject of the detention of the said individuals by the police authorities, as well as on the matter of jurisdiction have clearly been presented to the imperial ministry for foreign affairs by my notes Nos. 590, 595, 598, 599, and by my several verbal communications.

I therefore have to protest most formally against these proceedings and against the above-mentioned conviction of Charles Vartanian and Hovhanes Afarian, the validity of which the legation is unable to recognize, and consequently must again insist upon all execution of judgment or proceedings against these men being stayed until our two governments shall consider and agree on the treatment of the case.

Under these circumstances I trust your excellency will at once cause the necessary instructions to be issued to the proper Department that will insure all further proceedings being stayed until such time as the Sublime Porte and the legation shall have reached a definite understanding, as otherwise the responsibility for the failure to respect the very just and reasonable demands of the American Government must rest entirely with the Imperial Ottoman Government.

I take, etc.,

JOHN G. A. LEISHMAN.

*Minister Leishman to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Pera, October 26, 1905.*

(Mr. Leishman reports that although an understanding was had with the Sublime Porte that all proceedings against Vartanian and Afarian should be stayed pending an agreement between the two governments, Vartanian has again been condemned to death by the Turkish courts and immediate execution of the sentence is insisted upon by the latter, upon the ground that delay in executing a self-confessed murderer is causing great discontent among the populace and consequent embarrassment, and that another month's delay would be inevitable if the execution is not carried out immediately, as Ramazan commences on Saturday next. Requests that definite instructions be cabled to him.)



*The Secretary of State to Minister Leishman.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 26, 1905.

(Mr. Root acknowledges receipt of Mr. Leishman's telegram of the 26th instant concerning the second conviction of the two naturalized Americans and advises him that an instruction was sent to him on Friday last, making friendly overtures for the adjustment of the naturalization and jurisdictional questions. If the Ottoman Government should carry out its intention to execute the sentence immediately upon one of the prisoners it would be impracticable for this government to take the initiative toward a result so greatly to be desired, and the uncompromising attitude of Turkey would have to be referred to Congress for such treatment as that body may deem appropriate. Instructs him to urge that the original proposition for a stay of proceedings in these cases pending mutual agreement be accepted. It is most desirable that Mr. Leishman should take action before the Turkish Government by precipitate action may make an agreement impossible and raise an issue between the two governments which may be most difficult of adjustment.)

*Minister Leishman to the Secretary of State.*

No. 1184.]

AMERICAN LEGATION,  
Constantinople, October 26, 1905.

SIR: I have to inclose copy of cablegram sent you this day regarding the case of Charles Vartanian, together with a copy of a note addressed to the Sublime Porte on this subject, after my interview yesterday morning with the Imperial minister for foreign affairs.

When I saw that official on Tuesday afternoon he assured me that I need give myself no concern about Vartanian, explaining that the second trial had taken place in order to convict Vartanian's accomplices, and that no steps would be taken to execute the judgment of the court in Vartanian's case pending an adjustment between the two governments.

Subsequent events, however, developed the fact that the matter was beyond the control of the Porte, as I received a telegram from the minister late the same evening, asking me to call at his residence early the next morning, which I did, and found that the palace authorities, ignoring the action of the Porte, had made every arrangement to execute Vartanian, as they did not wish to longer delay hanging him, owing to popular feeling, and as the feast of Ramazan is at hand, during which time all work is practically suspended. Unless the execution takes place this week it will be necessary to postpone the matter for another month.

I protested as strongly as I could against any action being taken pending an understanding between the two governments regarding the treatment of the case, but unless some more forcible argument be resorted to I am not at all sure that my protest will be respected, although I am in hopes that it may have the desired effect of causing a temporary postponement. \* \* \*

Awaiting your instructions,

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

*Minister Leishman to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
*Constantinople, October 25, 1905.*

YOUR EXCELLENCY: Referring further to the conversation with your excellency this morning in regard to the case of Charles Vartanian and Hovhanes Afarian I would be remiss in my duty if I failed to make every effort to impress upon your excellency the necessity of taking every possible step to compel the Ottoman courts to respect the agreement between the Sublime Porte and the legation that all proceedings be stayed in these cases until such time as our two governments shall have reached a decision regarding the treatment of the matter.

As your excellency is well aware the American Government has not evidenced the slightest disposition to protect these men from being properly punished for the crimes they have committed, but it is a matter of paramount importance that the question of jurisdiction be settled by the two governments prior to any action being taken by the courts, as the mere question of meting out the punishment is a matter of secondary consideration, as there is no danger of the ends of justice being defeated by a temporary delay, as both men are now safely lodged in prison.

The general position of my government regarding these cases has already been fully outlined in my previous notes and, as explained to your excellency this morning, the legation has been unable to arrive at a definite decision regarding the standing of these men on account of the failure of the Turkish authorities to furnish the promised information regarding the exact date of birth of Vartanian and Afarian, time of their departure from Turkey, and data regarding the application for passports which they are alleged to have made to the Turkish consul at Chicago.

As the legation has shown every desire to arrive at an amicable adjustment of these matters with the Sublime Porte, it would be very regrettable if the Ottoman courts should be permitted to create an unpleasant incident by any hasty action, and I trust your excellency will at once cause the necessary instructions to be issued that will insure the stay of all further proceedings until such time as the two governments shall have reached a definite decision regarding the matter.

I take, etc.,

JOHN G. A. LEISHMAN.

*Minister Leishman to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Pera, October 31, 1905.*

(Mr. Leishman reports postponement of the execution of Vartanian.)

*The Secretary of State to Minister Leishman.*

No. 931.]

DEPARTMENT OF STATE,  
*Washington, November 11, 1905.*

SIR: I have to acknowledge the receipt of your dispatch No. 1180 of the 20th ultimo, reporting that Charles Vartanian and Hovhanes Afarian were taken to the criminal court at Stamboul on the 19th ultimo, where they were tried and condemned, the former, who was the principal in the assassination of Apik Effendi Oundjian, being sentenced to death, and the latter, as an accomplice, to fifteen years' imprisonment at hard labor.

The formal protest against the action of the Turkish Government, which you filed with the Turkish minister for foreign affairs, and of which a copy accompanies your dispatch, anticipated to a large degree the Department's telegram to you of the 26th ultimo, directing you to

ask for a stay of proceedings in the Vartanian and Afarian cases, to enable the two governments to consider and adjust the long-pending questions of jurisdiction and citizenship. Your note of protest is therefore approved by the Department.

I am, etc.,

ELIHU ROOT.

*Minister Leishman to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,

*Pera, November 20, 1905.*

(Mr. Leishman reports that he anticipated the wishes expressed in Department's telegram of the 26th, as shown in the note addressed to the Sublime Porte on Friday last. He declined seriously to consider the overtures from the Porte in regard to the question relating to the adjustment of naturalization and jurisdiction until definite assurances were given that our demand for a stay of proceedings in the case of the two prisoners would be respected.)

**RESTRICTIONS UPON THE SALE OF BIBLES IN TURKEY.**

*Chargé Jay to the Secretary of State.*

No. 950.]

AMERICAN LEGATION,

*Constantinople, November 29, 1904.*

SIR: I have the honor to inform you that the American Bible Society has during the past six months encountered very serious difficulties in the prosecution of their work in Turkey.

At Adrianople, Trebizond, Ordou, and Angora their Bibles were seized by the local authorities, the colporteurs and native agents of the society being threatened with arrest and imprisonment should they further attempt to sell these books.

In every case attempts made to settle the matter locally by nearest consuls and others failed, as the authorities claimed to have been acting under orders from Constantinople.

Mr. Leishman, during the summer and up till the moment of his departure in October, did not fail to complain to the Porte, both in writing and verbally.

As usual he was met with promises, but nothing was done to release the books and otherwise settle the matter.

Early in the present month I finally succeeded, after having been given repeated promises, in inducing the grand vizier to settle the Adrianople matter by telegraph.

Learning that the British embassy had a similar case on hand in connection with their Bible society, I persuaded the British chargé d'affaires to address a strong note on the general subject to the Imperial Government similar in character to mine.

I believe these two notes, presented within a couple of days of each other, have had their effect, for on Saturday last proper orders were actually telegraphed to the governors-general of Trebizond and Angora.

\* \* \* \* \*

This matter has given the legation very considerable trouble, but it has spared no pains to bring it to a satisfactory conclusion.

I have, etc..

PETER AUGUSTUS JAY.

[Inclosure.]

*Chargé Jay to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
*Constantinople, November 15, 1904.*

YOUR EXCELLENCY: I have the honor to confirm this legation's note verbale No. 456, of the 27th of September, 1904, in regard to the work in Turkey of the American Bible Society.

I now deeply regret to state that, notwithstanding the conversations in regard to the general question, as well as the particular cases in Angora, Trebizond, and Ordou, which his excellency the American minister has had, and, in his absence, I have had with his highness the grand vizier, and with your excellency, and the applications which this legation made through one of its dragomans to his excellency the minister of public instructions, and notwithstanding the many promises which were made to this legation, the difficulties have not, with the exception of a case in Adrianople, been yet removed. The agent of the said society reports that in Angora, Ordou, and Trebizond their books remain seized by the local authorities and their colporteurs forbidden under threat of imprisonment to sell the Holy Bible or parts thereof, which are books held sacred by Christians and others, and in this country printed and published by the permit of the department of public instruction.

Your excellency will allow me to submit that the matter is far more serious than it might be imagined at first sight. I beg to point out:

1. That the American Bible Society is one of the first and most important benevolent societies existing in America, backed by some of the greatest statesmen belonging to different denominations and political parties.

2. That it is one of the societies included in the special list which this legation sent in to the Sublime Porte for official recognition.

3. Its work is interdenominational and has nothing to do with religious or other propaganda.

4. That no other similar society belonging to or protected by any other nation has been interfered with in its work and there appears to exist in this matter a discrimination applied against an American society.

5. That the local authorities, possibly misunderstanding certain instructions sent to them have, by forbidding the sale of the Bible, and more especially by seizing it, not only insulted the book held sacred by millions of people, as if it were an obnoxious and seditious publication, but have seized property belonging to and paid for by American citizens.

Under these circumstances I beg to inform your excellency that this legation can not be an indifferent spectator of the inexplicable action of the authorities in Angora and Trebizond and requests His Imperial Majesty's Government to issue orders at once to the said vilayets, directing them to put an end to their vexatious and discriminating attitude toward an American benevolent society and to return without further delay the seized books.

I earnestly beg that your excellency will give this matter the prompt consideration it deserves, thus sparing me the necessity of referring the entire matter to my government.

I take, etc.,

PETER AUGUSTUS JAY.

*Chargé Jay to the Secretary of State.*

No. 953.]

AMERICAN LEGATION,  
*Constantinople, December 13, 1904.*

SIR: Referring further to my dispatch No. 950, of November 29, 1904, on the subject of recent interference with the colportage of Bibles by native agents of the American Bible Society in Turkey, I regret to have to report as follows:

It has developed that in the cases of both the American and British Bible societies, though orders were sent to release the seized Bibles, additional orders were also sent absolutely prohibiting the colportage of these books, their sale to be strictly confined to the societies' shop or depot in each town.

I had to-day a long interview with the grand vizier on this subject, this being the first possible occasion of seeing him after the Bairam festivities. By mutual arrangement the British chargé d'affaires saw him upon the same subject immediately after me.

I thanked his highness for sending the promised orders, but informed him that the local authorities seemed unable to fully understand them, since though they had released the books they nevertheless confined their sale to the shop. I further informed his highness that the matter was of a far more serious nature than it might appear at first sight—that such a step meant the total suppression of the Bible's colportage, an innocent *oeuvre* which has existed unmolested for over sixty years in Turkey; that public feeling had been thoroughly aroused in both America and England by the attitude recently adopted by the Imperial Government, and that I sincerely trusted he would at once telegraph the local authorities more explicit orders to abandon the attitude they had so unwarrantably assumed.

The grand vizier then, notwithstanding the fact that both this legation and the British embassy had been semiofficially informed that the Turkish Government had determined to put an entire stop to colportage, dictated in my presence telegraphic orders permitting the colportage of Bibles in the streets of cities and towns.

On my promptly informing him that this was not enough, that he must revert to the status quo ante, by which their sale took place unhampered throughout the country districts, I was met with a firm refusal. He informed me that His Imperial Majesty's Government could no longer permit indiscriminate colportage by Armenians and Bulgars throughout country districts beyond the reach of police supervision, owing to various reasons, amongst others the difficulty of protecting them from the constantly increasing hostility of the Mussulmans against the Christians and (which is probably the real reason) the possibility of their spreading seditious ideas among the peasant population, and even acting as secret agents of the various revolutionary societies.

I did not fail to call his attention to the fact that for over sixty years this colportage had existed without causing reasons for complaint, that these colporteurs were selected and trusted men, absolutely forbidden to proselytize or harangue the people, and that I could not accept such a decision without the permission of my government.

The British chargé d'affaires had about the same experience, though he agreed not to press the matter in regard to colportage in disturbed districts, but, like myself, refused to accept its prohibition in principle.

\* \* \*

I have, etc.,

PETER AUGUSTUS JAY.

*The Secretary of State to Chargé Jay.*

No. 745.]

DEPARTMENT OF STATE,  
Washington, January 3, 1905.

SIR: I have to acknowledge the receipt of your dispatch, No. 953, of the 13th ultimo, reporting an interview which you had on that date with the grand vizier on the subject of recent interference with the colportage of Bibles by native agents of the American Bible Society in Turkey.

The Department approves your course in the matter. You should hold to the position that you took at the interview, namely, that it is not sufficient that the colportage of Bibles should be permitted in the streets of cities and towns, but that there must be a return to the status quo ante, by which their sale took place unhampered throughout the country districts.

I am, etc.,

JOHN HAY.

*Chargé Jay to the Secretary of State.*

No. 969.]

AMERICAN LEGATION,  
*Constantinople, January 5, 1905.*

SIR: Referring to my previous dispatches upon the subject of Bible colportage in Turkey, I have the honor to inclose herewith copy of a note identique received by both this legation and the British embassy in which it is stated that colportage of religious books has been prohibited throughout the Empire, owing to the propaganda carried on by the colporteurs, and that the sale of these books is henceforth restricted to shops and depots at fixed places.

As will have been seen in my previous dispatch upon this subject, this action on the part of the Turkish Government is in direct violation of the definite statement made by the grand vizier to the British chargé d'affaires and myself that colportage was to be permitted in the streets of towns, and in their neighboring villages; which statement was duly reported by us to our respective governments.

After consulting with my British colleague, who had previously called upon the grand vizier immediately following the receipt of this note, and after ascertaining the attitude he had assumed, as well as that adopted by the grand vizier, I to-day had a long interview with his highness upon this subject.

I reminded him that on June 22, 1882, the American minister, General Wallace, had notified the Sublime Porte (Note No. 118) that he had been authorized by his government to withdraw a large indemnity claim for seizure of Bibles and interference with colporteurs on condition that the Turkish Government apologized for its action and undertook that there be no further interference with this work; that on March 22, 1883, the Sublime Porte had replied to this note, expressing regret at these incidents, and agreeing that in consideration of the withdrawal of this indemnity claim no interference would occur in the future, to which note the legation replied in its No. 156 of March 30, 1883, withdrawing the claim upon the above distinct understanding.

I further reminded his highness, that at the suggestion of the American legation and British embassy the Turkish Government had in 1888 drawn up regulations governing colportage. These regulations having been carefully observed by the American Bible Society's agents, the present decision to stop colportage violated the Turkish Government's own laws upon the subject. I reiterated my previous statements that these colporteurs had been strictly enjoined to confine themselves to the mere sale of the Bible, and I desired to be shown a single case by which the assertions of the Turkish Government that these men indulged in propaganda while selling their books could be proved to be founded on fact and not on fiction.

The grand vizier has evidently somewhat weakened, as his attitude is less firm than that he assumed with the British chargé d'affaires

immediately after the dispatch of the note, since he informed me that it was now intended to soften (*adoucir*) the decision embodied in the note *identique*. He stated that, nevertheless, it was impossible for the Imperial Government to allow *colporteurs* to wander freely over the countryside, as the government was convinced that in many cases these *colporteurs* were also acting as revolutionary agents. He informed me that among the books of a *colporteur* arrested yesterday, near Monastir, were found many seditious pamphlets. \* \* \* Also that within the past few days a notorious Armenian revolutionary agent had been arrested at Moush having in his possession papers showing him to be in active correspondence with the head of the American school at Van or Bitlis, his highness could not remember which. He begged me to ask my government how it was possible for the Imperial Government, which is having the utmost difficulty in keeping its subjects of various creeds from flying at each others' throats, to allow irresponsible *colporteurs* to circulate unwatched throughout the country, especially the disturbed districts.

I replied that I understand it to be the intention of the British Government to tacitly consent to the temporary prohibition of *colportage* throughout seriously disturbed districts, and that I felt inclined to believe that the American Government, being animated by the broadest and highest sense of justice, would favorably consider my suggestion that a similar course be adopted. I reminded his highness, however, that all our recent cases of interference had occurred in districts officially as well as actually peaceful, and that in this respect our society's position differed from that of the British society, whose principal field of activity lay in the Macedonian vilayets.

After taking leave of the grand vizier I had a prolonged discussion on this matter with the minister for foreign affairs and the legal adviser of the Sublime Porte, but have nothing further to report as the minister's personal views must necessarily be subservient to those of the grand vizier. My object was to convince him of the necessity of impressing upon the grand vizier that the religious tolerance in Turkey so much vaunted by the Imperial Government would seem a farce to the American and British public should these measures against the sale of the Bible be actually put into force.

I have informed both the grand vizier and the minister for foreign affairs, that it is quite impossible for me to accept the decision contained in the note without the permission of my government, to whom I had referred it; this being the precise course taken by my British colleague.

I shall to-morrow address a note to the Sublime Porte confirming my conversation of to-day.

Doctor Bowen, the able agent of the Bible Society in the Levant, is much stirred up over this matter and is requesting me to demand an indemnity for the various cases of seizures of Bibles and other interference. I do not feel justified in so doing without the Department's approval, and I therefore beg to be instructed upon this point.

Doctor Bowen also insists that I should authorize the *colporteurs* at Trebizond, etc., who have been distinctly forbidden by the local authorities to *colporter* under pain of imprisonment, to proceed with their work, and to instruct the consuls to protect them against the authorities by means of consular *kavasses*, if necessary. These *colporteurs* being all Ottoman subjects, such protection would probably

cause very serious complications; the British embassy has refused to protect their society's Ottoman colporteurs in this manner, and I have also been unable to comply with Doctor Bowen's request, pending the receipt of instructions upon this point which I now solicit you.

Such a high-handed action as the forcible protection of purely Ottoman subjects in the execution of work expressly and personally forbidden them by their own authorities, however unjust and wrong such prohibition may seem to some, would appear to be too grave a matter for me to carry out without the explicit approval of the Department. I inclose copy of my instructions to the consul at Trebizond, in which I authorize him to use his good offices on behalf of these Ottoman colporteurs. \* \* \*

I have, etc.,

PETER AUGUSTUS JAY.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Leishman.*

NOTE VERBALE.

SUBLIME PORTE,  
MINISTRY FOR FOREIGN AFFAIRS,  
July 26, 1904.

The agents of the American Bible Society indulge in Turkey in the spreading of religious books by selling them by means of persuasion in the streets and public places at very low prices (prix dérisoire) and even giving them away gratis.

As colportage with the object of religious propaganda can not be permitted, the Imperial Government has decided to prohibit it in the future.

Having the honor of bringing this decision to the attention of the United States legation, the ministry for foreign affairs requests that it will be good enough to so inform those interested.

[Inclosure 2.—Translation.]

*Minister Leishman to the Minister for Foreign Affairs.*

NOTE VERBALE.

AMERICAN LEGATION,  
Constantinople, September 27, 1904.

The American legation has received the note verbale No. 18, of the 26 July, 1904, which the department of foreign affairs has done the honor to forward, informing the legation that the agents of the American society try to propagate religious books in streets and public places at derisory prices or giving them away gratis; that as religious propaganda through colportage can not be allowed, the Imperial Government had decided to forbid it, and therefore the department for foreign affairs asks the legation to inform of this those who are interested.

The American legation did not fail to communicate the contents of the said note to the Levant agency of the American Bible Society, whose agent informs the legation that the work of the American Bible Society is the distribution exclusively of the Bible or its parts, a book considered divine and sacred not only by all Christians, but by adherents of other religions also. The American Bible Society, as its name well indicates, does not distribute other religious books, and is an undenominational society whose purpose is not and can not be religious propaganda. Its colporteurs are not authorized to sell in streets or public places any other religious books except the Bible or its parts. Moreover, the colporteurs of the said society have been instructed to conform to the above-mentioned principles.

While bringing to the knowledge of the department of foreign affairs the above facts, the American legation would like to point out that the American Bible Society, which is one of the first and best-known benevolent institutions in America, has carried on its peaceful work in Turkey without interference for the last sixty years, and this legation can not see any reason why its benevolent work should in any way be limited. The legation is not aware that the Imperial Ottoman Government has taken any measures in limiting the work of any similar society belonging to or protected by any other nation, and it trusts that, notwithstanding the reports of some local officials, the Sublime Porte, after hearing the full explanation of the agent of the Bible Society as embodied in this note verbale, will abstain from



taking any discriminating measures against an American society, will raise any interdiction that may have been decided, and will allow it to carry on its benevolent work in the same way as it has done for the last sixty years.

[Inclosure 3.]

*Chargé Jay to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
*Constantinople, December 24, 1904.*

YOUR EXCELLENCY: Referring to the several notes of this legation in regard to the benevolent and legitimate work of the American Bible Society carried on in Turkey for the last sixty years, I have the honor to inform your excellency that notwithstanding the formal promises made to me by the Imperial Government to the effect that immediate telegraphic orders would be sent putting an end to the vexatious interference on the part of the local authorities in the vilayets of Trebizond and Angora, it has come to the knowledge of this legation that the said authorities are still continuing their interference. I therefore find myself obliged to protest against this action of the said provincial authorities, and leave the responsibility of the consequences, if any, on the Imperial Ottoman Government.

I take, etc.,

PETER AUGUSTUS JAY.

[Inclosure 4.]

*The Minister for Foreign Affairs to Minister Leishman.*

NOTE VERBALE.

SUBLIME PORTE,  
MINISTRY FOR FOREIGN AFFAIRS,  
*January 1, 1905.*

The ministry for foreign affairs has had the honor of receiving the note verbale which the United States legation was good enough to address it September 27 ultimo, No. 456, concerning the colportage of religious books.

In answer the imperial ministry hastens to inform the United States legation that according to the advices given by the imperial authorities the colporteurs concerned do not limit themselves to the sale pure and simple of religious books, but that they indulge in religious propaganda of a most pronounced nature under the pretext of explaining the utility of and method of using of the said books.

Now, it is not necessary to recall that in principle all propaganda is formally forbidden in the Empire, with all that pertains to it, and that the trade (*métier*) of colporteurs falling under the application of the police regulations, the imperial authorities can not deny themselves a surveillance as necessary as important in regard to colportage in view of the general tranquillity of the country they traverse.

The best thing under these circumstances is to permit in future the sale of the books in question only in depots and shops at fixed places, and such has been the decision recently taken by the Imperial Government, which the imperial ministry has the honor to bring to the attention of the United States legation for the information of those interested in the subject in question.

[Inclosure 5.]

*Chargé Jay to Consul Sullivan.*

AMERICAN LEGATION,  
*Constantinople, January 6, 1905.*

SIR: I have to acknowledge the receipt of your dispatch No. 15, of December 26, 1904. I have also to confirm my telegram of yesterday's date, reading as follows:

"American Consul, Trebizond. The sale of Bibles can not be prohibited. Demand formally and officially immediate unconditional surrender of seized Bibles which are American property."

The general question of Bible colportage is now being fought out with the Turkish Government, this legation and the British embassy having refused to accept the prohibition of Bible colportage in street and country pending the receipt of instructions from home.

Nevertheless, the seizure of Bibles belonging to the American Bible Society, thereby constituting them American property, can not be tolerated. The grand vizier yesterday telegraphed in my presence to the governor-general of Trebizond instructing him to release the said books.

While I can not accede to the Bible Society's representatives' request, pending the receipt of instructions from the Department of State, that you be instructed to fully protect these colporteurs of Ottoman nationality in the pursuance of their work against the direct orders of the Turkish authorities, yet you may use your good offices with the vali, requesting him to allow colportage at least in the streets of Trebizond pending the settlement at Constantinople of the general question.

I am, etc.,

PETER AUGUSTUS JAY.

*The Secretary of State to Chargé Jay.*

No. 761.]

DEPARTMENT OF STATE,  
Washington, February 7, 1905.

SIR: The Department has received your No. 969, of the 5th ultimo, reporting the receipt by your legation and the British embassy at Constantinople of a note identique from the Turkish minister for foreign affairs announcing the prohibition of the colportage of Bibles and other religious books on account of the alleged revolutionary propaganda carried on by the colporteurs.

You suggest that this government, in conjunction with that of Great Britain, consent tacitly to the temporary prohibition of the colportage throughout the seriously disturbed districts, but add that you have protested to the minister for foreign affairs against the general prohibition being put into force.

You state that the agent of the American Bible Society in the Levant has asked you to demand an indemnity for the books already seized, and to instruct the colporteurs, who are Ottoman subjects, to continue the distribution of the books though they have been forbidden by the local authorities to proceed with their work under pain of imprisonment.

The Department approves the views expressed in your dispatch, but you will not demand an indemnity unless the Department should hereafter instruct you to do so. The Department could not undertake to extend protection to colporteurs who are Ottoman subjects.

\* \* \* \* \*

I am, etc.,

JOHN HAY.

*Chargé Jay to the Secretary of State.*

No. 997.]

AMERICAN LEGATION,  
Constantinople, February 23, 1905.

SIR: I have the honor to acknowledge the receipt of your instruction, No. 761, of the 7th instant, on the subject of the recent interference with Bible colportage in Turkey.

I have the pleasure to report that, since the writing of my dispatch of January 5 in this connection, there have been no further cases of interference with colporteurs reported up to date to this legation or to the British embassy.

I succeeded in January in securing the immediate and unconditional surrender of the Bibles seized at various points in the Empire.

\* \* \* \* \*

I have, etc.,

PETER AUGUSTUS JAY.

*Minister Leishman to the Secretary of State.*

No. 1036.]

AMERICAN LEGATION,  
*Constantinople, April 12, 1905.*

SIR:

\* \* \* \* \*

The objectionable order issued by the Sublime Porte with a view of preventing the sale of Bibles in the streets and public highways through the agency of colporteurs has not as yet been rescinded, and more or less trouble continues to be experienced by the native agents of the Bible Society in isolated spots.

I inclose herewith for the Department's information copy of the legation's note to the Sublime Porte on this subject and also a copy of the British embassy's note.

It is always difficult and generally impossible to induce the Porte to write a retraction, but I am in hopes that the joint pressure being brought by the British ambassador and myself will result in remedying the present difficulties. \* \* \*

The great difficulty is that the actual colportage work is conducted entirely by Ottoman subjects whom it is difficult to protect, for, even assuming that the Sublime Porte rescinds the objectionable order restraining the colporteurs from prosecuting their work, it will always be an easy matter for them to bother and interfere with Ottoman subjects on some other pretext.

\* \* \* \* \*

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.]

*Minister Leishman to the Minister for Foreign Affairs.*

NOTE VERBALE.

AMERICAN LEGATION,  
*Constantinople, April 6, 1905.*

The American legation has the honor to acknowledge the receipt of the Sublime Porte's note of January 1 last, relative to colportage and in reply to advise that it can not consent to any change being made that would interfere with the free and unrestricted sale of the Bible, and finds itself obliged most solemnly to protest against the action taken by the Sublime Porte, action which will prevent the American Bible Society from prosecuting its legitimate business. Consequently the legation must ask that the necessary orders be sent to the provincial authorities instructing them to refrain from offering any further interference.

The legation can only assume that the orders tending to restrict the sale of the Bible must have been issued under some misapprehension, as they are not only in opposition to the spirit of religious tolerance that has so well distinguished the Ottoman Empire, but also in direct violation of the undertaking by the Sublime Porte, as evidenced in notes on the subject exchanged years ago between the imperial ministry for foreign affairs and this legation.

[Inclosure 2.]

*British reply to Sublime Porte regarding colportage.*

NOTE VERBALE.

CONSTANTINOPLE, *April 3, 1905.*

His Britannic majesty's embassy has the honor to acknowledge the receipt of the Sublime Porte's not verbale of January 1 last, announcing the intention of the Turkish Government to prohibit the colportage of Bibles in Turkey and to confine their sale to fixed shops or depots. A copy of this note was forwarded to his majesty's government in due course, and the embassy has now been instructed to inform the Sublime Porte that his Britannic majesty's government finds itself unable to assent to any departure from the principle of free colportage and that they consider that they are justified in claiming that their rights in this matter shall be held to be of general application, as heretofore. These rights continue to be subject only to exceptional restriction in places where circumstances render such a measure necessary, and if any case of this nature should arise his majesty's embassy will be ready in the future as in the past carefully to consider any well-founded representations from the Sublime Porte.

In pressing the acceptance of this view on the Sublime Porte, his majesty's embassy feels confident that the Sublime Porte will recognize that the proposed restriction, which would undoubtedly produce a very bad impression in England, is quite uncalled for, and would be a source of difficulty and trouble.

*Minister Leishman to the Secretary of State.*

No. 1171.]

AMERICAN LEGATION,  
*Constantinople, October 9, 1905.*

SIR: I have delayed answering your No. 855 [dated July 13, 1905],<sup>a</sup> inclosing copy of the letter to the Department by the American Bible Society concerning colportage of Bibles in Turkey, hoping to have been able ere this to have reached a definite understanding with the Porte, but despite the efforts of the British ambassador and myself it seems impossible to secure action on this, or in fact any other matter, as business at both the palace and Porte appears to be suspended since the attempt upon the life of the Sultan, and the officials seem to be devoting their entire time discussing the outrage and taking steps to find out the perpetrators and, what is a much more serious problem, to quell the Armenian revolutionary movement, which has been shown to be of wide dimensions.

If the legation's previous dispatches on this subject have led the Department to believe that full liberty has been formally secured, the wording of the dispatches has been interpreted more strongly than intended, for, while the vigorous representations made by the British ambassador and myself have had the effect of restraining the Ottoman Government from making any further efforts to enforce the restricting order issued by the grand vizier, we have not as yet been successful in securing an official reply to our identique notes, and the embargo placed upon several colporteurs has not been officially raised.

If the colporteurs were English or American it would be a comparatively easy matter for the English ambassador and myself to force the issue, even if it were found necessary to temporarily extend the support of a consular kavass, but as the class of men employed by the Bible societies as colporteurs are native Ottoman subjects, neither my British colleague nor myself have felt warranted in affording arbitrary

assistance to an Ottoman subject that might be permissible in the case of an English subject or an American citizen.

This view of the case is not, however, held by Doctor Bowen, the representative of the American Bible Society in the Orient, who seems to think that an Ottoman subject in the employ of an American institution is entitled to the same treatment as an American citizen, and this opinion, judging from the letter addressed to the Department by the Reverend Doctor Haven, is also shared by the corresponding secretary of the American board.

When Doctor Bowen approached me some weeks ago upon the subject of official intervention in the case of the colporteurs at Trebizond, I informed him very politely that I would not consider it good policy to stir up the local issue at Trebizond pending the adjustment of the main question, which involved not only the question of the unrestricted sale of the Bible in Turkey, but also the general question of colportage, and that, while the legation would insist upon the rescinding of the objectionable orders restraining the free and unrestricted sale of the Bible and take every proper measure to protect the legitimate interests of the American Bible Society in Turkey, I could not assume the responsibility of treating Ottoman subjects who happened to be in the employ of an American institution on the same basis as American citizens unless specially instructed to do so by the Department. \* \* \*

Ottoman subjects, both Mussulman and Christian, are not permitted to travel, even from one village to another, without a permit, and this regulation is rigorously enforced everywhere and particularly in the Armenian districts. As colporteurs employed by the American Bible Society are recruited exclusively from the ranks of the native Christian population, who are generally in a semistate of revolution, difficulties are frequently raised upon the ground that certain individuals of above-mentioned class are suspected of circulating seditious literature, etc., under the guise of colporteurs or agents of foreign companies, or that their presence in disturbed districts is apt to cause trouble.

Although such a thing is always possible, charges of this kind are not, as a rule, very well founded, generally the result of the lively imagination of an overzealous official, not infrequently one of their race, and during the past few years I have been able to adjust the majority of such cases without much difficulty.

The recent attempt upon the life of the Sultan is quite sure to result in the issuance of still more restrictive orders, as it appears to be very well established that the Armenian revolutionists were at the bottom of it.

Outside of the two points mentioned, i. e., Trebizond and Konia, the American Bible Society is not meeting with any difficulties, the English Bible Society, with which they work very closely, being in about the same condition or possibly a little worse, as they have about 6 or 7 cases, and as no fresh troubles have presented themselves I have not deemed it wise to attempt to force matters beyond a certain point, merely contenting myself with pressing the matter steadily with the Sublime Porte in conjunction with my British colleague, as the English Government is equally interested in this matter.

I shall continue to press the Porte for a settlement, and as the minister for foreign affairs has repeatedly given me assurances that

the matter would receive favorable attention, I am in hopes of being able to shortly report a satisfactory settlement.

I have, etc.,

JOHN G. A. LEISHMAN.

*Minister Leishman to the Secretary of State.*

No. 1191.]

AMERICAN LEGATION,  
*Constantinople, November 4, 1905.*

SIR: Referring further to my dispatch, No. 1171, of October 9, 1905, regarding the question of colportage and unrestricted sale of the Bible in Turkey, I beg to inclose for the information of the Department copy of recent correspondence with the Sublime Porte on this subject.

While the declarations of the minister for foreign affairs may be accepted as a satisfactory adjustment of the matter in principle, I have felt it necessary to take exception to the manner in which certain regulations were to be applied, for while the stipulations mentioned in the note of the Porte would appear to be just, the right to determine the necessity of putting such restrictions into operation could not be safely left in the hands of local officials.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Minister Leishman.*

SUBLIME PORTE,  
MINISTRY FOR FOREIGN AFFAIRS,  
*October 10, 1905.*

MR. MINISTER: In reply to the note which your excellency kindly addressed to me on September 19 last, as well as the note verbale of April 6 last, I have the honor to inform you that according to a telegram received from the governor-general of the Konia vilayet the 114 books which were in the possession of the colporteur Avraham Oglou Isaac, of Newchehir, were seized because the aforesaid was not provided with a regular permit, but as soon as the authorities had ascertained by an examination that they were simply the Bibles published with the authorization of the department of public instruction they were returned to him.

As far as the sale of the Bible is concerned, I feel myself obliged to call your excellency's attention to the fact that it has never been forbidden.

That which the Sublime Porte requires is that the colporteurs should furnish to the Imperial authorities at the various places a guaranty and that, in conformity with that which has been already agreed upon, they should not enter certain towns where the prosecution of their work would be, in view of local conditions, considered by the Imperial authorities as creating embarrassment.

The necessary communications on this subject having been already sent to the provincial authorities, I beg your excellency to cause the American Bible Society to be informed of the foregoing for its guidance.

I take, etc.,

[Inclosure 2.]

*Minister Leishman to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
*Constantinople, November 3, 1905.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 10th of October, 1905, in regard to the matter of colportage carried on in the Ottoman Empire by the American Bible Society.

As far as the Newchehir incident is concerned, I am glad to see that the local authorities admit, as I had already pointed out to your excellency, that the colporteur of the American Bible Society sold nothing but the Bible, and I trust that the books, the property of an American corporation, which were seized in an unwarranted manner, have already been returned to the colporteur. Had the authorities in Newchehir examined themselves the books, they would have seen that in each copy was inserted the number and date of the imprimatur of the Imperial department of public instruction, and they could have avoided the loss of time and other inconveniences involved in unnecessarily sending the books to Konia.

As to the general question of the sale of the Bible or parts thereof in the Empire, I am happy to take note that the Imperial Government once more declared its willingness to adhere to the tolerant principle of the free circulation of the book held sacred, a principle consecrated by treaties and long usage.

Regarding the mode of carrying on this undisputable right of the Bible Society, I beg to submit the following points which should be made clear between the Sublime Porte and this legation.

1. As far as the Sublime Porte's wish for a guaranty is concerned, I beg to inform you that the American Bible Society guarantees each one of its colporteurs. I consider the guaranty of such a well-known and highly reputable society as sufficient and much more satisfactory than what the Imperial authorities can find in the provinces from individual guarantors. The principal agent of the society in Constantinople uses great care in selecting his colporteurs. Should it be proved that any one of them is a person disloyally acting against the laws of the country he would naturally be at once dismissed by the principal agent. This legation is not aware that during the sixty years that the American Bible Society has carried on its work in the Empire any one of its colporteurs has been convicted of any disloyal act whatever. I therefore see no necessity to introduce the novelty of asking for any further guaranty.

2. Regarding the proposal of the Sublime Porte to introduce a restriction to the principle of the free circulation of colporteurs in certain cities, this legation would take into consideration any notice from the Sublime Porte asking that colporteurs should not visit certain cities on account of disturbed conditions. I need not remind your excellency that during the past few years the legation has on several occasions, upon the request of the Sublime Porte, advised missionaries and others to postpone their visits to certain localities on account of disturbed conditions. And so in the future, in case the Sublime Porte should come to an agreement with this legation that such restrictive measures are necessary for certain localities, this legation would naturally, in order to spare all inconvenience to the Sublime Porte, and in the interest of the Bible Society itself, advise the principal agent against sending colporteurs to such disturbed localities so long as the disturbed condition continued. But this on the clear understanding that such order to the principal agent or any colporteur in the service of the Bible Society comes from this legation only, as this legation can not agree to any principle which would allow the local authorities to restrain colporteurs of the American Bible Society from visiting this place or on the plea that the local conditions so demand. Giving to the local authorities such privileges might possibly lead to abuses, which I am sure the Sublime Porte would like to prevent.

In conclusion I beg to submit another point. The principal agent of the society informs me that the colporteurs are furnished with permits to carry on their business, but that sometimes they encounter difficulties when going from one vilayet to another, because the authorities demand that they be furnished with permits granted by each municipal circle or vilayet through which they pass. If such permits are really necessary, in my opinion, they should be granted on the application of the principal agent, by the competent authorities in Constantinople, and drawn up in such a manner that the permits would be valid and recognized throughout the Empire.

I take, etc.,

JOHN G. A. LEISHMAN.

*The Secretary of State to Minister Leishman.*

No. 930.]

DEPARTMENT OF STATE,  
Washington, November 11, 1905.

SIR: I have to acknowledge the receipt of your dispatch, No. 1171, of the 9th ultimo, in further relation to the interference by the Turkish authorities with the colportage of Bibles in Turkey, and reporting that, while the vigorous representations made by you and the British ambassador have had the effect of restraining the Ottoman Govern-

ment from making any further efforts to enforce the restricting order issued by the grand vizier, you have not as yet been successful in securing an official reply to your identic notes, and the embargo placed upon several colporteurs has not been officially raised.

You will continue to press the matter on the same lines as your British colleague, keeping in touch with him, in view of the identity of the interests involved.

I am, etc.,

ELIHU ROOT.

*The Secretary of State to Minister Leishman.*

No. 943.]

DEPARTMENT OF STATE,  
*Washington, November 24, 1905.*

SIR: I have to acknowledge the receipt of your dispatch, No. 1191, of the 4th instant, inclosing a copy of recent correspondence between you and the Porte on the subject of the colportage and unrestricted sale of the Bible in Turkey.

The Department commends your note to Tewfik Pasha, in which you take exception to the manner in which certain regulations were to be applied, for the reason, as you say, that while the stipulations mentioned in the note of the Porte would appear to be just, the right to determine the necessity of putting such restrictions into operation could not safely be left in the hands of local officials.

I am, etc.,

ELIHU ROOT.



## URUGUAY AND PARAGUAY.

### SEIZURE OF THE CANADIAN SCHOONER AGNES G. DONAHOE BY URUGUAY. REQUEST FOR THE GOOD OFFICES OF THE UNITED STATES BY THE GOVERNMENT OF GREAT BRITAIN.

*The British Ambassador to the Secretary of State.*

[Memorandum.]

BRITISH EMBASSY,  
Washington, April 12, 1905.

#### SEIZURE OF THE AGNES G. DONAHUE BY THE URUGUAYAN AUTHORITIES.

On the 11th of November, 1904, the *Agnes G. Donahoe*, a Canadian schooner commanded by Captain Ryan, was seized by a Uruguayan ship the *Ingeniero*, some three-fourths of a mile from shore, and taken to Montevideo, charged with sealing in territorial waters.

The captain maintained that all the seals on board—some 390—had been caught on the high seas, but the Uruguayan Government denied this and stated that, having granted to a private firm the concession of killing seals on the coast, they were obliged to prevent raiding; that the ship had been caught *in flagrante delictu* close inshore while sealing, and, later, that the ship was guilty of illegal association, robbery, and smuggling.

The captain and crew were therefore confined to the ship pending the finding of the courts.

The defending counsel, Doctor Wilson, repeatedly requested that they should be allowed out on bail, and Mr. Baring, His Majesty's minister, who was applied to by the Canadian government, also tried to procure their liberation by appealing to the minister for foreign affairs.

The latter, however, replied that the case was in the hands of the courts and could not be interfered with, and it soon became evident that there was a fixed determination on the part of the Uruguayan authorities to make an example of the master and crew of the schooner and establish a precedent for the future. Although the crew were eventually released on the owners' recognizances, the captain and the vessel are still detained.

Doctor Wilson maintained that the laws of the Republic were silent on the subject of the offense, but his application for a stay of proceedings was repeatedly rejected, and on December 24 Mr. Baring was instructed to remonstrate against further delay in bringing the men to trial and to ask for a definite statement respecting the crime and the law under which the charge was made.

No reply was obtained from the minister for foreign affairs to these questions. In writing to Mr. Baring on January 11, he merely transmitted a variety of documents from the judicial authorities tending to show that the government were compelled by their undertaking of July, 1895, with the private firm holding the concession for killing seals, to protect the sealing, and suggested that the proceeding of the ship amounted to piracy or robbery.

On the 13th of March Mr. Baring, by instruction of Lord Lansdowne, made a further representation to the Uruguayan Government, calling attention to the fact that there is no Uruguayan law prohibiting foreigners from fishing in the territorial waters of the Republic, and that there was consequently no legal justification for the seizure of the vessel and criminal proceedings against the master and crew. He stated that His Majesty's Government must earnestly remonstrate against the manner in which the case had been conducted, and must urge that the master should be released and the vessel liberated at once, reserving the question of presenting a claim for compensation for the heavy losses to the owners and crew resulting from long delays in the proceedings.

On March 28 Mr. Baring reported that the minister for foreign affairs, in reply to his representation, ignored the demand for the release of the ship and of the captain, and denied that there had been any delay and that any claims could arise in future, as everything had been done legally.

Meanwhile the investigating magistrate has formulated the charges and called upon the judge to sentence the captain of the *Agnes G. Donahoe* to five years' imprisonment and the two mates to two years, the offense to be treated as robbery.

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*The Acting Secretary of State to Minister Finch.*

No. 277.]

DEPARTMENT OF STATE

*Washington, April 14, 1905.*

SIR: I inclose herewith a copy of a memorandum which the British ambassador has left at the Department [printed ante] in regard to the seizure by the Uruguayan authorities of the Canadian schooner *Agnes G. Donahoe*, charged with killing seals in territorial waters.

You will do what you can unofficially to bring about a peaceable settlement of this matter.

I am, etc.,

F. B. LOOMIS.

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*The Acting Secretary of State to Minister Finch.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, April 17, 1905.*

(As the Department would greatly regret if complications arose from the seizure of the Canadian schooner *Agnes G. Donahoe* by the Uruguayan authorities, Mr. Loomis instructs Mr. Finch to use all proper endeavors to bring about peaceable and friendly settlement of the controversy between Uruguay and Great Britain.)

*Minister Finch to the Secretary of State.*

No. 819.]

AMERICAN LEGATION,  
*Montevideo, Uruguay, May 15, 1905.*

SIR: I acknowledge the receipt of your No. 277, dated the 14th ultimo, in relation to the seizure and detention by the Uruguayan authorities of the Canadian schooner *Agnes G. Donahoe*, charged with killing seals in territorial waters.

This afternoon I called at the foreign office and was assured the case will be decided to-morrow. The minister said that he wrote a note to the magistrate having jurisdiction of the case on Saturday last in which he stated there must be no further delay as to its definite "determination," and that the judge in reply said his decision would be given on Tuesday, the 16th instant.

I am, etc.,

WILLIAM R. FINCH.

*Minister O'Brien to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Montevideo, July 11, 1905.*

(Mr. O'Brien reports that he has been informed by the secretary of state for foreign affairs that the *Agnes G. Donahoe* case will be decided, leniently, by July 22.)

*Minister O'Brien to the Secretary of State.*

No. 14.]

AMERICAN LEGATION,  
*Montevideo, Uruguay, July 11, 1905.*

SIR: I have the honor to report that on the afternoon of Sunday, July 9, Mr. Arthur Peel, chargé d'affaires for Great Britain, called at this legation and asked me to assist him with the foreign office here in his effort to bring about a settlement of the controversy between his government and Uruguay arising out of the seizure of the Canadian schooner *Agnes G. Donahoe*. Mr. Peel at the same time handed me a private note he had addressed to me on the subject. I told His Majesty's representative that I was aware of the Department's instructions to my predecessor in this matter, and would avail myself of the first opportunity offered to speak with the secretary of foreign affairs, and that I hoped the controversy would be amicably settled.

The same evening I met the secretary of foreign affairs at a reception given at the residence of the Argentine minister, and in the course of conversation remarked to him that it was the earnest hope and desire of my government that the controversy between his government and Great Britain would be speedily and amicably settled, and I would be glad if an opportunity was offered to talk over the matter informally with him, if he cared to have me. His excellency thereupon invited me to come to his residence the following Monday evening at 9 o'clock. Promptly at that hour I called and was most cordially received. I approached the subject by saying that I had no specific instructions from my government other than what had already been communicated to him by my predecessor; that I had no opinions to

express on the merits of the case, and assumed that the action of the Uruguayan authorities in seizing the schooner was a proper proceeding under the laws of Uruguay, but that the law's delay tended to aggravate the situation and might lead to serious complications.

His excellency replied that much of the delay was caused by the defendant's counsel, and I remarked that in proceedings before courts where international questions were involved judges sometimes directed counsel. I also pointed out that the detention of the schooner and the long imprisonment of the captain and mates should satisfy the parties to whom his government had granted the exclusive right of killing seals, that the Uruguayan authorities had been vigilant and earnest in their desire to protect them in their rights, and that it would be a happy solution of the difficulty if some leniency was shown in the final disposition of the case.

His excellency here remarked that he had called that morning on the judge and that the case would be finally disposed of by the middle of next week, and he thought a light sentence would be imposed.

I pleasantly reminded him that my predecessor, Mr. Finch, had, on April 25 last, cabled the Department that the case would be decided in a day or two. \* \* \* I then asked his excellency if I could cable the government at Washington that the case would be finally decided by July 22, and leniently, and he assured me that I could do so.

Accordingly I cabled you. \* \* \*

I am, etc.,

EDWARD C. O'BRIEN.

*The Acting Secretary of State to Minister O'Brien.*

No. 4.]

DEPARTMENT OF STATE,  
Washington, July 21, 1905.

SIR: Referring to the case of the Canadian schooner *Agnes G. Donahoe*, which was seized by the Uruguayan authorities for alleged illegal sealing in territorial waters, I inclose herewith, for your information, copies of the official correspondence concerning the matter. [Printed ante.]

While continuing to exert kindly influence toward a settlement, you will not move in the line of proposing arbitration without specific instruction.

Should occasion offer, you will consult the Department by cable.

I am, etc.,

ALVEY A. ADEE.

*The British Ambassador to the Acting Secretary of State.*

BRITISH EMBASSY,  
Lenox, Mass., August 13, 1905.

DEAR MR. ADEE: I have received a telegram from Lord Lansdowne informing me that the Uruguay criminal court has now delivered its judgment in the case of the *Agnes G. Donahoe*. The captain is condemned, on the charge of smuggling, to ten months' imprisonment, to date from the day of arrest—namely, the 11th of November last. The court considers that the charge of theft is unfounded. The mates are condemned as accomplices, but they are to be released without

further imprisonment. The vessel and her cargo are ordered to be confiscated.

The counsel engaged for the defense is of opinion that the criminal courts having no jurisdiction in a case of smuggling, which should have been dealt with in a civil court, the judgment is void judicially. This point, however, could only be raised on appeal, and it would be useless to appeal against the sentence passed on the captain, since a decision could not be expected for at least six weeks.

Lord Lansdowne is considering the question of the steps to be taken with regard to the confiscation of the ship and cargo; but meanwhile he has instructed Mr. Peel, the British chargé d'affaires, to endeavor to obtain the captain's release on the ground of legal doubt or on the plea of health, pointing out that he has already served nine months out of the ten to which he was sentenced.

His Lordship desires me to ask whether you would be so good as to direct the United States minister to support the representations which Mr. Peel has been instructed to make.

Believe me, etc.,

H. M. DURAND.

*The Acting Secretary of State to Minister O'Brien.*

No. 9.]

DEPARTMENT OF STATE,  
Washington, August 14, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 14, of the 11th ultimo, reporting your interview with the minister for foreign affairs in the matter of the Canadian schooner *Agnes G. Donahoe*, detained on a charge of illegal sealing in territorial waters, and transmitting correspondence in relation to the case.

The Department commends the discretion and tact with which you have carried out its instructions.

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to Minister O'Brien.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, August 15, 1905.

(Mr. Adeë advises Mr. O'Brien that in compliance with the request of the British ambassador he is authorized to use his unofficial friendly offices in support of the British minister's request for the release of the captain of the *Agnes G. Donahoe* on the ground of ill health and because having been in prison already nine months of the ten of his sentence. Mr. O'Brien is advised, however, not to touch the legal merits of the case.)

*The Acting Secretary of State to the British Ambassador.*

DEPARTMENT OF STATE,  
Washington, August 15, 1905.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your personal letter of the 13th instant in connection with previous correspondence relative to the case of the captain of the *Agnes G.*

*Donahoe*, who has been condemned to ten months' imprisonment by the Uruguay criminal court.

It gives me pleasure to say in reply that in view of Lord Lansdowne's desire that this government support Mr. Peel in his efforts to secure the captain's release on the grounds mentioned in your note, the Department has by telegram suitably instructed the American minister at Montevideo to use his good offices in aid of Mr. Peel's efforts.

I am, etc.,

ALVEY A. ADEE.

*Minister O'Brien to the Secretary of State.*

No. 20.]

AMERICAN LEGATION,  
*Montevideo, Uruguay, August 23, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's telegram, dated the 15th instant, which I received on board the steamer *San Martin* at Goya, Argentine Republic, on the 18th instant while en route from Asuncion to Montevideo.

\* \* \* \* \*

I arrived at Montevideo on the 21st instant, and yesterday received a call from Mr. Arthur Peel, chargé d'affaires for Great Britain, who informed me that my further friendly offices were not necessary, as he believed that the Uruguayan Government intended to release the captain of the Canadian vessel *Agnes G. Donahoe* if it found it could do so consistent with law.

I herewith inclose copy of a translation of the decision rendered by the criminal judge of the court of the second instance, reversing the decision of the judge of the first instance in the above case.<sup>a</sup>

I am, etc.,

EDWARD C. O'BRIEN.

*Minister O'Brien to the Secretary of State.*

No. 29.]

AMERICAN LEGATION,  
*Montevideo, Uruguay, September 30, 1905.*

SIR: I have the honor to acknowledge the receipt of the Department's dispatch No. 4, dated July 21, inclosing copies of correspondence had with the British ambassador at Washington concerning the capture of the Canadian vessel *Agnes G. Donahoe* by the Uruguayan authorities for alleged illegal sealing in territorial waters and instructing me while continuing to exert friendly offices not to move in the line of arbitration; also, should occasion arise, I was to consult the Department by cablegram.

This dispatch I received on the 28th ultimo, and as I had advised the Department in my dispatch No. 20, dated August 23, that I was informed by Mr. Peel, chargé d'affaires for Great Britain, that he believed it was the intention of the Uruguayan authorities to release the captain of the *Agnes G. Donahoe* if they could do so in accordance with the law, I have delayed acknowledging the Department's dispatch until I could advise as to the final disposition of the case by the Uruguayan authorities.

<sup>a</sup>Not printed.

I may here state that I at no time suggested nor discussed arbitration in connection with this case.

I herewith inclose copy of the order which was issued on the 9th instant by the court releasing the *Agnes G. Donahoe*. It will be seen from this order that the captain, Matthew Ryan, was allowed to serve out his term of thirty days. However, he was only nominally a prisoner, and had practically his liberty during the thirty days' period.

The sealskins and armament of the schooner will probably be released to-day. \* \* \*

It is reported that the captain and the owners of the schooner will, on the release of the skins and armament, bring suit for false imprisonment and damages, but later and more direct information is to the effect that the schooner *Agnes G. Donahoe* will leave Montevideo next week, and her departure will close a controversy which has been of such grave concern to Great Britain, Uruguay, and the Canadian Government.

I am, etc.,

EDWARD C. O'BRIEN.

[Inclosure.]

*Order releasing the Agnes G. Donahoe.*

MONTevideo, September 9, 1905.

To the COMMANDER GENERAL OF MARINE:

In the lawsuit between Matthew Ryan and others, for imputation of sealing in jurisdictional waters, by the present I beg to inform you that to-morrow, the 10th instant, expires the sentence imposed on the said named Matthew Ryan, who, in consequence, must be set at liberty, unconditionally, same day.

At the same time I wish to inform you that the sequestration and interdiction of sailing, which was laid on the steamer *Agnes G. Donahoe*, has been taken off, and I request you to hand her to the captain, previously disembarking and depositing in the commandancia (customs guardhouse) provisionally the skins which are on board, and keep them, with the arms which are already in the commandancia, at the disposition of the court, and inform immediately as to the state of preservation you find said skins.

God guard you, etc.,

ANTONIO ROVIRA.

## VENEZUELA.

### SEQUESTRATION OF THE PROPERTY OF THE NEW YORK AND BERMUDEZ COMPANY AND SUIT AGAINST THE COMPANY.

*Minister Bowen to the Secretary of State.*

No. 403.]

AMERICAN LEGATION,  
*Caracas, Venezuela, April 16, 1904.*

SIR: I have the honor to inform you that President Castro has not granted audiences to any of the diplomatic representatives of the creditor powers during the last year, and that I have not had a talk with him since a year ago last January. I called on him then by appointment. The report, therefore, that I brusquely demanded some time ago to see him while he was in a private house is absolutely false. All negotiations with his government are carried on through the foreign office under his direction. \* \* \* As President Castro stated for publication to the Herald reporter a few days ago that the French cable case and the asphalt case are just alike, I respectfully call your attention to the fact that he began his attack on the asphalt property by seizing it, while he has not even yet, after months of litigation, taken the property of the French Cable Company. Consequently we have more reason than ever to complain of the injustice of his courts. \* \* \*

I am, etc.,

HERBERT W. BOWEN.

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Caracas, June 14, 1904.*

(Mr. Bowen reports that the manager of the Bermudez Company informs him that the Venezuelan Government threatens suit unless the company pay \$10,000,000 to the Venezuelan Government. He advised him to pay nothing, to defend their rights in court, and to publish facts; thinks the company's policy should be honest and fearless.)

*Minister Bowen to the Secretary of State.*

No. 300.]

LEGATION OF THE UNITED STATES,  
*Caracas, Venezuela, June 25, 1904.*

SIR: I have the honor to inform you that President Castro has decided to make the New York and Bermudez Company pay him an enormous sum of money or to seize its asphalt lake. His intention first became apparent when the newspapers of Caracas a short time



ago began to attack the company. The manager of the company, familiar with Venezuelan methods, inquired forthwith of the minister of the interior what was wanted of the company. He was told 50,000,000 bolivars. The newspapers then stopped their fusillade, in order that the manager might ponder the situation coolly and carefully. Finally he asked my advice. I urged him to refuse to be blackmailed, to defend his company in the courts, and to publish the facts in the case to the world. It seems that President Castro threatens that if the money is not paid an action will be brought in the courts to dispossess the company, and evidence will be forthcoming proving that the company aided the Matos revolution and is using lands for its railway that do not belong to it. An American by the name of Carner, who was formerly employed by the company and then discharged after he had made himself obnoxious, has been here lately and has supplied President Castro with information about the assistance the company gave to Matos and about the title to the railway lands. Carner's objects are evidently revenge and profit. The President also has probably some letters that were written by the company's agent in Trinidad to the revolutionary leader Ducharm, who, when the revolution was suppressed, became friendly with President Castro, and now holds a very remunerative position. I told the manager that if the case goes to the courts no worse punishment can be inflicted on the company for aiding Matos than can be imposed on the thousands of others that supported the hapless chief, and that if the Hamilton concession can not be shown to cover the railway lands the law of prescription must be respected. President Castro in order to complete his work of intimidation has stated lately that he has been assured that the Department of State in Washington will not interfere in this controversy. \* \* \*

I am, sir, etc.,

HERBERT W. BOWEN.

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*The Acting Secretary of State to Minister Bowen.*

No. 210.]

DEPARTMENT OF STATE,  
Washington, July 19, 1904.

SIR: Your confidential dispatch No. 300, dated June 25 last, has been received and read with interest.

The Department desires to be kept fully informed respecting the demands of the Venezuelan Government upon the New York and Bermudez Asphalt Company for 50,000,000 bolivars.

I am, etc.,

FRANCIS B. LOOMIS.

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*Minister Bowen to the Secretary of State.'*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, July 22, 1904.

(Mr. Bowen reports that the Venezuelan Government placed embargo on Bermudez Lake yesterday and appointed Carner custodian, as Bermudez Company refused to submit to blackmail.

Mr. Bowen says pressure should be brought to bear by our warships at La Guaira, and the custom-house should be seized, if necessary. He has not made protest, but awaits Mr. Hay's instructions, which he hopes will be in the nature of an ultimatum.)

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*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, July 24, 1904.

(Mr. Bowen reports that Venezuelan war vessel *Bolivar* started yesterday with Carner on board to obtain possession of Bermudez lake.

He thinks should have fleet there prepared to seize La Guaira and Puerto Cabello and get full satisfaction for Bermudez Company and for other foreign corporations Venezuelan Government is attacking.

Prompt and energetic action necessary.)

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*Minister Bowen to the Secretary of State.*

No. 309.]

AMERICAN LEGATION,  
Caracas, Venezuela, July 24, 1904.

SIR: I have the honor to inclose herewith a copy of my cablegram to you of the 22d instant relative to the embargo of the New York and Bermudez asphalt lake, a copy of the libel, and a copy of the protest of the manager of the New York and Bermudez Company. The proceedings were ex parte. Yesterday the Venezuelan gunboat *Bolivar* left La Guaira with the man Carner on board to take possession of the asphalt lake. I think an American fleet should be sent to La Guaira at once. If the asphalt lake is not returned to the American owners within twenty-four hours after the arrival of the fleet at La Guaira, I advise that the custom-house be seized there and also the one at Puerto Cabello, and that both of them be held until full satisfaction shall have been obtained by us and agreements made that will put a stop once and for all to the illegal attacks of President Castro on foreign corporations established in Venezuela. Since I sent my said cablegram to you, he has demanded 12,000,000 bolivars of the British railway company at Puerto Cabello and the transfer to him of the British central railway for the ridiculous sum of 1,000,000 bolivars, and he has begun proceedings to blackmail the British company that owns the railway from Caracas to La Guaira. He is annoying the Germans, I understand, at Ciudad Bolivar, and the only wealthy Italian landowner in Venezuela has been notified not to cut any wood on his property nor to raise any crops. He is also attacking the French Cable Company, and some time ago demanded the recall of the French minister, who had done nothing except protect French interests with due energy, and who, consequently, will be retained here by the French Government. \* \* \*

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.]

*The New York and Bermudez Company to Minister Bowen.*CARACAS, VENEZUELA, *July 22, 1904.*

SIR: The undersigned, managing director of the New York and Bermudez Company, and owner of ten shares of the capital stock thereof, respectfully appears before you and most solemnly and sincerely protests against the Government of Venezuela, the federal court and court of cassation of Venezuela, the attorney-general of Venezuela, the minister of internal affairs of Venezuela, and any and all other persons concerned, for their unjustifiable, inequitable, and illegal ex parte actions in placing an embargo on the property of this company and appointing a custodian thereof during litigation without having served any writ, summons, or notice on this company or its representative of such intended action; and for not giving said company any opportunity to appear in court and contest such action, and particularly for the appointment of A. H. Carner as custodian, said Carner not being a stockholder of record in the New York and Bermudez Company, and if said Carner holds any stock of said company by assignment it bears on its face the proof that said assignment is of no value until registered on the books of the company, said Carner being, moreover, notoriously antagonistic to said company.

It appears that this summary action has been taken on the ground that the Hamilton contract is a contract of rental and the Government of Venezuela has so averred in its demand; but a mere inspection of the contract itself shows that this is not the case, and it being therefore a question of law and interpretation of a contract the question should have been tried in open court before any such summary action was taken.

As a stockholder in said company and as the legally appointed representative of all the stockholders and bondholders of said company, I call upon you in the name of the New York and Bermudez Company to demand of the Venezuelan Government that it refrain from any interference with the property of this company in Venezuela, and failing this to call upon the Government of the United States of America to prevent by whatever means it deems suitable this unjust, inequitable, and illegal spoliation of the property of this American corporation.

So far as the undersigned has any official knowledge, no suit has yet been brought against this company in the premises.

ROBERT K. WRIGHT,  
*Managing Director.*

[Subinclosure 1.—Translation.]

*Certified copy of the declaration of the action instituted by the attorney-general of the nation against The "New York and Bermudez Company" to the end that it consent to the dissolution of the contract made by the minister of fomento with Mr. Horace R. Hamilton, and for other purposes.*

July 22, 1904, at half-past 2 in the afternoon.

ROBERT K. WRIGHT.

*Citizen Judge of First Instance of the Federal and Cassation Court:*

I, Dr. F. Arroyo Parejo, attorney-general of the nation, acting in this character before you, with due respect, show: Mr. Horace R. Hamilton made a contract of lease with the minister of fomento, duly authorized by the President of the Republic, for the purpose of exploring and exploiting the natural products existing on the wild lands of the former state of Bermudez, and also for the purpose of taking therefrom woods for building, furniture making, and others useful for industry, and resins, plants, and aromatic seeds. The right was also granted to the contractor to exploit the asphalt deposits which are situated within the territory of the said state. (Articles 1 and 2.) The said contract, which is dated the fifteenth day of September, one thousand eight hundred and eighty-three, was added to on the nineteenth day of October of the same year, with the object of fixing the duties which the contractor should pay for the several kinds of woods which he might take and export. By a second additional clause, which is dated the thirtieth day of May of the following year, Hamilton entered into the obligation to canalize one or more rivers of the state of Bermudez, commencing by the Caño Colorado and Guarapiche as far as Maturin, for the purpose of facilitating importation and exportation. The government granted various other concessions to the contractor at different dates, as can be observed from the text of the contract itself, which is inserted in the Official Gazette, No. 8259, which I produce. Both the contract in question and its annexes were approved by the national Congress on the sixth day of June, one thousand eight hundred and eighty-four. Hamilton afterward assigned all his rights and obligations under the said concession referred to to the New York and Bermudez Company, an

incorporated company, established in New York, United States of North America, which assignment was accepted by the Government of the Republic through the channel of the ministry of fomento and after the favorable report of the department of territorial wealth of the said ministry on the ninth of December of the year last mentioned. Twenty-one years have elapsed since the above-mentioned company entered upon the enjoyment of the Hamilton concession, and during this long period of time, notwithstanding that the said concession is one of the most extensive and favored that has been granted by the Government of Venezuela, the said company has restricted itself solely and exclusively to the exploitation of an asphalt lake discovered within the territory of the state of Bermudez, neglecting entirely to fulfill the other obligations stipulated in the contract. There is no doubt that the company has thought that the exclusive exploitation of the asphalt, which offers greater facilities and produces more enticing returns than that of other natural products, was a convenient way of executing the contract; but this singular judgment can not be shared by the government, which sees one of the most productive branches of the national wealth rendered unprofitable to the evident damage of the public interests. As a matter of fact, the exploitation of the natural products of the state of Bermudez other than asphalt has remained stationary for upwards of twenty years, and the government finds it impossible to activate it, on account of its obligation toward the company. Such a situation has become unbearable. The New York and Bermudez Company can not pretend that the exploitation of the natural products to which the contract relates was simply a right which it could renounce at its own will. A like interpretation would be absurd, because it would adjudge to one of the parties all the advantages and impose all the burdens on the other. It is well known that every right is the correlative of an obligation, and in the case in question the clauses of the contract show clearly that by the concessions which the government made to the original contractor they purposed to obtain immediate benefits in return, such as were those of fostering the progress of the state of Bermudez by all the means which are developed by a great enterprise; of canalizing its rivers and adapting them to navigation, and lastly, of receiving the duties which were expressly fixed for the exportation of natural products. The company rendered those objects nugatory by its proceedings; it has ignored its obligations and made it impossible to continue the contract. Furthermore the exploitation of the asphalt itself, the only natural product which the company exports, is carried on on so small a scale, as will be proved in the suit, that the profits which the government derives therefrom are so insignificant as to be ludicrous. On the other hand, the New York and Bermudez Company has not, in compliance with its obligation, canalized any of the rivers of the state of Bermudez, an improvement which was expressly agreed upon in the contract made with Mr. Horace R. Hamilton, and as in spite of the steps taken by the government to obtain of the company the strict fulfilment of the contract, it has not been able to succeed in effecting an amicable arrangement, I have received precise instructions to sue, as I in fact do, with all legal formality, and relying on article 1137 of the civil code, the New York and Bermudez Company, an incorporated company, established in Philadelphia, and domiciled in this city, in the person of its representative, Mr. Robert Kemp Wright, adult, and a resident, to the end that he consent to the dissolution of the contract made by the minister of fomento with Mr. Horace R. Hamilton on the nineteenth of October, one thousand eight hundred and eighty-three, approved by the National Congress on the sixth of June, one thousand eight hundred and eighty-four, and of which it is cessionaire, that it pay the nation for the damages which have been caused to the latter by the failure to execute the said contract, according to the just finding of appraisers and calculated in accordance with the bases established by the first additional article, and that it also pay the expenses occasioned by these judicial proceedings; and as to the contract made with Mr. Horace R. Hamilton, it is a contract of lease, the subject-matter of which is the enjoyment of all the natural products existing on the wild lands of the former state of Bermudez, and from the instrument of proof and telegram, which I annex, it is clearly demonstrated that the lessee has omitted to make improvements which by the contract it is bound to make, such as the canalization of the rivers of the said state, in conformity with the seventh particular of article 373 of the code of civil procedure, I move for a decree of sequestration of the mine which the company exploits at the place called Guanoco, in the jurisdiction of the state of Bermudez, together with all the apparatus and appurtenances of the exploitation, to answer the results of this suit. In accordance with the said mentioned article, I move that the person whom I shall in due time designate be appointed receiver. I consequently pray the citizen judge to admit the present action, substantiate it in accordance with law, and give a definitive judgment for the plaintiff, together with the costs, and to make the other legal orders. It is justice.—Caracas: twentieth of July, one thousand nine hundred and four. F. Arroyo Parejo.—This signature is over a stamp of one bolivar. There is a seal which says, "United States of Venezuela, office of the attorney-general of the nation."

The subscriber, secretary of the chamber of resolutions of the tribunal of first instance of the federal and cassation court, certifies the correctness of the preceding copy. Caracas: twenty-first of July, one thousand nine hundred and four.

(The signature "Juvenal Anzola" is written across two Venezuelan postage stamps of the value of one bolivar each.—TRANSLATOR.)

Federal and cassation court.

Tribunal of first instance.

Twenty-first of July, one thousand nine hundred and four. 94 and 46.

Mr. Robert Kemp Wright, resident of this city, representative of the New York and Bermudez Company, shall appear before this tribunal on the tenth court day at nine o'clock in the morning, and after having been cited, to answer this action. He shall give the porter a receipt for this copy.

J. Y. ARNAL.

(The preceding copy is engrossed on five sheets of Venezuelan sealed paper of the seventh class of the value of one bolivar each.—TRANSLATOR.)

[Subinclosure 2.—Translation.]

*Citizen President of the Federal and Cassation Court in your character as Judge of First Instance:*

I, Robert Kemp Wright, managing director in Venezuela of the "New York and Bermudez Company," before you very respectfully show:

I have unexpectedly learned that there is an action in your court with reference to the contract made by the government with Mr. Horace R. Hamilton, of which the company I represent is cessionaire, which action was instituted by the attorney-general of the nation in the latter's name; and he asks, furthermore, the *sequestration* of the mine or asphalt lake and its appurtenances which the company owns and exploits in the municipality of Union (Guariquen), in the district of Benitez, state of Bermudez; and I have learned, with surprise, that the said *sequestration* was decreed yesterday, Mr. Ambrose H. Carner being appointed receiver.

I say with surprise, because, although I have not yet read the decree for sequestration, the action and the petition for sequestration induce me to believe that the latter is based on No. 7 of article 373 of the code of civil procedure, and this being so, it can not be more contrary to law.

As a matter of fact the plaintiff found himself obliged to pervert the nature of the contract in question, setting it forth purely and simply as a contract of *lease*; and did this with the deliberate purpose of bringing the petition for sequestration within the scope of said No. 7, article 373, of the code of civil procedure. In order to understand this it suffices to read the declaration and the contract. The latter has no characteristic whatsoever of a lease, and now that the pretension of the plaintiff is seen to be such it will be of the utmost importance to the suit to elucidate this point.

It is absolutely necessary that the precautionary measure of sequestration in the case of a lease, when it is requisite, should be grounded on a contract that is indisputably a *lease*—that is to say, that it has been accepted by the parties as a *lease*. To suppose anything else would be to establish the possibility of anyone whatsoever bringing forward a contract of emphyteusis, *vivim vadium*, sale, loan in kind on security, etc., calling it a lease, and for him to obtain a sequestration based on the capricious denomination which he has given to the said pact.

Article 368 of the said code of procedure says that the judge *may* grant the sequestration in the cases provided for by the law. That is to say, it lies within the discretion of the judge to grant it or not, as should seem expedient to him, having regard to what is most equitable and rational in deference to justice and impartiality (art. 18 of the said code). And, indeed, citizen judge, no one will fail to note the immense loss and damage that will be suffered by the company through the sequestration ordered, nor will anyone of a serene mind think that the necessity for such a measure is justified, even if it were in accordance with law, which is denied.

As there is no appeal from the order to which I refer and it is therefore revocable (art. 175, civil procedure), I pray you for the reasons stated to review and reverse the same as a matter of justice.

ROBERT KEMP WRIGHT.

CARACAS, July, 1904.

Signed over a stamp of 1 bolivar.

Received by the court July 22, 1904, 4.45 p. m.

J. Y. ARNAL.

*Acting Secretary of State Adee to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, July 25, 1904.  
(Received July 29, 1904.)

(Mr. Bowen is directed to advise the Venezuelan Government that if facts are as reported the United States earnestly protests. Further instructions will follow to-morrow.)

*Acting Secretary of State Adee to Minister Bowen*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, July 26, 1904.

(It is represented to the Department that the Venezuelan Government has brought suit against the New York and Bermudez Company and has proceeded without any law authorizing it to dispossess the company of asphalt lake. Mr. Bowen is directed to advise the Venezuelan Government that if facts are as represented the United States Government earnestly protests against such action. He is instructed to inform Department in what court suit is brought, who is plaintiff, and communicate substance of complaint and of the orders and decree of court so far as given and the law, statute or precedents, if any, upon which suit is based. He is directed to respectfully request the Venezuelan Government to furnish this information, and to say that if the Venezuelan Government would defer seizure of the company's property until the matter can be fully investigated by the Department the United States Government would be pleased and confidently hopes this may be done.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, July 30, 1904.

(Mr. Bowen protested yesterday, as instructed. Plaintiff is Venezuelan nation. Complaint charges failure to canal rivers and exploit products other than asphalt, and asks for embargo and custodian. The court granted embargo and appointed as custodian Carner, who started for the lake on Venezuelan war vessel before complaint was served on defendant. Statute authorizes embargo in case of lease; this is not a lease, but a concession. Lake seized on 27th and Carner put in possession. Mr. Bowen can not therefore ask the Venezuelan Government to defer seizure. Copies of complaint and company's protests will reach Department August 2 and decree two weeks later. Answer to complaint must be made August 2 and proofs furnished by company August 12. Haste made to avoid interference. Suits not yet brought against British railways.)

*Acting Secretary of State Loomis to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, August 1, 1904.

(In view of Mr. Bowen's telegram of 30th ultimo, Mr. Loomis instructs him to formally protest both orally and in writing against summary proceedings of Venezuelan Government dispossessing New York and Bermudez Company of its property without any hearing and directly in government's interest, and notify government of grave concern with which United States Government will regard any illegal action against American company.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, August 3, 1904.

(Mr. Bowen has protested orally and in writing, as instructed. Probably only effect will be to prevent Venezuelan Government from attacking other foreign corporations for the present.

It has come to his knowledge that the object of the Venezuelan President is to recover from foreigners the amount he must pay to them on their claims.)

*The Acting Secretary of State to Minister Bowen.*

No. 213.]

DEPARTMENT OF STATE,  
Washington, August 3, 1904.

SIR: I inclose copy of a letter from Messrs. Nicoll, Anable & Lindsay, requesting that instructions should be sent to you to confer with the counsel of the New York and Bermudez Company on the condition of its affairs.

The writers were advised that instructions were unnecessary and you would undoubtedly confer with the counsel when he should call on you.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

*Messrs. Nicoll, Anable & Lindsay to the Secretary of State.*31 NASSAU STREET,  
New York, July 29, 1904.

SIR: Referring to previous correspondence in relation to the renewal by the Venezuelan Government of its attempt to dispossess the New York and Bermudez Company of its property in Venezuela, we have the honor to advise you that only yesterday the company received a cable from the manager of its Caracas office, stating that he was in possession of information to the effect that a suit would be brought against the company on account of its alleged assistance to the Matos revolution. This information confirms our view that the suit reported already to have been brought is for the rescission or revocation of the Hamilton concession solely by reason of the company's alleged noncompliance with some of its terms.

As we had the honor to point out in our letter of the 13th instant, the final decision rendered by the high federal court in the Warner-Quinlan suit, as late as the 28th of January

last, a copy of which decision was filed with the Department on the 29th of February, expressly and clearly confirmed the subsisting validity of the Hamilton concession and the company's full and absolute rights thereunder. Not only is this the case, but even if the company had failed to fully comply with the terms of the concession, and if no judicial decision affirming its validity had ever been rendered, the situation now existing would be substantially the same as that which has notoriously existed, with the full knowledge and approval of the Venezuelan Government, certainly for nearly twenty years. As the records filed with the Department clearly show, if the company is not now complying with all the terms of the concession it never has complied with them, and as the Venezuelan Government has during all the time above mentioned acquiesced in the situation it would be estopped and precluded from making the company's alleged default the basis of the present proceeding to dispossess it of its property.

But, even assuming that the Venezuelan Government were not precluded by its own previous conduct, as well as by the decisions of the Venezuelan courts, from taking such proceedings as it now appears to be devising, we are at a loss to conceive upon what principle it could be justified in dispossessing the company of its property in advance of a decision in those proceedings. The property is situated in Venezuela and is incapable of running away. The company has not committed, nor is it aware that it is charged with having committed, any default that would place it in the category of a bankrupt. Besides, we have received brief telegraphic advices from counsel in Venezuela that the entire proceedings are palpably illegal. On the whole the inference appears to be inevitable that the present design of the Venezuelan Government is precisely the same as that which was blocked by the representations of this government in 1901—namely, to seize the company's property without warrant of law and remit the discussion of the legality of the seizure to the distant future. What that would mean it is unnecessary to point out. The judicial proceedings would be recurrently complicated and indefinitely prolonged, while the waste and spoliation of the company's property and the injury to its interests would be enormous, complete, and practically irremediable.

We understand that the Department, in its cable of the 26th instant, instructed Mr. Bowen to request the Venezuelan Government to explain the legal grounds of its recent action and the precedents, if any, therefor. Any response which the Venezuelan Government might make to this request no doubt would be so drawn as that if it did not disclose a legal justification of its action would at any rate conceal its defects. In view of this fact and of the urgent circumstances of the case, we beg leave to submit to the Department whether it would not be advisable further to instruct Mr. Bowen to confer with the company's counsel in Venezuela, whom the company would instruct to call upon him for that purpose. We can not conceal our apprehension that unless the Venezuelan Government is made plainly to understand that its renewed attempt arbitrarily to despoil the company of its property will necessarily be attended with serious responsibilities. It will forestall preventive measures by quickly consummating the summary course on which it has entered.

Very respectfully, yours,

NICOLL, ANABLE & LINDSAY.

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, August 5, 1904.

(Manager of the Bermudez Company informed Mr. Bowen to-night his superintendent, American citizen, is held prisoner at the Lake, and closely guarded by Venezuelan soldiers. Mr. Bowen will protest to-morrow morning, and request immediate release, stating he does so while waiting instructions.)

*Minister Bowen to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Caracas, August 5, 1904.  
(Received August 6, 1904.)

Later news of superintendent announces his release.

BOWEN.



*Minister Bowen to the Secretary of State.*

No. 310.]

AMERICAN LEGATION,  
*Caracas, Venezuela, August 7, 1904.*

SIR: I have the honor to inclose herewith copies of the cablegrams that have passed between Washington and this legation since the last mail, copies of the law papers handed to me by the manager of the Asphalt Company, and copies of my correspondence with the foreign office here in regard to the controversy in which the said company is engaged with the Venezuelan Government.

The manager of the company has informed me that the asphalt lake was seized by Carner and about 100 Venezuelan soldiers; that the company's safe was blown open; that the American superintendent at the lake was made a prisoner, but was finally released; that two Venezuelan gunboats are at hand to prevent the lake from being retaken; that the company's British workmen are forced at the point of the bayonet to remain at the lake and to work; and that Carner has engaged a ship to carry asphalt to the rivals of the company in the United States.

President Castro has now reached a point where he will only yield to force. All of my colleagues here agree that never since he has been in power has the situation been so bad as it is now.

\* \* \* Three days ago he told a friend of mine that within six months he will dispossess the French Cable Company of its property here, and that he will make the foreigners resident in Venezuela pay all the money he needs to satisfy the awards of the commissions that recently sat here. He is most bitter against me, and charges me with having opposed him constantly since my return here last January.

\* \* \* The prevailing opinion in the corps is that the Government of the United States will be called upon after the November elections to make President Castro fulfill his obligations to foreigners, and to conduct his government on civilized principles. I have endeavored in my correspondence with his foreign office to leave our controversy with him where it may be resumed easily whenever you desire.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure 1.]

*Minister Bowen to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
*Caracas, Venezuela, July 29, 1904.*

MR. MINISTER: If it is true that the Venezuelan Government demanded 50,000,000 bolivars of the New York and Bermudez Company; that when payment of that sum was refused by the said company the Venezuelan Government induced by ex parte proceedings the federal court and court of cassation to place an embargo on the property of the said company; and that a custodian has been appointed and sent to take possession of the said property of the said company, I hereby, in conformity with instructions I have just received from Washington, have the honor to inform you that the Government of the United States of America earnestly protests against all said actions and proceedings.

I gladly avail myself, etc.,

HERBERT W. BOWEN.

[Inclosure 2.—Translation.]

*The Minister for Foreign Affairs to Minister Bowen.*

CARACAS, August 2, 1904.

MR. MINISTER: With due attention the Federal Executive has considered your excellency's note dated July 29 last in regard to a legal matter in which the New York and Bermudez Company is interested.

As the protest which your excellency makes in the note in question is founded on facts of a hypothetical nature and present as conclusions premises which are of the same character, the government in reply can not attribute to it any foundation except that which is set forth in the communication which your excellency has been pleased to send to me.

If on the one hand it has been a matter of surprise in view of the cordial relations existing between the two nations that on the present occasion a previous explanation was not given, the Venezuelan Government, on the other hand, could not but be surprised that to a sphere so foreign as that of diplomacy a matter should be carried that is within the exclusive jurisdiction of competent courts, in which it is fundamentally permissible to state the interested parties have the most complete liberty of causing to be enforced whatever means of defense the municipal law of this nation sanctions.

I gladly, etc.,

GUSTAVO J. SANABRIA.

[Inclosure 3.]

*Minister Bowen to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
Caracas, Venezuela, August 3, 1904.

MR. MINISTER: In conformity with the instructions which I communicated orally to your excellency yesterday afternoon, I now have the honor to protest formally and in writing against the summary proceedings of the Venezuelan Government in dispossessing, directly in its own interests, the New York and Bermudez Company of its property without giving to the said company any hearing whatsoever and to inform you that the Government of the United States of America will regard with grave concern any illegal attempt to deprive the said company of its property and rights.

I gladly avail myself,

HERBERT W. BOWEN.

[Inclosure 4.]

*Minister Bowen to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
Caracas, Venezuela, August 3, 1904.

MR. MINISTER: In answer to your excellency's note of yesterday's date, which was brought to this legation late this afternoon, I have the honor to confirm your assertion that the protest I sent to your excellency on the 29th of July last was hypothetical in nature. Doubtless it was made so because the news of the summary action of the Venezuelan Government in dispossessing the New York and Bermudez Company seemed incredible to my government and also because it was believed that even if the report were true a hypothetical protest would induce the Government of Venezuela to make a plain and frank declaration of its willingness to annul the decree of dispossession or to grant a hearing to the New York and Bermudez Company before enforcing the decree. By pursuing that course the Venezuelan Government would have given to the Government at Washington pleasing proof of the significance which it attaches to the phrase "cordial relations," courteously employed in your excellency's note.

As no such declaration as that was made by the Government of Venezuela within the time an answer was expected the American Government instructed me to send to your excellency a formal protest, and I did so this morning.

The proceedings dispossessing the American company of its property having been ex parte constitute a distinct denial of justice, and consequently the Government of the United States of America may very properly take such steps as may be requisite to afford the American company whatever protection it should have.

I gladly avail, etc.,

HERBERT W. BOWEN.

[Inclosure 5.—Translation.]

*The Minister for Foreign Affairs to Minister Bowen.*

CARACAS, August 6, 1904.

MR. MINISTER: The note of the 3d instant has been received in this office in which your excellency undertakes to protest against the summary proceeding to which in your opinion the New York and Bermudez Company has been subjected by the Government of Venezuela with the object in its own interest of dispossessing it of its property without giving a hearing to the said company.

I avail myself of this opportunity to inform your excellency that the views which you express in said note can not be accepted by the Venezuelan Government, inasmuch as what happened in the case instituted against the said company is altogether consonant with the rules of procedure perfectly well known and applied with absolute rectitude by the court which was called upon to take cognizance of the matter.

I renew, etc.,

GUSTAVO J. SANABRIA.

[Inclosure 6.—Translation.]

*The Minister for Foreign Affairs to Minister Bowen.*

CARACAS, August 6, 1904.

MR. MINISTER: I have seen in your excellency's note of the 3d instant that the American legation is not yet in possession of the information needed to duly understand the suit begun by the Venezuelan Government against the New York and Bermudez Company.

Indeed your excellency speaks in it of a summary proceeding instituted against the company in reference to and the dispossessing of certain property belonging to it. That is not the case.

In conformity with article 1137 of the civil code the attorney-general of the nation, in its name, has requested the federal and cassation court to render a decision on the contract made between the Government of the Republic and Mr. H. R. Hamilton, of which contract the said company is the cessionary.

The reasons alleged as the bases of the action are expressed with perfect clearness in the libel, which was published in a local newspaper, which I have the honor to send to you herewith.

The term dispossession, which your excellency applies to the decree of sequestration of an asphalt mine, of which alone the company is in possession, can not possibly be accepted, because said measure is perfectly consonant with our civil code, which in turn is in harmony with the most advanced principles of universal legislation. The measure is provided for in title 3, Section 1, book 2 of the code of civil procedure, is of a precautionary and transitory nature, and when it is put into execution the law orders that a hearing be opened during which it is permitted to the party whose interests are adversely affected to justify his opposition and to obtain an annulment. Moreover, even in case the provisional decision be confirmed, not even then can it be claimed that there has been a dispossession, inasmuch as it does not establish irrevocable rights, which only an executed judgment can establish.

The procedure, being prescribed by law and having to be observed in these cases, it is not in the power of the President to annul the decree based on the petition of the representative of the state nor to make any declaration which might embarrass the free action of the courts, in view of the fact that to them alone is assigned the duty of deciding any petition which in respect to the question at issue the New York and Bermudez Company might make.

I deem it apposite also to observe that the New York and Bermudez Company could have prevented the execution of sequestration by making use of the relief accorded by article 369 of the code of civil procedure.<sup>a</sup>

From what I have herein set forth it is evident that notice to the company was not necessary in order that the sequestration should be instituted and concluded legally, and consequently the proceedings cannot be denominated *ex parte*. Therefore, as the court has not refused to hear the defendant and did not depart in the least from the rules of procedure which the law prescribes, it is not possible to speak of a denial of justice; and inasmuch as the case in question has clearly defined bounds within which it should be discussed the attention of the Federal Executive has been called to the final part of the note I am answering, in which mention is made of the measures which the Government of the United States might take to offer to the American company whatever protection it should have.

<sup>a</sup> NOTE.—To have obtained the relief afforded by this article the company would have had to deposit with the court 50,000,000 bolivars, or about \$10,000,000.

As such declarations are not acceptable, as they not only derogate from the good name of the state but involve a menace directed against its sovereignty and independence, I feel obliged to protest against them in the most formal manner.

As to the surprise which through me the Executive expressed in my note of the 2d instant, I am sure that the explanations which I am pleased to have set forth in this note will justify in your excellency's mind the impression which the contents of the protest of the 29th of this last month caused him.

I gladly renew, etc.,

GUSTAVO J. SANABRIA.

[Inclosure 6.]

*Minister Bowen to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, Venezuela, August 7, 1904.

MR. MINISTER: Your excellency's note of the 6th instant, containing a clear exposition of the law of Venezuela applicable to the controversy in regard to the property of the New York and Bermudez Company, unfortunately does not change the main fact in the case, and that is that the property of the company is no longer in its possession, but is in that of the Venezuelan soldiers and of a custodian appointed by the Venezuelan Government by virtue of a decree obtained, as your excellency states, by the attorney-general of Venezuela from a court that did not grant the company a hearing before issuing the decree, the object of which was to transfer the possession of the property from the company to the Venezuelan Government. The question as to whether or not the Government of Venezuela intends to retain permanent possession of the property does not alter the fact that the company was dispossessed of its property without a hearing and distinctly in the interest of the Venezuelan Government.

Such being the case my government could not refrain from concluding that there had been a denial of justice to the American company, that proper protection should be given to it, and that an earnest protest should be made to the Venezuelan Government.

As your excellency's note upholds views quite contrary to those I have expressed, I shall send it, together with your excellency's answer to the protest, by to-night's post to Washington, where I am sure they will receive the attention they merit.

I gladly avail, etc.,

HERBERT W. BOWEN.

[Inclosure 7.]

*Mr. Wright to the Citizen President of the Federal and Cassation Court in his character as judge of First Instance.*

I, Robert K. Wright, of full age, citizen of the United States of North America, residing in this capital, as managing director in Venezuela of the "New York and Bermudez Company," in the name thereof, before you, with the utmost respect, show:

I contradict in all its parts and in the most decided and absolute manner, the action instituted by the citizen attorney-general of the nation in the name of the latter against the company which I represent, and I contradict it both with respect to the facts set out in the declaration, the greater part of which are not true, and with respect to the right which is professed to be deduced therefrom.

I base my contradiction on the following grounds:

First. The contract to which the action refers, made by the National Executive of Venezuela, through the channel of the citizen minister of fomento, with Mr. Horace R. Hamilton, approved by the National Congress on the 6th of June, 1884, is not a contract of lease, as the plaintiff pretends, impelled thereto by his purpose of obtaining the sequestration for which he prayed in the final part of his declaration and to which case 7, article 373, of the code of civil procedure is confined. Neither did the contracting parties ever intend to make a lease when they executed that contract, nor has either of the contracting parties considered or held it to be a lease, nor can the stipulations of the said compact be adapted to the rules and consequences of a lease, either in form or in matter.

Second. On carefully considering the said contract in the hypothesis that the omissions were true which the plaintiff attributes to the "New York and Bermudez Company," as the cessionaire—which it is—of Hamilton, it is seen without difficulty and beyond a shadow of doubt, that the rights granted to Hamilton (rights which the plaintiff desires to convert into obligations) are all, except that of exploration, not only discretionary and consequently

may be renounced by him and those claiming under him, but it is also doubtful and hypothetical, they being conditional, whether any of them except that of exploration can be exercised; and this is due to the very nature of things, for neither of the two contracting parties could affirm at the moment of making the contract that Hamilton would find exploitable natural products, and much less that on finding them it would be convenient or advantageous to him to exploit them.

Third. The argument of the plaintiff, who says this interpretation is absurd and affirms that it adjudges all the advantages to one of the parties and imposes all the burdens on the other, has no value as against what has been said; and it has no value for three principal reasons, first, because that is not an interpretation, but the clear and simple expression of the clauses of the contract which prove it of themselves; second, because the plaintiff forms his opinion not from the moment of the making of the contract, as is obligatory, when the results thereof were perfectly uncertain for both of them, but from the present moment when the other party to the contract has by his labor derived advantages which were unknown before, the ownership of which is now being unjustly disputed with him, and, third, because it would not be the only instance of analogous concessions made by the nation.

Fourth. The assertion that all the advantages would be to one party and to the other all the burdens would prove to be no truer in any case; but even if this were so, which has been denied, it is no reason for considering that the perfect juridical chain created by that compact has been vitiated by this circumstance. If one of the contracting parties derives greater profits from the transaction than the other, he owes it without doubt to his greater foresight and diligence when making the contract, to the greater extent of his labor and sacrifices in managing and exploiting the business, and to a situation which has been favored by that *uncertainty* to which the parties were subject when contracting; surely not one of these reasons and causes for advantage can prove to be censurable, even under the severest criticism.

Fifth. Firstly, Hamilton, from whom the company derives, and afterwards the company have most carefully and perfectly executed not only the principal obligations entered into in that contract, but each and every of them, in strict compliance with articles 1077 and 1111 of the civil code in force at the date of the contract (concordant with 1104 and 1138 of the present code). That perfect execution of all its obligations is fully proved by the express official declaration of the Federal Executive power of Venezuela, as is seen principally in the resolution issued through the honorable channel of the ministry of fomento, department of territorial wealth, on the 23d day of July, 1900, relative to the use which the company could make of its rights acquired under the contract in question and to the company's rights of preference in the denunciations of mines and wild lands; as is also seen from the certificate issued on the same date by the citizen minister of fomento, on the petition of the company represented by Mr. A. H. Carner (now receiver in the sequestration), which resolution and certificate were published in the Official Gazette No. 7986, of Wednesday, the 25th of July; and seen from many other official documents which will be duly produced, and as appears from the facts that have taken place.

Sixth. In the hypothesis set up by the plaintiff the obligations left unexecuted by the company are those of canalizing one or more rivers and exploiting woods, resins, plants, and aromatic seeds, and other natural products, except the asphalt, which he affirms has been exploited; but as even in that hypothesis it is found that those works and exploitations, according to the contract, are not subject to any term for their commencement within the period of the said contract, and as from their nature those works and exploitations require time for their execution, they can not be considered obligations that are due and the execution of which is demandable until after the judicial authority should have fixed a term for them and that term should have elapsed (article 1118 of the civil code then in force, concordant with 1145 of the present code), this being a reason which of itself suffices for dismissing the action which has been instituted.

Seventh. But with respect to those very works and exploitations the plaintiff considers the company to have omitted them no doubt, because finding them without a time limit he thought their performance demandable immediately after the signing of the contract (article 1118 of the civil code then in force, concordant with 1145 of the present code); but as all those supposititious obligations would be *personal* engendering *personal actions*, and the plaintiff says that twenty-one years have transpired since they accrued, the company formally pleads the limitation enacted by article 1909 of the civil code then in force and by article 1964 of the present civil code.

Eighth. The supposititious obligation to canalize one or more rivers on which attention has been specially fixed, as it is the only pretext for the sequestration which has been decreed, never existed legally either for Hamilton or for the company; if it had existed it would be found that it was an alternative obligation to canalize one or more rivers or to construct a railroad, and that it was executed by the construction of the railroad that the company made and which has existed there for many years and is to-day under the decreed sequestration (articles 1122 and 1123 of the civil code then in force, agreeing with 1149 and 1150 of the present code), but even supposing that it had existed as a simple obligation it would be

found that it had been executed as far as possible, and beyond that no obligation is conceived to extend.

Ninth. On the other hand, the company most solemnly states that the asphalt lake and lands and other appurtenances which it holds in Guanoco, municipality of Union (Quariquen) district of Benitez, in the state of Bermudez, and which have been sequestered, do not belong to it by virtue of the so-called Hamilton contract, which is the subject-matter of this suit, but by virtue of the titles which were legally granted to it by the National Executive power of Venezuela on the 7th and 14th of December, 1888, both protocolized in the subaltern registration office of the district of Benitez (El Pilar) on the 11th day of December, 1890, the first protocol of the fourth quarter of that year, on folios 100, 101, and 102, under numbers 61 and 62; and although it is true that the remote occasion of those titles was the contract now under discussion, it is not less true that they also have their immediate juridical causes which are proper and peculiar to them, these being titles which have never been discussed and are not susceptible of discussion in the present suit.

Tenth. Furthermore, the implicit rescissory condition to which the action that has been instituted is confined, and to which article 1137 of the civil code, which has been cited, refers, has not such extensive effects as the plaintiff wishes to attribute to it in this case; the choice between the dissolution and the execution of a contract and the consequences of one action or another are not always subject to the free will of the moving party, and the company maintains, even in the supposition that all the facts alleged were true, which they are not, that the cause of action contained in the declaration of the action is contrary to law.

Eleventh. The plaintiff says that the government, on making the concessions of the contract, proposed to foster the progress of the state of Bermudez by all the means which are developed by a *great enterprise*, and that the exploitation of the *natural products* of the state of Bermudez, *other than asphalt*, has remained stationary for upward of twenty years, and the government finds it impossible to activate it on account of its obligations toward the company. To demonstrate the groundlessness of these assertions it suffices to observe with respect to the first that neither Mr. Hamilton, when he made the contract, nor the company, when the government accepted it as cessionaire of the contract in 1884, counted on enormous capital, and far less could they furnish nourishment to illusions and purposes which are now said to have vanished; and with respect to the second, that the expression "natural products other than asphalt" is so vague and extensive that by saying too much it says nothing, and that if some natural products can be determined it is precisely by studying the infinity of mining concessions, sales of wild lands, and contracts of every kind which both the Federal Executive power and the local governments and authorities have been most liberally making for the state of Bermudez and its sections since the 15th of September, 1883, until now, as can be seen in the collections of their respective official gazettes, registration offices, and public archives.

The company for its guaranty and indemnity cites Mr. Horace R. Hamilton, now residing at Habana, Republic of Cuba, as grantee of the contract, the subject-matter of this suit. And as he is recognized as grantee in the declaration of the action I pray that the course of the suit may be suspended, in conformity with article 281 of the code of civil procedure.

And whereas the directorate and general office of the "New York and Bermudez Company" is situated in the city of Philadelphia, United States of North America, which is also set out in the action, and the company needs to put forward in the suit documents which are in that office, I now ask for the extraordinary term for putting in evidence, in conformity with article 284 of the code of civil procedure.

For all the reasons stated I pray that the action be dismissed, and the company expressly reserves its rights of action for the enormous loss and damage which it has suffered and continues to suffer through the illegal sequestration that has been decreed in the present suit of its asphalt lake and all its dependencies. I likewise pray that the plaintiff may be ordered to pay the costs. It is justice, etc.

ROBERT K. WRIGHT.

CARACAS, August, 1904.

[Inclosure 8.]

*Mr. Wright to the Citizen President of the Federal and Cassation Court in his character as Judge of First Instance.*

I, Robert K. Wright, managing director in Venezuela of the "New York and Bermudez Company," acting in the name of the latter, object, in the most formal and decided manner, to the sequestration asked for by the citizen attorney-general of the nation and decreed by the tribunal, without any notice whatsoever being given to the company, on the 21st day of July last, and I deny absolutely and entirely both the facts and the law adduced for the purpose of grounding the said sequestration.

I base my objection on the following reasons:

First. The entire contents of my writing presented to this tribunal on the 22d day of July last past, which contents I reproduce in their entirety, and ask that the same be read and taken as part of this answer. [Printed *ante*.]

Second. Even in the case, which is denied, that the contract to which the action relates could be held to be a *lease* the testimonial proof and the telegram put forward are not sufficient legal proof to give to the facts and omissions alleged a character of certainty.

Third. Even in the case, which is denied, that the said contract could be held to be a *lease*, and that the facts and omissions alleged to ground the sequestration were legally proved, I reproduce in their entirety numbers 8 and 9 of the answer to the action, which are as follows: "Eighth. The suppositious obligation to canalize one or more rivers, on which attention has been specially fixed, as it is the only pretext for the sequestration which has been decreed, never existed legally either for Hamilton or for the company; if it had existed it would be found that it was an alternative obligation to canalize one or more rivers or to construct a railroad, and that it was executed by the construction of the railroad that the company made, and which has existed there for many years and is to-day under the decreed sequestration (articles 1122 and 1123 of the civil code then in force, agreeing with 1149 and 1150 of the present code); but even supposing that it had existed as a simple obligation it would be found that it had been executed as far as possible, and beyond that no obligation is conceived to extend.

Ninth. On the other hand, the company most solemnly states that the asphalt lake and lands and other appurtenances which it holds in Guanoco, municipality Union (Guariquen), district Benitez, in the state of Bermudez, and which have been sequestered, do not belong to it by virtue of the so-called Hamilton contract, which is the subject-matter of this suit, but by virtue of the titles which were legally granted to it by the National Executive power of Venezuela on the 7th and 14th of December, 1888, both protocolized in the subaltern registration office of the district Benitez (El Pilar), on the 11th day of December, 1890, the first protocol of the fourth quarter of that year, on folios 100, 101, and 102 under numbers 61 and 62; and although it is true that the remote occasion of those titles was the contract now under discussion, it is not less true that they also have their immediate juridical causes, which are proper and peculiar to them; these being titles which have never been discussed, and are not susceptible of discussion in the present suit."

The company can not leave without protest the fact that Mr. A. H. Carner, who is a notorious enemy of the company and hostile to its interests, has been appointed receiver.

For the reasons stated I pray that the decree of sequestration may be revoked, as justice demands, and I expressly reserve to the company its rights of action for the enormous loss and damage which it has been or may be made to suffer through the said sequestration.

CARACAS, August, 1904.

ROBERT K. WRIGHT.

[Inclosure 9.—Translation.]

DECREE OF COURT.

*Proceedings in the suit prosecuted by the Attorney-General of the nation against the New York and Bermudez Company, 1904.*

FEDERAL AND CASSATION COURT,  
TRIBUNAL OF FIRST INSTANCE,  
Caracas, July 21, 1904.

In the declaration of his action the citizen attorney-general of the nation, grounding his application on the depositions of the witnesses Drs. Tomas C. Llamozas, German Timenez, and Manuel A. Ponce requested, in conformity with article 373 of the code of civil procedure, the sequestration of the mine which the defendant company exploits at a place called "Guanoco," together with all the apparatus and accessories used in the exploitation, and the sequestration asked for is granted, as the tribunal finds that the extreme circumstances required by the law have been fully proved, and consequently the judge of first instance in civil matters of the section of Cumana, in the state of Bermudez, is hereby commissioned to execute the same, and the proper dispatch shall be issued to him with the corresponding insertions. Mr. Ambrose H. Carner, at the indication of the citizen attorney-general of the nation, is for the purpose in question named receiver of the said mine and of all the apparatus and accessories of the exploitation by an order of like date herewith. Let Mr. Carner be cited to the end that in case he accept he should take the oath required by law. Let a separate volume be made of the proceedings for the sequestration. J. Y. Arnal. Juvenal Anzola, secretary.

To-day, the twenty-first of July, of the present year, one thousand nine hundred and four, the marshal, Manuel Leon, returned the writ of citation to Mr. A. H. Carner, signed by the said gentleman. It is added to these proceedings. Juvenal Anzola.

At the sitting held this twenty-second day of July of the present year, one thousand nine hundred and four, at 9 a. m., appeared Mr. A. H. Carner, who had been appointed receiver of the mines that the defendant company exploits in "Guanoco," together with all the apparatus and accessories of the exploitation, and having been informed of the appointment and the relevant part of the proceedings relating to the charge of receiver having been read he stated that he accepted and swore to faithfully discharge the duties of the said office. It was read, and on being found to be in order they sign. J. Y. Arnal. A. H. Carner. Juvenal Anzola, secretary.

On the same date was issued and transmitted the dispatch ordered at the proceedings of the (21st) twenty-first day of the current month for the judge of first instance in civil matters of the section Cumana, in the state of Bermudez. Juvenal Anzola, secretary.

[Telegram.]

CUMANA, April 22, 1904—11 a. m

Dr. LUCIO BALDO. [Private and urgent.]

I inform you on trustworthy data that the New York and Bermudez Company has not canalized any river or channel adjacent to Guanoco, nor has it exploited or exported any other natural product than asphalt. I thus answer your telegram dated 13th instant. D. and F. R. Velasquez.

Citizen parish judge of the department Libertador. I, F. Arroyo Parejo, attorney-general of the nation, acting in this character before you, with customary consideration, show: For purposes which subserve rights I represent, I pray you to examine after the formalities required by law, the witnesses whom I shall bring forward, they being of full age and residents, on the following particulars:

First. If they have been in the state of Bermudez, and know the exploitation which the New York and Bermudez Company has at the place called "Guanoco."

Second. If they know, and it is within their certain knowledge, that the aforesaid company has not canalized any of the rivers of the state of Bermudez, principally the channel of Guarapiche, as far as Maturin.

Third. The witnesses must state the reasons for their statements.

Which being done, I pray you to return me the original proceedings. It is grace. Caracas, fourteenth of June, one thousand nine hundred and four. F. Arroyo Parejo.

Parish court, Caracas, fourteenth of June, one thousand nine hundred and four. Let the testimony be taken and the proceedings returned. Andres A. Albor. Juan C. Hurtado, secretary,

At the same sitting appeared a witness, who being sworn, said that his name was Tomas C. Llamozas; that he was of full age, a married man, an engineer, of this neighborhood, and competent to depose according to the law, with which he was made acquainted. The preceding writing was read to him, and on being questioned on the particulars therein contained he said to the first: "Yes, that appears officially;" to the second: "From Guanoco, where the asphalt mine the New York and Bermudez Company exploits is situated, to the port of Maturin the crossing is effected by means of *bongos* or canoes, which is more or less the vessel the company used for the dispatch of its business with that custom-house, and this was so because vessels of deeper draught could not do it, which evidently proves, as I see it, that that route by the said river Guarapiche is not canalized. Nor has any scientific canalization been done to any of those that I know in that region;" and to the third: It is already answered. The testimony terminated, it was read, and being found to be correct he signs. Andres A. Albor. Tomas C. Llamozas. Juan C. Hurtado, secretary.

Immediately thereafter appeared a witness, who, on being sworn, said his name was German Jimenez; that he was of full age, a married man, an engineer, of this neighborhood, and competent to depose according to the law, with which he was made acquainted. Interrogated regarding the particulars of the foregoing writing, which was read to him, he said to the first: "Yes, in October, one thousand nine hundred, I was at the asphalt mines which the New York and Bermudez Company exploits at Guanoco;" to the second: "In the channels that I visited, which are those that lead to the asphalt mine named, I saw no work of canalization. With respect to the Guarapiche channel I can not affirm anything, because I never have been on it;" and to the third: What I have deposed I know, because I have seen it personally. The testimony terminated, it was read, and being found correct he signs. Andres A. Albor. G. Jimenez. Juan C. Hurtado, secretary.

It is returned on two folios. Hurtado.

Citizen parish judge: I, F. Arroyo Parejo, attorney-general of the nation, acting in that character before you, show:

For purposes which subserve rights I represent, I pray you to examine, after oath and other formalities required by law, the witness whom I shall put forward regarding the following particulars:



Is it true that he has been at the place called "Guanoco," jurisdiction of the state of Bermudez, where the New York and Bermudez Company exploits an asphalt deposit? Second: If he knows, and it is within his knowledge, that the aforementioned company has not canalized the river Guarapiche principally in its extent from Caño Colorado to Maturin. Which being done, I pray that the original proceedings be returned to me. It is grace. Caracas, sixteenth of June, one thousand nine hundred and four. F. Arroyo Parejo.

Parish court. Caracas, sixteenth of June, one thousand nine hundred and four. 93d and 46th.

Received. Let the testimony be taken and the proceedings returned. Andres A. Albor. Juan C. Hurtado, secretary.

On the same date appeared a witness, who, having been sworn, said that he was called Dr. Manuel Antonio Ponce; that he was of full age, a married man, a lawyer, of this domicile, and competent to depose according to law, which through his profession he knows. The foregoing writing was read to him, and, interrogated on the particulars which it contains, he said to the first: "I have been at 'Guanoco' on different occasions as lawyer of the New York and Bermudez Company in the suit in which it was engaged with Messrs. Warner and Quinlan regarding possession of the mine 'Felicidad,' and on those different occasions I remained at the mines sometimes days and other times as long as two or three months;" and to the second: As the greater number of times I went to "Guanoco" I made the voyage in the company's steamer going to Trinidad to the channels I can affirm that that navigation is performed owing to their natural width and depth and in some, principally that which gives admission to the company's wharf, by favor of the tide. I can especially say that from a certain point of Caño Colorado the steamship can not continue the journey to the said port, so that for it to be dispatched at the custom-house it is obliged to anchor at this point and dispatch an employee in a boat, which takes five to six hours to go and return. With regard to the river Guarapiche, there is no doubt that it is not canalized either, for the said river from the port of Caño Colorado, which is almost at its mouth, up to Maturin is navigated in lighters by means of poles. The testimony terminated, it was read, and being found to be correct he signs. Andres A. Albor. Manuel A. Ponce. The secretary, Juan C. Hurtado.

It is returned.

HURTADO.

[Inclosure 11.—Translation.]

CODE OF CIVIL PROCEDURE.

ART. 281. In cases of indemnity and guaranty the plaintiff, as well as the defendant, may ask, at the moment of answering, for the citation of the person liable to indemnify or guarantee, and the judge shall order the same to be done immediately; but the course of the cause shall not be suspended except when there is authentic proof either directly of the obligation to indemnify or guarantee, or of the act from which such obligation arises as of right.

ART. 284. The party who requests that an extraordinary term be granted him for the taking of evidence in places which are situated at more than two thousand kilometers from that at which the suit is being carried on, shall necessarily make his request at the moment of answering the action, and put forward the proofs or securities on which the petition is based. The opposite party shall state whether he objects or not to the granting of the request, and the tribunal shall restrict itself to declaring that the petition has been duly made and shall make the necessary order after the taking of the evidence in conformity with the provisions on the matter.

ART. 368. At any stage or epoch of the cause whatsoever, if there is proof of the right sued for, although it be by the deposition of witnesses, when this proof is admissible according to the civil code, any of the parties may request, according to the case and the judge may grant:

First. Prohibition to alienate the subject-matter of the dispute.

Second. The sequestration of determinate properties.

Third. Deposit of security, and in default thereof the attachment of sufficient property.

ART. 369. None of the measures stated in the three preceding numbers shall be ordered, or shall be executed if they were ordered, if the party against whom they have been requested or decreed give sufficient security or guaranty.

If the other party should object to the efficacy or sufficiency of the guaranty the tribunal shall decide on the proofs put forward at the first hearing.

ART. 370. It shall be sufficient for those who sue in *forma pauperis* to take the oath *cautio judicatum solvi*.

ART. 373. Sequestration shall be decreed:

First. Of the chattel, the subject-matter of the action when the defendant has no responsible property and it is with reason feared that he may conceal, alienate, or deteriorate it.

Second. Of the subject-matter of the dispute when its possession is doubtful.

Third. Of the wife's property and in default thereof of that of the conjugal partnership or of the husband, sufficient to cover the former when the husband wastes the wife's property.

Fourth. Of sufficient property of the inheritance, or, in default thereof, of the defendant, when he who has been deprived of his lawful property reclaims it from those who take or hold his inherited estate.

Fifth. Of the real property which the defendant purchased and is enjoying without paying the purchase money.

Sixth. Of the subject-matter in dispute when, definite judgment having been against the holder thereof, the latter appeals without giving security to answer for the said subject-matter and its fruits, although it be real estate.

Seventh. Of the property leased if the defendant is sued for default in payment of rental, on account of the property becoming deteriorated, or *on account of having failed to make improvements to which he is bound by the contract*, provided any of the circumstances be proved in the manner indicated in article 368.

In this case the owner, and the purchaser in the case mentioned in number five, may demand an order that they themselves be named repository, and the property shall remain subject to answer the lessee or purchaser when necessary.

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[Inclosure 12.—Translation.]

CIVIL CODE.

ART. 1104. Contracts shall be executed in good faith and entail the obligation of complying not only with what is stated in them, but with all the consequences that may be engendered by the said contracts, according to equity, custom, and law.

ART. 1138. Every condition shall be fulfilled in the manner the parties really wished or intended it to be fulfilled.

ART. 1145. When no time has been stipulated, the obligation shall be fulfilled immediately if the nature of the obligation, or the manner in which it should be executed, or the place designated for fulfilling it, does not render a term to be fixed by the tribunal necessary.

ART. 1149. The obligor of an alternative obligation is absolved by the performance of one of the things separately comprehended in the obligation, but he can not compel the obligee to accept a part of one and a part of the other.

ART. 1150. In alternative obligations the right of election belongs to the obligor if it has not been expressly granted to the obligee.

ART. 1264. All real actions shall be barred after thirty years and personal actions after twenty years, and no objection for want of title or good faith shall be raised against the limitation.

The right to proceed by the executive path shall be barred after ten years.

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*Acting Secretary of State Adee to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, August 15, 1904.*

(The Department has carefully examined the Venezuelan Government's complaint on which Bermudez Lake, belonging to New York and Bermudez Company, has been forcibly seized, and finds, quite apart from any question of illegality, no substantial justification for such seizure, which appears, under the circumstances, irregular and wholly unnecessary. It is not even alleged that the company has failed to pay all sums due the government on asphalt taken and exported. The complaint, moreover, wholly disregards title of mine obtained by company December 7, 1888, under Venezuelan mining law, and definitive title to land obtained by purchase December 14, 1888, which titles in terms give the company as legal proprietor the right to hold and work Bermudez Lake independent of Hamilton con-

cession. Seizure of property enforces on company enormous losses, renders it unable to fulfill existing contracts, and all this in advance of judicial determination, which the Venezuelan Government now professes to desire. Mr. Bowen is instructed, therefore, in the interest of justice and international harmony, to request the Venezuelan Government to direct the attorney-general to move the discharge of the receiver and to restore to the company its seized property pending decision reserving all rights in case of denial of justice.)

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*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Caracas, August 18, 1904.*

(Mr. Bowen reports he has requested, in compliance with Department's instructions, that attorney-general move withdrawal of receiver and the return of property to company. States that president is in the country and so may not answer at once. Mr. Bowen says he is reliably informed that the president wants him recalled in order to settle with secretary [of legation].)

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*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *August 20, 1904.*

(Mr. Bowen reports the answer of the Venezuelan Government just received. It is an absolute refusal to comply with Department's request to withdraw receiver and to return the property to the company. The answer states that Venezuelan Government leaves the decision entirely to the court; that the United States could logically reserve all rights and undertake diplomatic intervention only after the decision of the court is rendered.)

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*Minister Bowen to the Secretary of State.*

AMERICAN LEGATION,  
*Caracas, Venezuela, August 21, 1904.*

SIR: I have the honor to inclose herewith copies of the cablegrams that have passed between Washington and this legation since the departure of the last mail and copies of my correspondence with the Venezuelan foreign office and of papers filed in this legation by the manager of the New York and Bermudez Company during the last two weeks.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure 1.]

*Minister Bowen to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
*Caracas, Venezuela, August 20 [15?], 1904.*

Mr. MINISTER: My government has examined carefully the complaint of the Venezuelan Government by virtue of which the asphalt lake belonging to the New York and Bermudez Company was forcibly seized, and finds, quite apart from any question of illegality, that no substantial justification for taking such a step exists. It appears, in fact, irregular and wholly unnecessary. No allegation even is made that the company failed to pay all the sums due to the Venezuelan Government on the asphalt that was taken from the lake and exported. The complaint, moreover, wholly disregards the title to the lake that was obtained by the company on December 7, 1888, under the Venezuelan mining law and the definitive title to the land that was obtained by purchase December 14, 1888. Those titles give to the company, as legal proprietor, the right to hold and to work the asphalt lake independent of the Hamilton concession. The seizure of the property entails on the company enormous losses and renders it unable to fulfill its existing contracts; and the seizure, moreover, was made before any careful judicial investigation was held such as now the Venezuelan Government professes to desire.

In view of those facts my government instructs me to request, in the interests of justice and international harmony, that the Venezuelan Government direct the attorney-general of Venezuela to secure the removal of the receiver, and to restore to the company its property pending the final legal settlement of the case.

In making that request I have the honor to reserve all rights in case there be a denial of justice.

I gladly avail, etc.,

HERBERT W. BOWEN.

[Inclosure 2.—Translation.]

*The Minister for Foreign Affairs to Minister Bowen.*

CARACAS, August 20, 1904.

Mr. MINISTER: The circumstance that in my note of the 6th instant all the facts were explained relative to the case which is going on against the New York and Bermudez Company does not permit me to understand the reason which your excellency has had to affirm, among other things, in your note of the 7th instant, that the asphalt mine is in possession of Venezuelan soldiers and of a receiver named by the Government of Venezuela. What you say about the soldiers is absolutely inexact, and the origin to which your excellency attributes the appointment of the receiver does not conform at all to the evidence which the proceedings furnish. It is enough to know that the appointment of the receiver can not be made except by the courts, and that the person called upon to exercise duties as such is not selected by the litigants and only has the powers the law indicates.

I deem it unnecessary to insist on those points which already I have had occasion to examine, and since your excellency informs me that my aforesaid note has been sent to Washington, it is firmly hoped that as the charges therein are disproved that are directed against Venezuela, and the matter is given the character which reasonably belongs to it, the Government of the United States, far from concluding that a case for diplomatic intervention has arisen, will recommend to the company, as it has been accustomed to do in analogous cases to its citizens, that it should betake itself in defense of the rights which it believes it possesses to the courts of this country. As is well known, the United States has maintained on more than one occasion the principle that actions relative to the interpretation or existence of contracts made by its citizens with foreign governments can only be decided by the courts of the nation where the contracts were made and in conformity with the laws that existed there.

I avail myself, etc.,

GUSTAVO J. SANABRIA.

[Inclosure 3.—Translation.]

*The Minister for Foreign Affairs to Minister Bowen.*

CARACAS, August 20, 1904.

Mr. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 15th instant, relative to the matter of the New York and Bermudez Company. In the notes which up to the present I have directed to your excellency the Venezuelan Govern-

ment has submitted to that of the United States faithfully and in a friendly way explanations about the proceedings taken against the company, explanations which, as it is just to suppose, will have left the Department of State at Washington well informed and completely satisfied. As to the points contained in the aforesaid note of your excellency, the President of the Republic has charged me to say to you that as they are all related to the sequence of the action instituted in the courts, the government leaves entirely the decision of them to the court before which the representatives of the Bermudez company are to-day defending their rights with all the securities, guarantees, and liberties which the laws and the constitution of the Republic prescribe. Moreover, every question arising from damages or injuries finds in our laws adequate methods of procedure. The reservations which your excellency makes in the last part of the said note, in case diplomatic intervention could be undertaken, require logically and indispensably the conclusion of the action that has been begun, and consequently I confirm all that I have had the honor to maintain in my previous communications.

Accept, etc.,

GUSTAVO J. SANABRIA.

[Inclosure 4.]

*Minister Bowen to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, Venezuela, August 20, 1904.

MR. MINISTER: In answer to your excellency's note, No. 993, of to-day's date, I have the honor to inform you that it will be sent by this next post to my government, which by this time must have received a copy of the records of the court, showing how the receiver was appointed, and declarations from the persons who were in charge of the lake regarding the presence there of Venezuelan soldiers.

Please accept, etc.,

HERBERT W. BOWEN.

[Inclosure 5.]

*Minister Bowen to the Minister for Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, Venezuela, August 20, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note, No. 1010, of to-day's date, in which you answer my government's request to withdraw the receiver from the asphalt lake and to return the property to its American owner by stating that the decision of those questions must be left to the court here.

I shall send the note to Washington by the next mail in order that it may receive there the consideration it deserves, and I shall take occasion to explain that the said court adjourned on or about the 15th instant for one month, because your excellency's statement that the American company is defending its rights there to-day might be taken literally, which, of course, would be contrary to your intention and desire.

I gladly avail, etc.,

HERBERT W. BOWEN.

[Inclosure 6.]

CARACAS, VENEZUELA, August 20, 1904.

I, Robert K. Wright, managing director of the New York and Bermudez Company, in Venezuela, respectfully appear before you and solemnly and sincerely protest against the Government of Venezuela, the federal court and court of cassation of Venezuela, the attorney-general of Venezuela and his assistants, the judge of first instance of the section in which the company's property at Guanoco is situated, and against any and all other persons concerned:

I. For the ex parte and summary proceedings of the court in declaring the Hamilton concession a lease and in directing sequestration of the company's property at Guanoco, as appears at greater length in my previous protest made before you July 22, 1904.

II. Against the forcible seizure of their property by the judge of first instance of the district, accompanied by military force. I attach hereto a copy of the protest made on the ground at the time by the superintendent of said company, Frederick R. Bartlett, whose request for a certified copy of same was refused by the judge, said refusal being contrary to the law of Venezuela, and I protest against the same.

III. Against the unwarranted and illegal assumption of authority by the officials of Venezuela over the company's property at Guanoco.

IV. Against the presence on the property of the armed military force of Venezuela, and of the custodian, and of any and all other persons who are not there by permission of said company.

V. Against the sale, or disposition, or removal of any asphalt or of any other property belonging to the company, and also against the use of the same.

VI. Against any and all other acts of whatever nature or kind, whether embodied in this protest or not, which have been or which may be performed and which are or may be in any way prejudicial to the interests of the New York and Bermudez Company.

VII. I demand that the property of the New York and Bermudez Company be returned to it at once and that said company be permitted to enjoy all the proprietary rights over this property that are accorded by the law of nations.

ROBERT K. WRIGHT.

[Subinclosure 1.]

*Messrs. Bartlett and Pinango to Mr. Wright.*

GUANOCO, August 3, 1904.

DEAR SIR: At 6.30 on the morning of the 28th of July last, the man-of-war *Bolívar* anchored at this port and immediately disembarked a military force and several judicial authorities. Both bodies at once proceeded to occupy the superintendent's house and the workshops, offices, and other buildings of the company, and also that which is at La Brea, where the asphalt lake is situated, were likewise occupied by the military, who issued an absolute prohibition against anyone entering them or taking anything without the previous permission of the authority. From that day after 6 o'clock in the afternoon no one can pass and re-pass, and much less the employees of the Bermudez company, because there are sentinels on guard who forbid everyone to pass, as if we were in time of war.

We have taken no action on behalf of the rights of the New York and Bermudez Company, which we represent, as they roundly refused to accept our protests and disregarded every step we took for that purpose.

Everything has been overrun by the soldiers and thrown into confusion. Heed has been paid to nobody, as is proved by the manner in which they took possession of the office of the cashier without even permitting the salaries of the employees to that day to be paid nor what the laborers had earned.

The *Bolívar* left on the 30th of the said month of July for Guiria with the representative of the national revenue, leaving here the greater part of the forces it brought, and we were left here struggling with the judge of first instance who would accept nothing from us without the order of the representative of the national revenue. At last we succeeded in getting him to enter in the respective proceedings the protest, a simple copy of which I inclose in this letter, because we were refused a certified copy, and therefore it would not be strange if they ventured to abstract the folio on which it is found, signed by the judge, his secretary, and Mr. Bartlett.

The day before yesterday the *Bolívar* returned, and on the representative of the national revenue being informed of the protest which the judge had accepted from us he manifested great displeasure and opined with the judge that we should not be given the certified copy referred to, which we were requesting, because, as he said, the judge could accede to nothing, according to article 205 of the code of civil procedure.

We are living in private houses because from the said day, the 28th, notice was given us to disoccupy the company's house and we had immediately to seek refuge elsewhere.

We have acted with great—too great—prudence, for although the proceedings employed have exceeded the limits of the law, we have offered no resistance whatsoever.

The judge and the representative of the national revenue are still making the inventory and they will probably finish to-morrow, for they are not making it with much detail.

Since yesterday they have been busy building a house of palm leaves to serve as quarters for a guard.

We send you this report so that you should be aware of what has taken place, and in execution of our duty.

Awaiting your orders, we are your obedient servants,

F. R. BARTLETT.  
J. M. PINANGO.

P. S.—If you think it necessary for me to go to that capital, please advise me accordingly via Trinidad or by telegraph via Maturin.

PINANGO.

NOTE.—Translation of original in my possession. F. R. Bartlett is the superintendent of the company's plant and operations at Guanoco.

F. M. Pinango is a Venezuelan attorney at law and is in the employ of the company, holding its power of attorney for all legal matters concerning the old state of Sucre, now part of the state of Bermudez, and in which the company's property at Guanoco is situated.

ROBERT K. WRIGHT.

[Subinclosure 2.—Translation.]

During to-day's sitting (August 1, 1904) the court discharging its duties in connection with the pursuance of the mandate of execution decreed by the federal and cassation courts, copied in the beginning of these documents; all with the end of taking an inventory of the liabilities of the New York and Bermudez Company, there appeared Mr. Frederick R. Bartlett, superintendent of the said company, and stated: "I come to amplify my previous statements thus: It is only out of respect for the law that I have permitted the judicial sequestration of the properties owned in this locality by the New York and Bermudez Company by virtue of titles legally obtained, the sequestration referred to having been carried out by the judge of 1st instance of this section, accompanied by military force. I furthermore state that I protest against such acts and proceedings, on behalf of the New York and Bermudez Company, I represent as superintendent; and I reserve to same said company all its rights in order that it may use them in the proper time and opportunity. I now ask the court to cause a copy of these my statements, also one of the mandate of execution, to be issued separately and delivered to me through the secretary's office."

J. FUENTES, *Judge.*

FREDERICK R. BARTLETT, *Superintendent.*

J. M. ARDILLA, *Secretary.*

*Acting Secretary of State Adee to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, August 29, 1904.

(Mr. Adee states that the New York and Bermudez Asphalt Company complain that the Venezuelan consul at Philadelphia refuses to authenticate papers necessary for use in Venezuelan courts. Mr. Bowen is directed to request the Venezuelan Government to instruct consul to authenticate papers promptly in usual and proper terms in order to enable New York and Bermudez Company to prepare its case before the Venezuelan courts and avoid a denial of justice.)

*Minister Bowen to the Secretary of State.*

AMERICAN LEGATION,

Caracas, Venezuela, September 4, 1904.

SIR: I have the honor to inform you that yesterday, while taking leave of the Venezuelan minister for foreign affairs, I said to him "Why in your recent note to me did you say that my statement was untrue that Venezuelan soldiers are in possession of the New York and Bermudez asphalt lake? I sent photographs of the soldiers and barracks long ago, and when they reach Washington, and are compared with the denial in your note, what do you suppose the authorities at Washington will think about the matter?" He looked surprised, annoyed, and uneasy, but finally said, "I did not mean that there were no Venezuelan soldiers at the lake, but only that they were not in possession of it. They are not in control of it, but are acting under the orders of the court." I assured him that his explanation was very satisfactory to me, and that I should have much pleasure in communicating it to you.

I am, etc.,

HERBERT W. BOWEN.

*The Acting Secretary of State to Minister Bowen.*

No. 218.]

DEPARTMENT OF STATE,  
*Washington, September 10, 1904.*

SIR: Inclosed herewith are certain affidavits<sup>a</sup> in the case of the New York and Bermudez Company versus Venezuela, duly authenticated by the Venezuelan consul at Philadelphia. As you are already informed, these affidavits were heretofore presented to the consul, but he declined to certify them. You will request the Venezuelan Government to permit these affidavits to be filed and admitted in the above-mentioned case, having the same effect as if they had been authenticated and filed in court within the properly limited time.

I am, etc.,

ALVEY A. ADEE.

*The Acting Secretary of State to Minister Bowen.*

No. 219.]

DEPARTMENT OF STATE,  
*Washington, September 13, 1904.*

SIR: I inclose for your information copies of a letter of the 9th instant from Mr. Avery D. Andrews, vice-president of the New York and Bermudez Company, and an affidavit transmitted to the Department therewith.<sup>a</sup>

It appears from the inclosure of the letter of Mr. Andrews that the statement of Mr. Steffen, who represented the company in its business with the Venezuelan consul in Philadelphia, that the consul refused to certify the papers presented to him for authentication, on the ground that a legal controversy was pending between the company and his Government, is insisted upon by the company and its attorney, notwithstanding the contention of the consul that his certificate was withheld only because he was not allowed sufficient time in which to make it.

I am, etc.,

ALVEY A. ADEE.

*Chargé Hutchinson to the Secretary of State.*

No. 326.]

AMERICAN LEGATION,  
*Caracas, September 17, 1904.*

SIR: I have the honor to inclose a set of duplicates of five affidavits, sent me by Mr. Robert K. Wright, manager of the New York and Bermudez Company here, and which are the statements of several employees of the said company at Guanoco, where certain English and foreign workmen, who were in the employ of the company, were said to have been forced to work for the receiver of the company's property, Mr. A. H. Carner, at the point of the Venezuelan bayonet.

I have heard from a good source here that a few days ago Mr. Carner had an interview with the minister of foreign relations here, and that he affirmed that the charges of having made the company's men work at the point of the bayonet were absolutely without foundation, and were the fabrication of the company.

<sup>a</sup> Not printed.



It is possible that many workmen, perhaps most of the workmen, were not forced to work as described, but I have no doubt a few were subjected to rough treatment, and I have faith in the affidavits so far as they go.

The company, by its attorney here, presented its "solicitude" this week. I will keep the Department acquainted with results as they occur.

The company's attorney had his office broken into, Manager Wright tells me, one Sunday not long ago, but although money was at hand, none was taken, and only the company's papers were tossed about in evident search of documents to be used against the company. I can not vouch for the truth of this incident, of course, but I do not think Mr. Wright would knowingly misinform me.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.]

AFFIDAVIT No. 1.

I, Alfred Webbe, make oath and say as follows:

I was employed by the New York and Bermudez Company at Guanoco, in the Republic of Venezuela, as storekeeper.

On the 28th day of July, 1904, about o'clock in the forenoon, Mr. A. H. Carner, accompanied by several government officials and soldiers, arrived at Guanoco on the gunboat *Bolivar*. They immediately proceeded to the headquarters and offices of the New York and Bermudez Company and stationed soldiers at each window and door, armed with rifles, and their officers carrying swords. They also surrounded the buildings.

Shortly after this I attempted to pass out by the back gate, but was stopped by the soldiers on guard. I then tried to pass through the other doors, but was prevented and compelled to remain in the small court within the building until 10 o'clock at night. I then saw Mr. Carner and asked if I could go to my room to retire for the night. He told me that I would have to acquaint the officer of the night patrol, who would accompany me to my room. This I did, and after being challenged by the sentry and the officer of the night patrol giving the password I was allowed to enter my room and was cautioned that to leave same without permission would be dangerous.

The following day, July 29, I was escorted to my meals by armed soldiers, who kept constant watch over me and would not let me leave the building, and at night was again escorted to my room by armed soldiers, who stood guard at the door at night.

The following day, July 30, Mr. Carner placed me in the storeroom to issue supplies as directed by him, but still kept me under surveillance of armed guard. While in this position I supplied to officers and soldiers, and also sent a large supply of food stuffs to gunboat *Bolivar*, as per Mr. Carner's instructions, who told me that there were 100 men to feed on *Bolivar*.

Several persons were in the building when it was surrounded by the soldiers and were compelled to remain there. Others were allowed to pass within the guard, but were not allowed to pass out, and Mr. Carner boasted of its being a nice trap for them. One woman also was detained until late at night, and she had become frantic with grief.

On July 28 Mr. Carner demanded the keys of the storeroom from me, and upon receiving them turned them over to a Venezuelan officer.

On July 28 the foreman carpenter, Edward Bryant, was allowed to pass within the guards, and I was present when he reported to Mr. Carner of ill treatment he had received on board the *Bolivar*, stating that his thumbs had been tied firmly together and that 26 rifles had been placed across his stomach and kept there until he was exhausted.

Guards were stationed at the wharf and all the buildings and no one was allowed to pass without a written pass signed by Mr. Carner.

On July 30 the steamship *Rescue* arrived at Guanoco at night with Mr. L. A. Kuhn, an employee of the New York and Bermudez Company, who was escorted to headquarters by armed soldiers, who kept constant guard over him until he returned on the steamship *Rescue*, July 31.

ALFRED WEBBE.

Sworn to at No. 32 St. Vincent street, Port of Spain, in the island of Trinidad, this 12th day of September, A. D. 1904, before me,  
 [Notarial seal.]

VINCENT LEON WEHEKIND,  
*Notary Public.*

This is to certify that Mr. Vincent Leon Wehekind is a notary public, and that he has signed the foregoing.

The consul,  
 September 14, 1904.

BARCELO.

[Seal of the consulate of the United States of Venezuela, in Trinidad.]

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AFFIDAVIT No. 2.

I, Joseph Mayers, make oath and say as follows:

On July 28 I was employed by the New York and Bermudez Company at Guanoco, Venezuela, as carpenter, and was working near the wharf. Early in the forenoon Mr. A. H. Carner and about 60 armed soldiers landed from the gunboat *Bolívar*. I was immediately arrested and was not allowed to move from where I was working until some soldiers and officers had returned from headquarters, when I was told to go to work.

I was working under Edward Bryant, and saw him struck several times with a sword and taken on board the gunboat *Bolívar*. I saw him when he came from the *Bolívar* and he was nearly exhausted and sat down and told me that his hands had been tied and 26 rifles placed across his stomach and kept there until he could hardly breathe. I saw the marks on his thumbs where they had been cut by the cord. I was not allowed any food until the following Sunday, July 31, and I then was told that I would not be given any unless I went to work, which I agreed to do. I was guarded by soldiers armed with rifles and officers armed with swords, who were stationed all around, and when I returned to work was always guarded by the soldiers.

JOSEPH MAYERS.

Sworn to at No. 19 St. Vincent street, Port of Spain, in the island of Trinidad, this 14th day of September, 1904, before me,  
 [Notarial seal.]

A. V. M. THAVENOT,  
*Notary Public.*

This is to certify that Mr. A. M. Thavenot is a notary public, and that he has signed the foregoing.

The consul,  
 September 14, 1904.

BARCELO.

[Seal of the consulate of the United States of Venezuela in Trinidad.]

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AFFIDAVIT No. 3.

I, Frederick Adolphus, make oath and say as follows:

I was employed by the New York and Bermudez Company at Guanoco as assistant engineer, and on the 28th of July, 1904, Mr. A. H. Carner, accompanied by several government officials, and I should say about 60 soldiers, arrived at Guanoco on the gunboat *Bolívar*. They proceeded to the company's offices and surrounded the building containing same, placing guards at each door and window. The soldiers were armed with rifles and the officers carried swords. I, along with several others who were anxious to know what was taking place, were allowed to pass the guards, but could not return to our quarters until very late, being first compelled to obtain a written pass signed by Mr. Carner.

On the 30th of July the S. S. *Rescue* arrived at Guanoco with Mr. L. A. Kuhn, the engineer employed by the New York and Bermudez Company, on board. On coming alongside the pier, soldiers were immediately placed to guard him, and Mr. Kuhn was accompanied to headquarters by soldiers, who remained with him during the day and his stay at Guanoco. I attempted to speak with Mr. Kuhn about my family in Trinidad, but was prevented by the soldiers who were with him. Many other persons, also anxious to hear some news of their families, were prevented from having any conversation with him.

FREDERICK (his X mark) ADOLPHUS.

Sworn to at No. 32 St. Vincent street, Port of Spain, in the island of Trinidad, this 12th day of September, A. D. 1904, before me,

VINCENT LEON WEHEKIND,  
*Notary Public.*

[Notarial seal.]

This is to certify that Mr. Vincent Leon Wehekind is a notary public, and that he has signed the foregoing.

September 14, 1904.

Consul,

BARCELO.

[Seal of the consulate of the United States of Venezuela, in Trinidad.]

AFFIDAVIT No. 4.

I, Prince Joseph Alexander, make oath and say as follows: I was employed by the New York and Bermudez Company at Guanoco, Venezuela, as cook.

On the 28th of July, 1904, early in the forenoon, Mr. A. H. Carner and several officers and soldiers arrived on the gunboat *Bolivar*. They came up to headquarters where I was working and surrounded the building and placed soldiers at each window and door. The officers carried swords and the soldiers were armed with rifles. There were about 50 of them.

I was not allowed to leave the building and had to obtain a pass before I could enter my room, which is in the same building, to retire, and during the day when I was working I was constantly watched. I attempted to pass out during the day, but was stopped by an officer.

I was subjected to this treatment for a number of days. It was boasted by the officers and soldiers that they were going to capture the S. S. *Viking*, and when the S. S. *Rescue* arrived on July 30 they were confident that they were in a position to do so. They mistook the whistle of the S. S. *Rescue* for that of the S. S. *Viking*. They left a small guard at headquarters and the majority of them went to the wharf. Mr. L. A. Kuhn arrived on the S. S. *Rescue* and was constantly guarded by armed soldiers. Later, while I was attempting to have my time adjusted, I was ordered from the office, and an officer caught me by the shoulder and handled me roughly and said, "Come, I will take you to prison." I resisted, and he left me and ran for a sword. In the meantime a soldier held a rifle on me. I was finally released and returned to work in the kitchen.

PRINCE JOSEPH ALEXANDER.

Sworn to at No. 32 St. Vincent street, Port of Spain, in the island of Trinidad, this 12th day of September, A. D. 1904, before me,

VINCENT LEON WEHEKIND,  
*Notary Public.*

This is to certify that Mr. Vincent Leon Wehekind is a notary public, and that he has signed the foregoing.

September 14, 1904.

Consul,

BARCELO.

[Seal of the consulate of the United States of Venezuela, in Trinidad.]

AFFIDAVIT No. 5.

I, James Alleyne, make oath and say as follows: I was employed by the New York and Bermudez Company at Guanoco, Venezuela.

On the 28th of July, 1904, I was working on the railroad line about 4 miles from headquarters. It is customary for a train to run between 11 and 12 o'clock, bringing the men's breakfast. On that day no train came up, and about 4 o'clock a woman walked up, bringing her husband's breakfast. She notified us that Mr. A. H. Carner and a party of Venezuelan Government officials and soldiers had seized all the company's property. On hearing this the entire gang walked down. On arriving opposite the company's office at headquarters we were stopped by soldiers on guard and our tools taken from us. I saw about 50 or 60 soldiers at headquarters. Later on same day, as is customary, I attempted to get to the company's store to purchase my usual supply of food, but was stopped by the guards at the entrance and had to remain without food until 12 o'clock on July 30, when those of us who were guarded by soldiers at the ranch made such a demonstration that Mr. Carner allowed us to go to headquarters for food.

I was compelled to work or not get any food, and while at work was guarded by armed soldiers, who returned with me and others who had been forced to work, and the soldiers guarded the ranch and would allow no one to pass.

JAMES ALLEYNE.

Sworn to at No. 32 St. Vincent street, Port of Spain, in the island of Trinidad, this 12th day of September, A. D. 1904, before me,

VINCENT LEON WEHEKIND,  
*Notary Public.*

[Notarial seal.]

This is to certify that Mr. Vincent Leon Wehekind is a notary public, and that he has signed the foregoing.

September 14, 1904.

Consul,

BARCELO.

[Seal of the consulate of the United States of Venezuela, in Trinidad.]

*The Acting Secretary of State to Chargé Hutchinson.*

No. 222.]

DEPARTMENT OF STATE,  
*Washington, September 26, 1904.*

SIR: The Department has received Mr. Bowen's No. 316, of the 21st ultimo, inclosing a copy and translation of the note of Señor Sanabria, Venezuelan minister of foreign relations, of the 20th of August, in reply to Mr. Bowen's note of the 20th of the same month, requesting the Venezuelan Government to direct its attorney-general to move the discharge of the receiver and the restoration of the Bermudez Lake to the New York and Bermudez Company, its lawful owner, pending the trial and the determination of the suits lately brought against that company by the Venezuelan Government.

From the tenor of Señor Sanabria's note, it would naturally be inferred that he has not correctly apprehended the purport of this government's request.

While not directly declining to comply with that request, Señor Sanabria seems to suppose that he has impliedly denied it when he declares that "as is well known, the United States has maintained on more than one occasion the principle that actions relative to the interpretation or existence of contracts made by its citizens with foreign governments can only be decided by the courts of the nation where the contracts were made and in conformity with the laws that existed there."

The United States has undoubtedly acted on more than one occasion upon the principle that questions relative to the interpretation or existence of contracts made by its citizens with foreign governments presumptively fall within the cognizance of the local courts, and it has said nothing inconsistent with that principle on the present occasion. It has, on the contrary, been endeavoring to uphold it against the action of the Venezuelan Government in depriving the New York and Bermudez Company of its extensive and valuable properties on a judicial order made *ex parte* and in entire disregard of the company's titles.

It is established by the records in the case that the Venezuelan Government, represented by its attorney-general, went into one of its courts, and upon a complaint, in which the mining and land titles obtained by the company in 1888 were disregarded, secured an order for the appointment of a "receiver" for the company's property on the pretext that the company was a mere "lessee" under the Hamilton concession of 1883, and this was done *ex parte*, without affording the company an opportunity to show cause why its property should not be so taken from it.

While it is stated in the order for the appointment of a "receiver" that the "extraordinary circumstances" required by law to justify such action had been established, and while it has been stated that the "receiver" was appointed as a "precautionary measure," no substantial foundation whatever has been shown for either of these assertions,

no disclosure or description has been attempted, and this government is at a loss to imagine any that could be suggested with a show of seriousness, much less of plausibility. As to the "extraordinary circumstances" that were alleged to exist, the only one which any attempt was made to establish was that the company had failed to "canalize" or dredge an obscure stream in the recesses of the old state of Bermudez, in no possible way connected with the use of company's property. The supposition that this failure, which, if it existed, had existed for twenty years without any complaint or remonstrance on the part of the Venezuelan Government, suddenly created an emergency which justified the seizure of the company's property, would be manifestly frivolous, even if the company had been a mere "lessee" under the Hamilton concession.

But it is not alone the frivolity of the charge that shocks one's sense of justice in the present instance. It is a fact that on July 17, 1900, upon the application of Mr. A. H. Carner, the "present receiver" of the property, but then managing director of the New York and Bermudez Company in Venezuela, the Venezuelan Government, through Dr. Guillermo Tell Villegas Pulido, its minister of fomento, issued a decree declaring—

That the New York and Bermudez Company has fulfilled up to date the engagements and obligations of the contract of which it is concessionary, entered into with the executive power on the 15th of September, 1883, to which additions were made on the 19th of October following, approved by National Congress by law of the 5th of June, 1884, and confirmed by the high Federal court by sentence of August 23, 1898, and that therefore the said contract is in full force and effect.

General Castro was then, as he is now, President of Venezuela. The Hamilton concession had been in force for seventeen years, and if the stream in question is "uncanalized" now it was in the same condition then, nor has there been during the intervening four years any complaint or representation to the company of any failure on that score. It is evident, therefore, that the supposition of emergency is destitute of foundation, so that it would afford no justification for the seizure of the company's property, even if the company had been a mere "lessee."

But the fact was well known to the Venezuelan Government that the company, availing itself of the Venezuelan laws governing the acquisition of titles to mines and wild lands, obtained on December 7, 1888, by purchase a definite title conveying to it the Bermudez Lake deposit and a right to work it for ninety-nine years; and, further, obtained on the 14th of the same month the title to and absolute property in a tract of public lands, including and extending beyond the asphalt deposit itself. Of these facts the Venezuelan Government can not deny knowledge, since the titles have been formally recognized by it and form part of its records. Indeed, when President Crespo, by his decree of January 4, 1898, attempted arbitrarily to terminate the Hamilton concession, he expressly reserved the rights belonging to the company by virtue of its mining titles. These titles have not been impeached; but if they had been they would, by the universal principles of jurisprudence, written in the law of Spanish America as well as of the United States, give the company a clear right to hold the property till they were set aside by a legal decision duly and fairly rendered.

But while the so-called "receivership" was decreed in entire disregard of the company's rights and in a manner neglectful of the plainest principles of justice, it is also necessary to point out that in its execution and management it has borne none of the characteristics of a legal proceeding.

The proceedings of the "receiver" have been conducted clandestinely, and every device has been employed to conceal his transactions. Charters of vessels to take away the company's property have been made secretly, and even their existence has been denied. When the steamer *Kennett*, whose chartering for Guanoco had been repeatedly denied, lately arrived in New York from that place, with asphalt taken by the "receiver," not from Bermudez Lake, but from deposits previously mined and stored by the company, all information was refused as to the destination of her cargo, which was consigned to the captain, who in turn declared that he knew nothing about it.

These transactions appear to bear none of the marks of a bona fide receivership, but, on the contrary, they characterize the recent proceeding as in fact an act of arbitrary and unlawful spoliation, though clad in legal forms.

The Government of the United States has sought to avoid even the appearance of interfering with or making any demands upon the Venezuelan courts, and it has not so interfered nor made any such demands. This government has, however, requested that of Venezuela to undo its own wrong by directing its attorney-general to go into court and ask for the discharge of the "receiver," so that the property of the New York and Bermudez Company may be restored to its possession, there to remain till a lawful and just decision shall have been shown that the company is not entitled to such possession. This it is in the power of the Venezuelan Government to do, and the Government of the United States must under the circumstances renew and earnestly press its request. Such compliance would be but an act of respect on the part of the Venezuelan Government to its own tribunals, whose process has been perverted to the perpetration of a grave injustice, the continuance of which this government can not view without deep concern. It is evident that the avowed object of the proceedings was for all substantial purposes accomplished before they were fairly begun and that unless this condition of things shall be remedied their further prosecution will be practically superfluous, their apparent object having already been accomplished. The Government of the United States is desirous to show toward that of Venezuela every possible consideration. It therefore indulges the hope that the latter will, as an act due to substantial justice, remove the present cause of complaint. But it is proper to add that the Government of the United States in any event can not stand by and permit the property of American citizens to be seized and appropriated by any foreign government through a gross and palpable perversion of the forms in which justice is administered, in order to defeat the ends of justice.

You are directed to read this instruction to the minister of foreign relations, and to leave with him a copy of it.

I am, etc.,

ALVEY A. ADEE.

*Chargé Hutchinson to the Secretary of State.*

No. 328.]

AMERICAN LEGATION,  
*Caracas, September 26, 1904.*

SIR: I have the honor to acknowledge the receipt of the Department's No. 218 of September 10, 1904, with inclosures, instructing Mr. Bowen to request the Venezuelan Government to permit the affidavits which were delayed through the inaction of the Venezuelan consul at Philadelphia to be filed and admitted in the case of the New York and Bermudez Company as if they had been authenticated and filed in court within the properly limited time.

In reply I have the honor to report that it has not been necessary to ask the said permission from the Venezuelan Government, as the manager of the New York and Bermudez Company here, Captain Wright, informs me that the affidavits have arrived in time for presentation in due course of procedure according to the Venezuelan code.

I have, etc.,

NORMAN HUTCHINSON.

*Chargé Hutchinson to the Secretary of State.*

No. 329.]

AMERICAN LEGATION,  
*Caracas, September 26, 1904.*

SIR: I have the honor to acknowledge the receipt of the Department's No. 219 of September 13, 1904, addressed to Mr. Bowen, and inclosing a letter from the vice-president of the New York and Bermudez Company, and a copy of an affidavit of one of the said company's attorneys in Philadelphia relative to the failure of the Venezuelan consul in the said city to authenticate certain legal documents.

In reply I beg to state that I will mention the facts in the case informally to Señor Sanabria, minister of foreign relations, so that he may take whatever steps he thinks necessary for the proper discharge, in future, of the duties of the Venezuelan consul in Philadelphia.

I have, etc.,

NORMAN HUTCHINSON.

*Chargé Hutchinson to the Secretary of State.*

No. 332.]

AMERICAN LEGATION,  
*Caracas, September 27, 1904.*

SIR: I have the honor to inclose a copy of a letter from Captain Wright, managing director of the New York and Bermudez Company, in Caracas, and my acknowledgment of the same, together with a copy and translation of papers in an action brought in the civil court of first instance, by Señor Francisco Arroyo Parejo, attorney-general of the United States of Venezuela, and charging the above-mentioned company with assisting the late Matos revolution, through the medium of its directors in New York, with large sums of money, amounting to at least \$130,000, part of which sum it is charged was used for the purpose of buying for the leader of the revolution the steamer used as a gunboat, called *Ban Righ*.

The attorney-general states that up to until a short time ago the chief of the executive did not possess the accumulation of evidence

which he now has, intimating that the action would, if possible, have been brought much earlier.

According to the charge, the company kept no itemized statement of the money given toward aiding the revolution, but put the amounts down to a certain account which was called "Government relations," and represented "all expenses incurred for Venezuela."

The attorney-general states that he is instructed by the executive to demand "serious damages" from the company, which ought to have maintained a strict neutrality, for assisting the late revolution, and that for the purposes of jurisdiction only he mentions a nominal sum of damages, amounting to \$4,000; but experts shall be called into the trial to determine the real and actual damages.

Captain Wright, the managing director of the company, was called to appear, to answer the foregoing charge, ten working days after he was served with the papers, which was on September 22 at 3 p. m.

I have also the honor to inclose copies of five affidavits, copies of which were left with Captain Wright. These affidavits accompanied the papers charging, under a separate action from that already instituted (i. e., breach of contract, loss of concession), the New York and Bermudez Company with complicity, as before said, in the late Matos revolution. The evidence evinced by the affidavits is considered of an exceedingly hearsay character by Captain Wright and other parties here, and certainly, without further evidence, the Venezuelan Government's new charge against the company would be lacking the legal conception of good evidence. It is to be hoped that the evidence is not, and can never be, anything more than valueless hearsay evidence.

Even should the company be beaten in the action in question in the court of first instance, there remain two appeals to higher courts, and this will give the Department ample time to consider all the evidence and character of the evidence used in the suit.

As news comes to hand concerning the subject of this dispatch it will be promptly transmitted to the Department.

I have, etc.,

NORMAN HUTCHINSON.

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[Inclosure 1.]

*Mr. Wright to Chargé Hutchinson.*

CARACAS, VENEZUELA, September 30, 1904.

DEAR SIR: I beg to hand you herewith the following documents: In regard to the civil suit for assisting the revolution recently instituted against this company by the Venezuelan Government, two copies of document 8-1, the demand against the company (libel); two copies of English translation of the same; document 8-2, one copy of the documents referred to in the libel, consisting of affidavits made by O. E. Thurber, William Young Kinleyside, Amzi Lorenzo Barber (two), and Charles Y. Baldwin. I handed you one copy of this document a few days ago, which you will please retain. In this document 8-2, on the first page of the first affidavit of Amzi Lorenzo Barber, there is mentioned exhibit a. This exhibit a is merely a copy of the affidavit of O. E. Thurber, which is attached hereto, and I did not think it necessary to duplicate it. You will notice that on the copy of 8-2, which I inclose, is a note to that effect, made on the bottom. It is also noted in the body of the affidavit. Will you please mark your copy in the same way? I am sending two copies of all these, so that you may retain one copy and forward one to the Department of State.

Very truly, yours,

ROBERT K. WRIGHT.



[Subinclosure 1.]

*Libel against the New York and Bermudez Company.*

*To the Judge of First Instance in Civil Causes of the Western Section in the Federal District:*

I, Francisco Arroyo Parejo, general attorney of the nation, acting in such capacity, come before you and with all due respect state: Since the middle of the year 1901, period in which the rebellious purposes of many an individual against the legally established government became clear and which, put into practice a few months later, gave rise to the movement known by the name of "liberating revolution," the national authorities suspected that the corporation under the name of the New York and Bermudez Company had an understanding with the principals and well-known agents of the revolution to that treacherous end. The action of the government to restrain and punish the condemnable proceedings of the above-mentioned company was at that time hindered by the consideration that said company had before the highest tribunal of Venezuela a suit, in the course of which it was maliciously assured that official influence had been used in favor of the other party in the suit. Some repressing or strong measure might have given credit to such an unfounded assertion, and it was not wished that the impartiality of the judges who had to decide on that litigation could be suspected. Moreover, the chief of the executive did not possess at the time the accumulation of evidence which he now has, which proves the active and efficacious part which the above-mentioned company had in that unaccountable rebellion, which cost the country so many lives and sacrifices. The chief of the revolution and the company having come to an agreement when the former went to New York in the month of June, 1901, the latter began to supply the necessary funds to start the campaigning, and to this end General Matos went to Europe, and Mr. Francis V. Greene, the then president of the National Asphalt Company, managing director of the New Trinidad Lake Asphalt Company, and one of the directors of the New York and Bermudez Company, who had under his care all the business of said company in Venezuela, went to meet him in the month of July to conclude the purchase of a steamer and all the necessary war elements. They first met in Paris; then Greene went to London and then to Glasgow, where he arrived in the beginning of the month of August to inspect several steamers that were for sale. On his return to Paris he drew through the Credit Lyonnaise against the Seaboard National Bank of New York, of which Greene was one of the directors and where the trust, of which the New York and Bermudez Company formed one part, had an account. Said check, which amounted to the sum of \$100,000, was ordered to be paid by Mr. Sewall, secretary of the trust, who ordered the cashier to charge with that amount a certain account called "government relations," which contained, *without being itemized*, all expenses incurred for Venezuela. A few days later another check, amounting to \$30,000, was drawn, cashed, and noted in the same way. A few months after this, and as a result of Greene's trip to Europe, there appeared off the Venezuelan coast, fitted out as a war ship, loaded with abundant elements of war, and carrying on board the chief of the revolution the steamer *Ban-Righ*, of sad remembrance, the piratical history of which is well known. The wonderful campaign, in which the present chief of the country destroyed and routed all the armies opposed to him by the revolution, did not convince the company which I refer to of the downfall of its aspirations; nor did it desist from its purposes, since, after the famous battle of La Victoria, it insisted on helping Matos, prolonging by this means an iniquitous war, already unaccountable, which aggravated the evils of the country, putting it, exhausted and defenseless as it was, under the pressure of foreigners. The evidence of all the foregoing facts I shall produce in full and due time. Besides the Venezuelan blood wasted, of inestimable value, the credit and good name of the country a good deal injured in consequence of the war and the enormous amounts which had to be spent by the government to put it down, the liberating revolution caused the national treasury great damages, as it is easy to imagine and as I shall prove in the course of the litigation, damages for which the New York and Bermudez Company is responsible by having, through its directors in the United States and its agents in Venezuela, supplied funds and material, as well as moral support, from the beginning to the end of the struggle. From the foregoing it is concluded that the above-mentioned company has caused the nation such damages as narrated under all legislations of civilized countries and as provided by our own law, as per article 1122 of the civil code in force. Wherefore I am instructed by the Executive to demand, as I hereby demand, in all legal form, of the New York and Bermudez Company, a corporation domiciled in Philadelphia, United States of America, and also in this city in the person of its representative, Mr. Robert Kemp Wright, of age, and a resident here, that it agree on the said company being bound to satisfy and that it satisfies to the United States of Venezuela the serious damages caused by the assistance given to the late revolution called "Libertadora," which assistance, wrongful in every way, and the more so when it is considered that the company, being a foreign corporation, should have observed strict neutrality in connection with the internal politics of the country. For the purposes of jurisdiction only I value the present action over 4,000 bolivars; but I petition that the total amount of damages motive of this action should be decided upon by experts in accordance with the evidence

which I shall supply in due legal course of time. In consequence thereof I petition that this action with the inclosed documents be admitted, substantiated according to law, and ultimately declare it admissible with costs and all other legal judgments. I also petition that the translations into the legal language from the English of the documents which I inclose herewith be ordered. It is justice, etc.

Caracas, 22d of September, 1904.

F. ARROYO PAREJO.

The undersigned secretary certifies to the present copy.  
(Signed on one bolivar stamp:) Vicente E. Velutini.

Hall of first instance, civil, of the western section of the federal district. Caracas, September 22, 1904. 94th and 46th.

Mr. Robert Kemp Wright, in his capacity as a representative of the New York and Bermudez Company, shall appear before this tribunal the tenth working day after cited at 10 o'clock a. m. to answer the foregoing. He shall give a receipt of this copy.

TOMAS GARBIRAS, *Judge*.

Cited the 22d September, at 3 o'clock p. m.

ROBERT KEMP WRIGHT.

[Subinclosure 2.]

AFFIDAVIT No. 1.

STATE OF NEW YORK, *County of New York*, ss:

O. E. Thurber, being duly sworn, deposes and says: He is of lawful age and resides in the city of New York, State of New York, United States of America, and for the past seventeen years has been engaged in the asphalt business.

In the year 1901 he was the treasurer of the Barber Asphalt Paving Company and prior to that time had been treasurer of the New Trinidad Lake Asphalt Company (Limited), and in these capacities he had cognizance of the business done and transactions made by the New York and Bermudez Company. In and during the year 1901 the National Asphalt Company, of which Francis V. Greene was the president, owned all or substantially all of the capital stock of the Asphalt Company of America, which latter company owned all of the capital stock of the Barber Asphalt Paving Company and of the New Trinidad Lake Asphalt Company (Limited). The said New Trinidad Lake Asphalt Company (Limited) owned all or substantially all of the capital stock of the New York and Bermudez Company. All of the business of the said New York and Bermudez Company was managed, controlled, and directed by the officers of the said National Asphalt Company.

Among the officers and directors of the said National Asphalt Company were Francis V. Greene, president; John M. Mack, vice-president; Arthur W. Sewall, secretary and treasurer, and Avery D. Andrews, director. The principal offices of the National Asphalt Company, of the New York and Bermudez Company, and of all other companies heretofore mentioned were in the year 1901 located at No. 11 Broadway, in the city of New York, and all of said companies were to all intents and purposes one and the same corporation in respect of their management. Deponent's office was at the same place, and he was familiar with much of the business of the several companies controlled by the said National Asphalt Company and had ample opportunity to gain full knowledge thereof.

In the spring of the year 1901 deponent saw various persons at No. 11 Broadway, and among others some who were reported to deponent as coming from Venezuela. These Venezuelans were in consultation with Francis V. Greene on several occasions, and deponent has been informed and verily believes that one Gen. Manuel A. Matos was seen to visit said offices at No. 11 Broadway during said spring or early summer of the year 1901. In the aforesaid summer of 1901 the said Greene departed for Europe, and thereafter letters and telegrams were received from him dated at London and Paris, and deponent verily believes said Greene to have been in said cities of London and Paris and elsewhere in Europe until the latter part of the month of October or the early part of the month of November of the said year 1901. During said summer of 1901 the aforesaid Avery D. Andrews questioned deponent as to the means of transmitting an unknown sum of money to Europe, and particularly requested deponent to ascertain the name of the correspondent or agent of the Credit Lyonnaise of Paris at New York, which deponent did.

In or about the month of September, 1901, deponent was upon one occasion called on the telephone by Stuart G. Nelson, vice-president of the Seaboard National Bank, in the city of New York, of which bank the aforesaid Francis V. Greene was at that time a director. Said Nelson stated to deponent that the said Seaboard National Bank had received from the Credit Lyonnaise and held for payment a certain draft to the amount of \$100,000 drawn

upon the New Trinidad Lake Asphalt Company (Limited) and requested that said draft be paid without delay. Deponent referred said Nelson to Ira Atkinson, who was at that time the treasurer of said New Trinidad Lake Asphalt Company (Limited), and said Atkinson subsequently stated to deponent that he had received no advice regarding the said draft and knew of no liability of said company requiring payment of such sum by it, nor of any other reason why said company should pay the amount of \$100,000, before mentioned. He referred the matter to the aforesaid Arthur W. Sewall and accompanied said Sewall to the aforesaid national bank, where said Sewall and Nelson repaired to a private room, and after a conference said Sewall returned to said Atkinson and directed him to give a check for \$100,000 to the order of Nicoll, Anable & Lindsay, who were at that time the attorneys for the New York and Bermudez Company, and said Sewall informed said Atkinson that said attorneys would thereupon pay the draft before mentioned, all of which was done. Said Atkinson subsequently informed deponent that he was further directed to charge the sum of \$100,000 thus paid out to the account of the New York and Bermudez Company, and to instruct Frederick J. Buxton, at that time treasurer of the New York and Bermudez Company, to charge said sum on the books of said New York and Bermudez Company to an account styled "government relations." Said Atkinson subsequently stated to deponent that another draft for \$30,000 was paid and charged in the same manner, and that he received no papers or vouchers therefor beyond receipts signed by Nicoll, Anable & Lindsay, or initialed "N., A. & L." by the aforesaid Avery D. Andrews, and that said drafts and other papers relating to said payments were all retained by and in the custody of said Nicoll, Anable & Lindsay.

Deponent was further informed by Thomas H. Thomas, the president, and by Frederick J. Buxton, the treasurer of the New York and Bermudez Company, and by John K. Breeden and Charles Y. Baldwin, bookkeepers for the New Trinidad Lake Asphalt Company (Limited) and for the New York and Bermudez Company, that the payments of the drafts before mentioned for \$100,000 and for \$30,000 were charged to the account called "Government Relations," all as stated to deponent by said Atkinson. Said Atkinson, Thomas, Buxton, Breeden, and Baldwin further informed deponent that thereafter other payments of varying amounts were made by or on account of the New York and Bermudez Company through the said Nicoll, Anable & Lindsay for purposes not disclosed to said informants, and that said payments were likewise charged to the account called "Government Relations." Said Atkinson, Thomas, Breeden, Baldwin, and Buxton further informed deponent that from information received they were convinced that such payments were made for the purpose of assisting the revolution then in progress against the constituted government of Venezuela, the leader of said revolution being the aforesaid Gen. Manuel A. Matos. And said Baldwin further informed deponent that upon one occasion a messenger from the office of said Nicoll, Anable & Lindsay brought to the office of the National Asphalt Company before mentioned, at No. 11 Broadway, a slip of paper upon which was written the following: "Revolutionist, five thousand dollars;" and thereupon a check of the said New York and Bermudez Company for the sum of \$5,000 was drawn to the order of and sent to said Nicoll, Anable & Lindsay, and said sum of \$5,000 was charged on the books of said New York and Bermudez Company to the aforesaid account called "Government Relations."

On the 14th and 15th days of the month of March, 1901, deponent had conversations with one Gilbert M. Furman, of the city of Plainfield, State of New Jersey, United States of America, at No. 17 Battery place, in the city of New York, and said Furman informed deponent that in or about the month of May, 1901, he was ordered by said Greene, Andrews, Mack, and Sewall to proceed to the city of Caracas, United States of Venezuela, for the purpose of investigating the status of the aforesaid revolution to ascertain the probability of the success thereof, and to make a full report thereof to said officers of the said National Asphalt Company, and particularly to report upon the advisability of said New York and Bermudez Company making an alliance with said Matos by contributing a large sum of money to him to be used in assisting and promoting the said revolution. Said Furman further informed deponent that he carried out the instructions of said officers of said National Asphalt Company and did proceed to Caracas, as directed, and there found one Henry Willard Bean, representing said New York and Bermudez Company, negotiating and actively treating with agents and associates of the said Matos, and said agents and associates were frequent visitors at Bean's residence at Caracas. Said Furman further stated to deponent that he became much alarmed at the open manner in which said Bean was negotiating with the agents of said Matos, and advised said Bean to be more discreet in his negotiations. Said Furman further stated to deponent that he made a thorough investigation of political affairs in Caracas, and particularly concerning the probability of the revolution aforesaid resulting successfully to the Matos party, and that he, the said Furman, having formed the opinion that the Matos revolution would triumph, returned to New York and reported to said Greene, Mack, Andrews, and Sewall to that effect, and recommended that the New York and Bermudez Company should contribute a large sum of money to Matos for the purpose of carrying on the revolution. And said Furman also stated to depo-

nent that said Greene, Mack, Andrews, and Sewall thereupon decided to act in accordance with the said Furman's recommendations, and that said Greene was designated to proceed to Paris to meet said Matos and to carry out the arrangements made with him.

Deponent further says that his attorney, William Young Kinleyside, of Edinburgh, Scotland, in the month of February, 1904, made investigations in Glasgow, Aberdeen, and London regarding the sale of a certain steam vessel called *Ban Righ*, and said attorney reported to deponent that he had ascertained that said vessel was sold by the Aberdeen Steam Navigation Company in or about the month of September, 1901, to Rudolph De Paula and M. A. Matos for the sum of £19,000, and that in the course of the negotiations for the sale and purchase of the vessel the said sellers thereof, the Aberdeen Steam Navigation Company, met Greene.

Deponent further states that the aforesaid Charles Y. Baldwin on the 19th day of March, 1904, at No. 17 Battery place, in the city of New York, did say to deponent that he saw the aforesaid Gen. Manuel A. Matos at No. 11 Broadway, in the city of New York, during the summer of 1901; that he, the said Baldwin, at the time was in the company of one Michael N. Schweizer, who had lately returned from Caracas, where he, the said Schweizer, had been employed as secretary for Henry Willard Bean, the aforesaid. The said Schweizer stated to said Baldwin that he was well acquainted with said Matos and that he was familiar with the negotiations with him. Deponent further states that he was further informed by said Baldwin that one Francis M. Cartland, now in the city of New York, was during the latter part of the year 1901 in Caracas as secretary and clerk for one J. Lewis Rake, who succeeded the aforesaid Henry W. Bean as the representative of the New York and Bermudez Company in Caracas, and that said Cartland was well informed concerning the connection of the New York and Bermudez Company with the revolution of said Matos.

Deponent further says that said Baldwin further informed him that one F. A. Holmes, now employed by the General Asphalt Company, the successor of said National Asphalt Company, was also in Caracas following the departure of said Cartland, and said Holmes was the secretary for one William J. Ewart, who succeeded the aforesaid J. Lewis Rake as the representative of the New York and Bermudez Company in Caracas. Said Baldwin further informed deponent that he had had several conversations with said Holmes, and that said Holmes was well informed concerning the connection of the New York and Bermudez Company with the aforesaid revolution, and that said Holmes as secretary for said Ewart in Caracas wrote many and voluminous letters addressed to the officers of the National Asphalt Company, reporting to said officers all information gained by said Ewart concerning the progress and probabilities of success or failure of the aforesaid revolution against the Government of Venezuela and advising said officers fully as to all that pertained thereto.

Deponent further says that he is acquainted with one Charles C. Link, of the city of New York, and that in the years 1901 and 1902 said Link was a clerk for the said National Asphalt Company and for the other companies by it controlled, and among other duties said Link had charge of receiving and sending all telegraphic messages in the secret cipher code used by said companies. Said Link has informed this deponent that many messages were received from the aforesaid Francis V. Greene, dated at London and Paris, during the late summer and early autumn of 1901, and also from the representatives of said company at Caracas, and that many of said messages were extracted from the files of said companies by the aforesaid Avery D. Andrews and retained in his possession. Said Link further informed the deponent that among said messages he distinctly remembers one from Caracas asking for arms, ammunition, and money for the purpose of overthrowing the then constituted Government of Venezuela.

From all the information received by this deponent he verily believes that the aforesaid officers of the National Asphalt Company and of other companies by it controlled did conspire to foment, aid, and assist the revolution against the constituted Government of Venezuela in the years 1901 and 1902, and that they did aid and assist said revolution by the contribution of large sums of money for the purchase of the steam vessel called the *Ban Righ*, for the purchase of arms, ammunition, and equipment for said vessel, and for the purchase of other supplies for the equipment and sustenance of the revolutionary forces commanded by the aforesaid Gen. Manuel A. Matos.

Deponent further says that on account of the secrecy with which said assistance was contributed to said Matos and other, and on account of the efforts made by said officers of the National Asphalt Company to suppress and hide all documentary evidence showing the connection of said company with said revolution it has been very difficult to secure direct evidence of said complicity; but deponent is informed and verily believes that each and every one of the foregoing statements by him made is true, and that an examination of the persons below named, under due process of law, will fully corroborate said statements and will disclose the assistance given by said National Asphalt Company and by said New York and Bermudez Company to said Matos revolution.

Francis V. Greene; John M. Mack; Avery D. Andrews; Arthur W. Sewall; George W. Elkins; Gilbert M. Furman; J. Lewis Rake; William J. Ewart; Thomas H. Thomas; L. A.

Atkinson; Frederick J. Buxton; John K. Breeden; Charles Y. Baldwin; George C. Link; Michael N. Schweizer; Francis M. Cartland; F. A. Holmes; Henry Willard Bean; officers of Aberdeen Steam Navigation Company, London; William Young Kinleyside, attorney at law, Edinburgh, Scotland; officers of the Credit Lyonnaise; Stuart G. Nelson, vice-president Seaboard National Bank; ——— Carnegie, ship broker, No. 11 Great St. Helens, London, England; J. M. Soper, yacht broker, 184 Piccadilly, London, England.

And further deponent saith not.

Subscribed and sworn to before me this 17th day of June, 1904.

ORRAY E. THURBER.

DAVID FISCHER,  
*Notary Public.*

AFFIDAVIT No. 2.

I, William Young Kinleyside, of No. 7 George street, Edinburgh, a solicitor and practicing before the supreme and inferior courts of Scotland, make oath and say as follows:

(1) I have during the last few months been making investigations as to the purchase of a ship formerly known as and named the *Ran Righ*.

(2) From information received I find that it formerly belonged to the Aberdeen Steamship Company, and that it was a boat of 600 tons.

(3) The ship was purchased in London about the end of the year 1901, and was sent to New Castle to be fitted up as a gunboat.

(4) On arriving again in London it was seized by the English authorities, and after a while was allowed to leave port. At that time it was known that the boat had been bought and fitted up as a gunboat to assist the revolutionists in Venezuela.

(5) The name of the boat was changed several times, and transferred at sea in order to hide its identity, and as last in the ship register as named the *Libertador*.

(6) From inquiries made the history of the purchase of the boat is shortly as follows: A Mr. Willis called upon Mr. Soper, yacht broker, No. 184 Piccadilly, London, with a view to purchasing a boat of very strong build.

(7) At an interview I have had with Mr. Soper he informed me that he explained to Mr. Willis that he had only some yachts for sale, and that his connection with Mr. Willis then terminated.

(8) Afterwards it was ascertained that Messrs. Raison & Co., of Leadenhall street, now at No. 21 Great St. Helens, had for sale a boat which might be suitable for the proposed purchasers.

(9) I had an interview with Mr. Raison, and he stated that he had acted in the matter, and showed me a photograph of the boat, and stated that he presently had the boat for sale. He handed me printed particulars giving full information regarding the ship.

(10) He informed me that the purchaser was Mr. Matos, who was organizing and taking a leading part in the revolution. He stated that there was a great deal of mystery as to who was financing the purchase, but that a Mr. Greene had something to do with it, and that the money was being provided from sources in America. He would give no further information, which showed that he had instructions to that effect from some source or other.

(11) I have also called and interviewed Mr. A. Carnegie, ship broker, formerly at No. 1 St. Helens place, and now at St. Mary Chambers, St. Mary Axe, London. I was accompanied by Mr. Joel Henry Benedictus, solicitor, of Messrs. Ruddle & Benedictus, solicitors, Mansion House Chambers, No. 20 Bucklersbury, London. Mr. Carnegie then stated that he had acted for Mr. Matos in the purchase of the boat, and that the price paid was £20,000.

(12) He informed me that his instructions were received from Mr. Matos, and that the money was paid at once.

(13) He stated that he did not know where the money came from, but no doubt Mr. Matos was assisted from an outside source.

(14) His opinion was now that the boat had been sold by Mr. Matos to the Colombian Government, and he thought it was now at Trinidad.

WILLIAM YOUNG KINLEYSIDE.

Sworn at 20 Bucklersbury, in the city of London, this 23d day of June, 1904, before me.

L. M. BIEDEN,  
*Commissioner for Oaths.*

Resworn at 75 and 77 Cornhill, London, this 23d day of June, 1904, before me.

ALEXANDER RIDGWAY,  
*Notary.*

## AFFIDAVIT No. 3.

STATE OF NEW YORK, *County of New York, ss:*

Amzi Lorenzo Barber, being duly sworn, deposes and says: That he resides in the city of Washington, United States of America, and for upward of twenty-five years has been engaged in the asphalt business; he was formerly, from about the 10th day of September, 1900, until the 3d day of January, 1901, president of the National Asphalt Company, and was familiar with all the operations of the said company and of all the companies controlled by it, including the New Trinidad Lake Asphalt Company (Limited) and the New York and Bermudez Company. On the said 3d day of January, 1901, deponent resigned the office of president of the aforesaid National Asphalt Company, and thereafter sold all the stock and other securities of said company and of all the companies controlled by it which deponent then owned, and he has not since owned and does not now own any interest whatever in the National Asphalt Company nor in any corporation owned or controlled by said National Asphalt Company or by its successor, the General Asphalt Company.

Deponent has read a certain affidavit made and signed by Orray E. Thurber before David Fischer, a notary public in and for the county of New York, dated the 17th day of June, 1904, copy of which is hereto annexed, marked "Exhibit A,"<sup>a</sup> and is acquainted with many of the facts therein stated, and such facts are true; and as to the remainder of the facts therein stated, from information received, deponent believes them to be true.

Deponent further says that he was present at No. 17 Battery place, in the city of New York, on the 15th day of March, 1904, at an interview between the aforesaid Orray E. Thurber and one Gilbert M. Furman, and that said Furman did make each and every statement as narrated in the affidavit of said Thurber, and did make same statements to this deponent.

Deponent further says that on the 14th day of April, 1904, at a clubhouse of the New York Yacht Club, in the city of New York, he met one George W. Elkins, who had long been associated with this deponent in the asphalt industry, and said Elkins during the year 1901 was one of the directors of the National Asphalt Company and also a director of the New York and Bermudez Company. Deponent inquired of said Elkins if he knew anything about the assistance given by the said New York and Bermudez Company to the revolution against the Government of Venezuela in the year 1901, known as "the Matos revolution," and said Elkins replied that he did know about it, and that Avery D. Andrews (formerly a director of the National Asphalt Company and now vice-president of the General Asphalt Company and of the New York and Bermudez Company) in the summer of 1901 came to the place where said Elkins was staying on the St. Lawrence River to consult said Elkins with reference to supporting the revolution of said Matos, and that the New York and Bermudez Company did assist the revolution of said Matos.

Deponent further says that he is familiar with the investigations made by the aforesaid O. E. Thurber concerning the complicity of the New York and Bermudez Company with the Matos revolution, and from information received he believes all the statements made by said Thurber in the affidavit heretofore mentioned to be true, and that said New York and Bermudez Company did, in the years 1901 and 1902, foment, aid, and assist the aforesaid Matos in his rebellion against the then constituted Government of Venezuela by contributing to him large sums of money for the purchase of the steam vessel *Ban-rih*, for the purchase of armament for said vessel, and for the purchase of arms and ammunition and sustenance for the use of the revolutionary forces of said Matos, and by other means. And further deponent says not.

AMZI LORENZO BARBER

Subscribed and sworn to before me this 2d day of July, 1904.

DAVID FISCHER, *Notary Public.*

## AFFIDAVIT No. 4.

STATE OF NEW YORK, *County of New York, ss:*

Amzi Lorenzo Barber, being duly sworn, deposes and says: That he resides in the city of Washington, United States of America, and for upward of twenty-five years has been engaged in the asphalt business; he was formerly, from about the 10th day of September, 1900, until the 3d day of January, 1901, president of the National Asphalt Company, and was familiar with all the operations of said company and of all the companies controlled by it, including the New Trinidad Lake Asphalt Company (Limited) and the New York and Bermudez Company. On the said 3d day of January, 1901, deponent resigned the office of president of the aforesaid National Asphalt Company, and thereafter sold all the stock and

<sup>a</sup> Exhibit A is a copy of affidavit No. 1.

other securities of said company and of all companies controlled by it which deponent owned, and he has not since owned and does not now own any interest whatever in the National Asphalt Company nor in any corporation owned or controlled by said National Asphalt Company or by its successor, the General Asphalt Company.

Deponent is informed and verily believes that subsequent to his resignation as the president of the National Asphalt Company—that is to say, during the years 1901 and 1902—certain officers of the said National Asphalt Company, of the New Trinidad Lake Asphalt Company (Limited), and of the New York and Bermudez Company did contribute on behalf of said company large sums of money to one General Manuel A. Matos or to his associates for the purpose of fomenting, aiding, and abetting a revolution against the constituted Government of the United States of Venezuela, and to that end did furnish them money to purchase, arm, and equip a steamship called *Ban-rih*, and did furnish money to said Matos or to his associates for the purpose of purchasing a large quantity of arms and ammunition which were conveyed by said steamship *Ban-rih* to the adherents of said Matos at various points in the United States of Venezuela.

Deponent further says that he was present at No. 17 Battery place, in the city of New York, on the 15th day of March, 1904, and had a conversation with one G. M. Furman, now residing in the city of Plainfield, State of New Jersey, United States of America. Said Furman informed this deponent that in or about the month of May, 1901, he was directed by certain officials of the said National Asphalt Company to proceed to the city of Caracas, Venezuela, for the purpose of making an investigation of the political conditions there existing, and particularly to make a full report to the officers of the said National Asphalt Company upon the advisability of the New York and Bermudez Company, one of the subsidiary companies of the said National Asphalt Company, assisting the revolutionary movement headed by the aforesaid Matos by contributing large sums of money to said Matos or to his associates.

Said Furman informed this deponent that he proceeded to Caracas, as directed, and there found a representative of the said New York and Bermudez Company, one Henry Willard Bean, actively engaged treating with the agents and adherents of said Matos, who were frequent visitors at Bean's residence in the said city of Caracas. Said Furman reported to this deponent that he was much alarmed at the openness with which said Bean was negotiating with said agents and said adherents of said Matos, and recommended that he, the said Bean, should exercise discretion in his negotiations with them. Said Furman further stated to this deponent that after making a thorough investigation of the political affairs in Caracas, and particularly of the probable success of the revolutionary movement headed by the said Matos, he became convinced that the constituted Government of Venezuela would be overthrown and that the Matos revolution would triumph, provided sufficient money should be furnished to said Matos to carry on his operations. Said Furman then stated that he returned to New York and reported his conclusions to Francis V. Greene, the president; John M. Mack, the vice-president; Avery D. Andrews, general counsel, and Arthur W. Sewall, secretary and treasurer, of the aforesaid National Asphalt Company, and recommended that the National Asphalt Company, or its subsidiary company, the New York and Bermudez Company, should contribute a large sum of money to said Matos for the purpose of assisting the revolution already referred to; and said Furman further stated to this deponent that said Greene, Andrews, Mack, and Sewall thereupon decided to act in accordance with said Furman's recommendations, and that said Greene was designated to proceed to Paris to arrange matters with said Matos.

Deponent further says that on the 14th day of April, 1904, at a clubhouse of the New York Yacht Club, in the city of New York, he met one George W. Elkins, who had long been associated with this deponent in the asphalt industry, and said Elkins during the year 1901 was one of the directors of the National Asphalt Company and also a director of the New York and Bermudez Company. Deponent inquired of said Elkins if he knew anything about the assistance given by the said New York and Bermudez Company to the revolution against the Government of Venezuela in the year 1901, known as "the Matos revolution," and said Elkins replied that he did know about it, and that Avery D. Andrews (formerly a director of the National Asphalt Company and now vice-president of the General Asphalt Company and of the New York and Bermudez Company) in the summer of 1901 came to the place where said Elkins was staying on the St. Lawrence River to consult said Elkins with reference to supporting the revolution of said Matos, and that the New York and Bermudez Company did assist the revolution of said Matos.

Deponent further says that on or about the 20th day of June, in the year 1904, at 17 Battery place, in the city of New York, he had an interview with Thomas H. Thomas, who in the year 1901 was the nominal head of the New York and Bermudez Company. Said Thomas informed this deponent that during the year 1901 all considerations as to the conduct of the business of the New York and Bermudez Company were received by him from the aforesaid National Asphalt Company; that during the month of November, 1901,

he, the said Thomas, was asked to pay a large sum of money to the firm of Nicoll, Anable & Lindsay, of the city of New York, who at that time were the attorneys of said New York and Bermudez Company; said Thomas further informed this deponent that although he inquired of said Andrews the purpose for which the money was to be paid all information upon the subject was refused. Said Thomas then stated that he declined to make payment without further authority, and that thereupon he received a slip of paper upon which was written the following: "18th November, 1901, N. Y. & B. Co. to Nicoll, Anable & Lindsay, \$101,366.67. Signed A. D. A. and A. W. Sewall." Said Thomas thereupon exhibited to this deponent the original slip of paper which he received and which he retained in his possession. Deponent is familiar with the handwriting of Avery D. Andrews and Arthur W. Sewall, and he verily believes that the initials "A. D. A." and the name A. W. Sewall appearing on the slip of paper in the possession of said Thomas are in the true handwriting of A. D. Andrews and Arthur W. Sewall, respectively.

Deponent further says that he is acquainted with one Walter M. Dick, residing in the city of Pittsburg, State of Pennsylvania, United States of America; that in the year 1901 said Dick was in the employ of the New Trinidad Lake Asphalt Company (Limited), and of the New York and Bermudez Company, and was stationed at the Port of Spain, in the island of Trinidad, and at Guanoco, in the State of Bermudez, Venezuela. Said Dick has informed this deponent that during the years 1901 and 1902 the said New York and Bermudez Company furnished forage and supplies and transportation at various sundry times to the revolutionary forces of said Matos in the aforesaid State of Bermudez.

AMZI LORENZO BARBER.

Subscribed and sworn to before me this 8th day of July, 1904.

AVID FISCHER, *Notary Public.*

AFFIDAVIT No. 5.

Charles Y. Baldwin, being duly sworn, deposes and says: That he is of lawful age, and resides in the city of New York, State of New York, United States of America; that during the years 1901 and 1902 he was employed by the New Trinidad Lake Asphalt Company (Limited) and was familiar with its accounts and business, and that said company owned substantially all of the capital stock of the New York and Bermudez Company.

Deponent further says that during the year 1901 and subsequently large sums of money were paid to Nicoll, Anable & Lindsay, attorneys for said New York and Bermudez Company, and deponent was informed and verily believes that said money, or a large part thereof, was expended in promoting and aiding a revolutionary movement headed by one Manuel A. Matos against the constituted Government of Venezuela. Said expenditures, whether made by the aforesaid New Trinidad Lake Asphalt Company (Limited) or by said New York and Bermudez Company, to the best of deponent's knowledge and belief, were charged on the books of the last-named company to an account styled "Government relations."

Deponent further says that during the latter part of 1901 or early in 1902 a representative of said New York and Bermudez Company in Caracas, one William J. Ewart, wrote voluminous and detailed letters to the officers of the National Asphalt Company in New York City, setting forth with great minuteness all the particulars of the aforesaid revolution, its progress and probability of success, and manifesting unusual interest therein, said letters constituting the daily account of all matters pertaining thereto, and said letters were carefully guarded by the officers of said National Asphalt Company at its home office in the city of New York.

Deponent further says that on one occasion in the summer of 1901 he was in company with one Michael N. Schweizer at No. 11 Broadway, where were located the offices of said National Asphalt Company, the said New Trinidad Lake Asphalt Company (Limited) and the said New York and Bermudez Company, and there said Schweizer pointed out to this deponent a man who, said Schweizer stated, was Gen. Manuel A. Matos, the leader of the revolution aforesaid. Said Schweizer had theretofore been a clerk for one Henry Willard Bean in the city of Caracas and had lately returned to New York, and represented to this deponent that he well knew said Matos, having often seen him in Caracas and having also been a fellow passenger with him on a steamer between Caracas and New York.

Deponent was informed and verily believes that upon one occasion a messenger purporting to come from the offices of the aforesaid Nicoll, Anable & Lindsay, called at the offices of the aforesaid asphalt companies at No. 11 Broadway in the city of New York, bearing a paper upon which was written the following: "Revolutionists, five thousand dollars," and thereupon to the best of deponent's knowledge and belief, a check was issued for the sum of \$5,000, payable to the order of said Nicoll, Anable & Lindsay.



Deponent further says that as to the facts stated herein upon personal knowledge the same are true, and as to the statements made upon information obtained he believes them to be true; and further deponent says not.

CHARLES Y. BALDWIN.

Subscribed and sworn to before me this 8th day of July, 1904.

JOSEPH F. McLAUGHLIN,  
*Notary Public.*

[Inclosure 2.]

*Chargé Hutchinson to Mr. Wright.*

AMERICAN LEGATION,  
*Caracas, September 30, 1904.*

DEAR SIR: I have to acknowledge the receipt of your letter of to-day, inclosing copies and translations of the "libel" brought against your company by the Venezuelan Government, charging the company, through its directors in New York, with assisting the late Matos revolution; also inclosing copies of the five affidavits which accompanied the "libel."

The proper copies and translations will be forwarded to the Department of State at Washington, with such other particulars as I possess, and the extra copies you inclosed will be retained for the legation files.

I am, etc.,

NORMAN HUTCHINSON.

*Chargé Hutchinson to the Secretary of State.*

No. 341.]

AMERICAN LEGATION,  
*Caracas, October 14, 1904.*

SIR: I have the honor to inform the Department that in a letter dated the 7th instant, Mr. Wright, the managing director of the New York and Bermudez Company, informed me that the judge of first instance of the Federal and cassation court had delivered a decision against the said company, thus confirming the action of the Venezuelan Government in taking the property of the said company [copy of Mr. Wright's letter inclosed].

I had already learned from the British minister of the decision, as Mr. Wright had informed him some days previously, his letter to me having gone astray.

The argument in the case was concluded on Monday, October 3, the judge reserving decision, as he is allowed three days in which to render his judgments. On the 4th, however, early in the morning, he gave his decision against the company, and he could hardly have been expected to have done otherwise, considering his previous connection with the case, for I believe it was he who gave the order for sequestration.

The company have entered their appeal, which will be acted upon in due course and reported to the Department.

Day before yesterday Mr. Wright sent me the decision of the judge, appearing in the Official Gazette [copy and translation inclosed.] Mr. Wright in his letter to me [copy inclosed] points out the fact that the judge bases his decision in the paragraph following the last "whereas" on very extraordinary grounds. He says the company have failed to prove that the Hamilton concession is not a lease, thus ignoring the fact that, the government being the plaintiff, the burden of proof is upon it to prove to the contrary. He also ignores the fact that if the instrument in question is really a lease, then no amount of argument can change its character.

The greatest weakness in the learned judge's decision seems to me to be his omission, probably intended, of reference to the papers giving the company full proprietary rights in Guanoco, and I understand the company is always making this their strong point. The Department probably has in its possession copies of the definitive title to the mines, which was signed by the former President of Venezuela, with the consent of Congress. \* \* \*

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure 1.]

*Mr. Wright to Chargé Hutchinson.*

CARACAS, October 7, 1904.

DEAR SIR: I beg to inform you that on Saturday, October 1, argument was begun before the judge of first instance of the Federal and cassation court on the question of the validity of the sequestration previously decreed in the suit against the New York and Bermudez Company for the cancellation of the Hamilton contract. The argument was concluded on Monday, October 3, the judge reserving decision. He is allowed three days in which to deliberate before rendering his decision. His decision was rendered early the following morning and was against the company, confirming the sequestration.

We have entered an appeal, which will be acted upon in due course, and will advise you further at a later date.

I am, etc.,

ROBERT K. WRIGHT,  
*Managing Director.*

[Inclosure 2.]

*Mr. Wright to Chargé Hutchinson.*

CARACAS, October 12, 1904.

DEAR SIR: I beg to inclose herewith two copies of the Official Gazette of October 7, 1904, No. 9277, containing the report of the decision of the judge of the hall of the first instance of the Federal and cassation court confirming the decree of sequestration of this company's property in Guanoco, together with two copies of translation of same. You will notice from the last "whereas" that it is based apparently on the fact that this company has not proved that the Hamilton concession is not a lease, entirely ignoring the fact that the government being the plaintiff the burden of proof is on it to show affirmatively that the concession in question is not a lease, and also ignoring the fact that the instrument must speak for itself, and if the instrument is a lease no amount of argument on the part of the defense could possibly change its character. These facts have been entirely ignored in this decision, and the company has appealed to the full court.

I am, etc.,

ROBERT K. WRIGHT,  
*Managing Director.*

[Subinclosure.—Translation.]

DECISION OF THE COURT.

Federal and Cassation Court—Hall of First Instance—Caracas, October 4, 1904.  
94th and 46th.

Inasmuch as the court has heard the oral addresses and seen the written conclusions of the parties—

On the 20th of July, 1904, the attorney-general of the nation brought an action against the New York and Bermudez Company, based on section 7 of article 373 of the code of civil procedure, and petitioned in his conclusions that the mine that said company exploits in a place called Guanoco, with all machinery and all accessories for the exploitation of same, should be sequestered. Cognizance having been taken of this petition and the proof on which it was founded having been examined, the court, finding that all the requirements of law had been complied with, decided on July 21, 1904, to agree with the terms of the petition,

commissioning the judge of first instance in civil causes of Cumaná to effect the sequestration, appointing at the same time Mr. Ambrose H. Carner depositary. The defendant petitioned on the 22d of July that the order be revoked, but the court decided against on the 25th of same month, on the ground that the motives on which such decision was founded subsisted. The court being informed by the return of the dispatch, with inclosures, the 16th of September last, that the commission given to the judge of the section of Cumaná had been fulfilled, the parties were informed by notification dated and received by them the same day. In the third sitting, as per article 378 of the code of civil procedure, for answering the sequestration proceedings, the defendant appeared before the court and Mr. Robert K. Wright, assisted by Doctor Bance, filed an instrument in writing, on one sheet, opposing the action of sequestration and reproducing the petition of July 22, 1904, which he wanted to be read and held as forming one part of his answer. The court declared the case open for evidence, and the attorney-general of the nation, on the 22d of September, produced the following ratification of depositions on which his petition for the sequestration was based: A copy, No. 9075, of the Official Gazette containing the decision given by the hall of sole instance in the litigation between Patrick R. Quinlan and Charles M. Warner against the New York and Bermudez Company; a certificate issued by the accountant of the hall of examination proving that the company has been paying into the national treasury for asphalt exported and obtaining at the same time exemptions of duties on building materials, machinery, utensils, and accessories imported; and that Doctor Bance, the constituted attorney of the company, should be examined after being duly sworn. Doctors Manuel A. Ponce and Tomás C. Llamozas ratified their former depositions, the latter being cross-examined and Doctor Bance also. These proceedings over the case was read and oral addresses having been called for, both parties appeared, the attorney-general of the nation filing his in writing, in six folios of paper, and petitioned that the Official Gazette containing the Hamilton concession on the main record should be taken into account. Doctor Bance, after some oral explanations contradicting the plaintiff's address, handed over to the court his written conclusions, in four folios, and a copy of the Official Gazette, No. 3000. The parties requested that time should be given them to reply, which was accorded by the court, and both parties presented what they considered most expedient in the defense of their respective rights.

After the foregoing explanation, the court has to judge on the incident debated and to discern the judicial points whereon to base its decision; and

Whereas: If it is true that to determine the nature of some conventions the will of both parties and the interpretation given by them to it should be taken into account, such a principle can not be admitted to the extent that conventions subject to certain legal proceedings should lose the character given to them by law, since this would go against the law itself as well as against the views of legislators and fundamental principles.

Whereas: That taking into consideration the nature of the contract which is being debated and the capacity as an administrator only in which the National Government could have agreed to it, it results that said contract is classed by the law itself among those of limited duration, of a burdensome nature, and a fixed price is therein stipulated.

Whereas: That to discuss the nature of the contract in judging on the sequestration is not to prejudge the main subject in this litigation—that is to say, whether the same should be annulled or not—one point which has not yet been properly discussed and out of which the court will get its conviction when it will decide.

Whereas: In the course of the proceedings the defendants have not produced any evidence in their favor, therefore the reasons on which the court ordered the sequestration remain in force.

In consideration whereof, administering justice in the name of the United States of Venezuela, and by authority of law, the decree of sequestration given the 21st of July of the present year is hereby confirmed without any special order as to costs. Let it be published, registered, and ultimately filed.

The President.

S. T. ARNAL,  
JUVENAL ANZOLA,  
*Secretary.*

*Chargé Hutchinson to the Secretary of State.*

No. 349. ]

AMERICAN LEGATION,  
*Caracas, October 29, 1904.*

SIR: I have the honor to acknowledge the receipt of the Department's No. 222, of September 26, 1904, relating to the case of the New York and Bermudez Company, and reiterating the request of the United States Government to that of Venezuela to restore the said

company's property to it pending proper legal settlement, and instructing me to read the dispatch to the minister of foreign relations and to leave with him a copy of it.

In accordance with the Department's instructions, I have the honor to report that I called upon Señor Gustave J. Sanabria, minister of foreign relations, on Wednesday, the 19th instant, at 10 a. m., and remained with him an hour. I began by reading the dispatch to him, but as he could get the meaning much better by reading aloud himself he did so, I explaining from time to time the meaning of certain words and sentences and pointing out the importance of certain paragraphs. The minister is a good English scholar, and I feel sure got the import of the dispatch perfectly well.

In the first place, he denied the company's titles to the property, and said the Hamilton concession is still the only instrument in force, and that, by its terms, prevents any definite titles being given to the property in dispute. I simply replied that the company possessed titles signed by the highest authorities of the country.

As this had not to do strictly with the request for the restoration of the property, we turned to the matter of the seizure. He plainly and most forcibly declared that the taking possession was in full accord with the Venezuelan laws, and that there were "extraordinary circumstances" for so doing, the charge of "noncanalization" being only one of many complaints against the company; so, therefore, the seizure as a "precautionary measure" was correct, the precaution being necessary from the fact that the company could have transferred the property into other hands, or in some way got rid of it. If Venezuela is wrong, he said, in seizing the property in this manner, the company, if winning the suit, will be able to obtain damages hereafter.

As to the company not having had time to show cause why its property should not have been taken from it, he said it had had time and had put in its papers. I reminded him that the "receiver" had already gone to the asphalt lake to take possession, so what the company was able to do after his departure amounted to nothing, so far as preventing the sequestration was concerned. He then said the code gave the right to appoint the receiver anyway, and what had been done was perfectly legal.

Señor Sanabria said he thought our government had only had good opportunities for knowing one side of the case, and that he had quoted the articles and sections of the code which plainly upheld the act of sequestration in his note of August 6, 1904, to Mr. Bowen.

I replied that our government undoubtedly would not ask what it was asking of the Venezuelan Government without first having considered all the important documents in the case, the company's title deeds, and the codes of Venezuela especially. I explained to him that Judge Penfield was the legal adviser of the Department, and had no connection with the New York and Bermudez Company, nor any interest in the case, except to arrive at the truth. I suggested, however, that he write out for the next mail, October 31, a full statement as a reply to the Department's dispatch. By so doing, the Government of the United States might be better able to understand the position he is assuming in the case and how he reconciles himself to the unusual proceedings of the seizure. He said he would certainly do as I suggested and have his reply ready for the mail.

I pointed out to him, as related in the Department's dispatch, the peculiar and secret manner of exploiting asphalt from the company's property before the case has been decided by the courts. He replied that he knew nothing about the sending away of asphalt in chartered ships, except what he had casually noted in the newspapers; but, possibly, if this were true, it had been done for the purpose of getting sufficient funds to keep the property in repair. (This fact seemed to worry him somewhat, however.) I reiterated that this was hardly a proper and legal thing to do, to the extent it was being done, and that it lent an unpleasant color to the whole matter of the seizure.

As regards the soldiers who had been sent down, he did not deny they were sent, as he did once to Mr. Bowen, but said they were necessary, as the men employed by the company are mostly colored and very rough and lawless by nature, and as police do not exist at Guanooco the receiver required the security of his person and the fulfillment of his duty to take over the property without loss of time or possible contention.

As Señor Sanabria seemed earnestly to believe that his government had acted in accord with the Venezuelan codes, I did not discuss the point with him, but said it seemed to me the manner in which his government had acted was, if legal, at least most unusual and peculiar, and that he must see that each reiteration of the request for restoration by the Government of the United States was becoming stronger, and clearly something must be done; either the company's property restored pending a proper decision by the tribunals, or a satisfactory proof that his government has proceeded absolutely fairly and legally in the matter of the sequestration.

I thereupon handed the minister a copy of the Department's dispatch, as instructed, and this ended the audience, which had been perfectly open and cordial in every way. \* \* \*

It seems evident to me that the Venezuelan Government will try to keep the company's property as long as possible, if not for good, and ship away as much asphalt as it can. Captain Wright, the company's manager here, tells me it is possible to ship enough Bermudez asphalt away in a few months to pave the entire city of New York. \* \* \*

On Friday, the 21st instant, I saw Señor Sanabria again, by special appointment, and handed to him some notes which I prepared for him to be read in conjunction with the Department's dispatch, a copy of which he has. These notes are short and clear in stating some of the principal arguments of the Department, supporting its request for restoration of the company's property, and I thought I would not be going beyond my instructions in presenting them. In these notes I have laid particular stress on the point which Señor Sanabria gives as the chief defense for the sequestration, i. e., article 373, section 7, of the Venezuelan code of procedure, permits sequestration in the case of leases only. I have shown that as the company can not now be legally declared to possess a lease, and lease only, the law cited can not apply, and if the law does not apply, then the sequestration has been illegal.

President Castro returned to Caracas a few days ago, and soon after his arrival Señor Sanabria went to bed ill, and since that time the minister of foreign relations has not been visible, though he has been signing notes to the British legation.

Señor Sanabria's reply adds nothing new to his other replies and is evasive in character. It still reminds the United States Government that the courts of justice should not be interfered with, and carefully avoids making a systematic reply to the points made by Mr. Adee in favor of the restoration of the company's property. As Señor Sanabria says, the executive has seen the copy of the Department's No. 222 and has instructed him to reply as he has done.

I can not add anything further to the present dispatch, except to inclose a copy of a letter to the New York and Bermudez Company from their manager here, together with a notice from the director of the French Cable Company at Caracas, which informs Manager Wright that the Venezuelan Government is delaying his telegrams to his company. This is one more complaint against this government, and as it has also to do with the unfair way in which the company has been treated from the beginning of the legal proceedings I have included it in this dispatch. Mr. Wright has not asked me to make any complaint to the authorities.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure 1.]

*Chargé Hutchinson to the Minister of Foreign Relations*

NOTES.

1. It is said the appointment of the receiver has been made in strict accordance with the Venezuelan laws of procedure, and article 373, section 7, is cited as that part of the laws upon which the sequestration is founded.

This is correct provided the company possesses only a lease; the article and section refer to leases only. But the judge of first instance has taken for granted that the company possess a lease only. He can not take for granted that which forms a part of the questions at issue and which according to the complaint must be argued. It must be established that the company has a lease only without holding definite titles to the property sequestered. The company have documents proving their definite titles, which are on record in Venezuela, and which have been put before the court. Until the present time the Hamilton concession was never before called a "lease," and surely the judge of first instance can have no legal right for taking for granted that it is a lease or that the company possess only a lease. Therefore as it has not been established by the courts that the company held a lease only, article 373, section 7, can not apply, and if they can not apply then the sequestration has not been legal.

2. It is said the failure to canalize the rivers is not the only complaint against the company.

It is, nevertheless, the only complaint that can be considered in the present proceedings, as regards the matter of sequestration.

According to the laws expert evidence is necessary to prove that the canalization has not been done. A technical commission is only at the present time about to be sent to report on the state of the rivers in question. Therefore the charge of noncanalization should not have appeared in the complaint, as no evidence of the kind required by the code had been procured at the time the proceedings began.

Further, by Minister Pulido's decree of July 17, 1900, it was declared that the company had fulfilled up to date all the engagements and obligations of its contract. The decree did not call it a "lease."

3. The "Felicidad" case can not relate in any way to the grounds upon which the Government of the United States request the restoration of the company's property pending legal settlement. (That case, however, was decided in favor of the company.)

4. The fact that the receiver is shipping thousands of tons of asphalt of enormous value to New York in a secret manner does not lend a pleasing color to the case, which is *sub judice*.

5. The principal reason why the company's property should be restored to it is that article 373, section 7, can not apply, as the question of a "lease" has yet to be established by the tribunals. The complaint and the company's answer are sufficient to show that this step is first necessary.

NORMAN HUTCHINSON.

[Inclosure 2.—Translation.]

*The Minister of Foreign Relations to Chargé Hutchinson.*

MINISTRY OF FOREIGN RELATIONS OF THE UNITED STATES OF VENEZUELA,  
Caracas, October 29, 1904.

SIR: In one of our recent interviews your honor had the kindness to read to me the note which under date of the 26th of August [September] last past was sent by Mr. Adee, Acting Secretary of State of the United States, regarding a certain request previously made by the American legation concerning a suit brought by the Government of the Republic against the New York and Bermudez Company. Your honor also kindly left me a copy of the note referred to.

I have informed the executive of the contents of the communication from the Department of State, and in accordance with the instructions which have been given to me in this matter I beg to give your honor the following reply.

As may be seen from the correspondence which I have had the honor to carry on regarding this matter with the worthy legation of which your honor is now in charge, the Government of Venezuela has always said to the Government of the United States that the above-mentioned suit having been submitted to the decision of a competent tribunal, the sole recourse of the interested parties was to take such steps and other measures of defense before the judges as they are entitled to. Such declaration is easily seen to be explainable, for apart from the fact that in Venezuela, as in all civilized countries, complete separation exists between the several branches of the public power, in the case of which we are treating the only power possessed by the executive is to cause this separation to be respected and by this means safeguard the independence of the courts of the nation. And as it is a fact that the New York and Bermudez Company has been able under the Venezuelan laws to enter upon its defense in the way it has thought most expedient to select, it can be assured that any interference that any other persons might attempt to effect in the course of the suit would not be based on a just cause. With the exception of the persons who hold the position of either plaintiff or defendant in the controversy, it would be in vain endeavored to find any other who actually has the right to interfere in the suit now in course. The above means have existed and still exist for keeping the suit within the limits prescribed by the law which governs it according to extremely well-known principles, and it has also been taken into account by the executive that any discussion whatever outside of the court proceedings is entirely foreign to the ends aimed at by the legislator, not only because it is useless, since the magistrates who will have to decide the various points on which it is based will not pay any attention to it, but also because such a principle is unacceptable. Moreover, it tends to ignore the legitimate authority bestowed on the officials who have the sovereign authority to decide.

It is well that the company should allege in due time each and every of the reasons which Mr. Adee's note contains. It is well that the company should petition the court, as it has done, for the revocation of the decree of separation. It is well, finally, that the company should submit to the consideration of the court any complaints it may have to make against all or any of the acts of the person appointed depository, who necessarily will be responsible for them in such capacity. All this comes within the provisions to which the suit in course is subject, and consequently within the faculties of the judicial authority called to decide it; but consequently the Executive could not take cognizance of the various points to which I have just referred and which are analyzed at length in the communication from the Secretary of State, without usurping the authority given by the constitution to another department. By acting in this way, the Government of Venezuela not only complies with its primordial duty of obeying the provisions of the federal constitution, but submits to well-defined and universally adopted precedents and principles.

For the rest, the reasons the Executive has had to ask for the sequestration of the mine which the company possessed under the Hamilton contract are justified by peremptory duties that public administration is called upon to fulfill for the good of the community. They appear from the judicial proceedings, as well as from the decision now appealed from, which in first instance confirmed that measure which legally and justly the plaintiff asked for.

The Executive can neither refute declarations which the judge will necessarily take into account in due time nor be wanting in respect toward the highest court of justice in the state, and it must forbear to qualify any acts or facts which only the court is in a position to consider and define.

The Executive hopes that these friendly and frank declarations will be duly accepted by the American Government not only in behalf of the interest that on various occasions has inspired the traditional harmony existing between both nations, but also in consonance with the careful respect in which the United States have held the inalienable authority of courts of justice.

I have, etc.,

GUST. J. SANABRIA.

[Inclosure 3.]

## EXTRACTS FROM THE CODE OF CIVIL PROCEDURE.

ART. 281. In cases of indemnity and guaranty, the plaintiff as well as the defendant may ask, at the moment of answering, for the citation of the person liable to indemnify or guarantee, and the judge shall order the same to be done immediately; but the course of the cause shall not be suspended except when there is authentic proof either directly of the obligation to indemnify or guarantee or of the act from which such obligation arises as of right.

ART. 284. The party who requests that an extraordinary term be granted him for the taking of evidence in places which are situated at more than two thousand kilometers from that at which the suit is being carried on, shall necessarily make his request at the moment of answering the action, and put forward the proofs or securities on which the petition is based. The opposite party shall state whether he objects or not to the granting of the request, and the tribunal shall restrict itself to declaring that the petition has been duly made and shall make the necessary order after the taking of the evidence in conformity with the provisions on the matter.

ART. 368. At any stage or epoch of the cause whatsoever, if there is proof of the right sued for, although it be by the deposition of witnesses, when this proof is admissible according to the civil code, any of the parties may request, according to the case, and the judge may grant:

First. Prohibition to alienate the subject-matter of the dispute.

Second. The sequestration of determinate properties.

Third. Deposit of security, and in default thereof the attachment of sufficient property.

ART. 369. None of the measures stated in the three preceding numbers shall be ordered, or shall be executed if they are ordered, if the party against whom they have been requested or decreed give sufficient security or guaranty.

If the other party should object to the efficacy or sufficiency of the guaranty, the tribunal shall decide on the proofs put forth at the first hearing.

ART. 370. Refers to those who sue *in forma pauperis*.

ART. 373. Sequestration shall be decreed:

First. Of the chattel, the subject-matter of the action when the defendant has no responsible property and it is with reason feared that he may conceal, alienate, or deteriorate it.

Second. Of the subject-matter when its possession is doubtful.

Third. Of the wife's property and in default thereof of that of the conjugal partnership or of the husband, sufficient to cover the former when the husband wastes the wife's property.

Fourth. Of sufficient property of the inheritance, or, in default thereof, of the defendant, when he who has been deprived of his lawful property reclaims it from those who take or hold his inherited estate.

Fifth. Of the real property which the defendant purchased and is enjoying without paying the purchase money.

Sixth. Of the subject-matter in dispute when, definite judgment having been given against the holder thereof, the latter appeals without giving security to answer to the said subject-matter and its fruits, although it be real estate.

Seventh. Of the property leased if the defendant is sued for default in payment of the rental; on account of the property becoming deteriorated; or on account of having failed to make improvements to which he is bound by the contract, provided any of the circumstances be proved in the manner indicated in article 368.

In this case the owner, and the purchaser in the case mentioned in number five, may demand an order that they themselves be named repository, and the property shall remain subject to answer to the lessee or purchaser when necessary.

*Chargé Hutchinson to the Secretary of State.*

No. 350.]

AMERICAN LEGATION,  
Caracas, November 5, 1904.

SIR: I have the honor to confirm my telegram of to-day, reading as follows:

Notify New York and Bermudez Company, Philadelphia, the Venezuelan Government has stopped the last two cables in cipher from their manager. Shall I take any action?

HUTCHINSON.



And the Department's reply of to-day, reading as follows:

No action necessary at present.

LOOMIS.

I sent the telegram in question because for the second time the manager of the New York and Bermudez Company complained to me that his cables, even in cipher, are being stopped by the fiscal. Upon his first complaint I advised the Department in my No. 349, of October 19, at the conclusion of the dispatch, that Mr. Wright's cables were being interfered with, and inclosed papers to prove the fact.

Upon his second complaint, I sent my telegram of this morning's date.

In accord with the Department's instructions, this legation will take no action in relation thereto for the present.

I have, etc.,

NORMAN HUTCHINSON.

*Chargé Hutchinson to the Secretary of State.*

No. 360.]

AMERICAN LEGATION,  
Caracas, November 20, 1904.

SIR: In further connection with my No. 349, of October 29, and my No. 350, of November 5, 1904, I have the honor to inclose copies of letters exchanged between Mr. Robert K. Wright, the managing director of the New York and Bermudez Company, and this legation, respecting the stoppage of the former's cipher telegrams to his company by the Venezuelan authorities.

According to Mr. Wright's letter of the 12th [copy inclosed], the two telegrams referred to in my previous dispatches have not yet been allowed to pass, one having been delayed since the 28th ultimo (about three weeks) and the other since the 4th instant (about two weeks). It is evident from Mr. Wright's letter of the 18th that the Venezuelan authorities do not intend that any of his cipher telegrams shall pass the fiscal, and this is made certain by the answer of the minister of fomento [copy and translation inclosed] to Mr. Wright's formal protest [copy inclosed].

The minister of fomento, Señor Arnaldo Morales, points out that the name of the sender of the telegrams in question was not satisfactorily given to the fiscal by the French Cable Company, and that the telegrams were in cipher, which is against the law, only diplomatic ministers having a legal right to send cipher messages without being challenged. The minister's dictum, in which he states the company has not yet cleared itself from the charge of being revolutionary, is founded on hitherto unknown laws.

The company has sent cipher messages for several years without having been challenged until the present time. The very fact that litigation is pending between this government and the company is sufficient to show that \* \* \* the stoppage of the telegrams, in view of the pending litigations and without a fair cause, constitutes a denial of justice and right of a very grave nature.

In accord with instructions already received from the Department, this legation will take no present action in the premises.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure 1.]

*Mr. Wright to Chargé Hutchinson.*

CABLES STOPPED BY THE VENEZUELAN GOVERNMENT.

CARACAS, *November 12, 1904.*

SIR: I beg to call your official attention to the following facts:

On October 28, 1904, I addressed a cable to "Wellow," Filadelfia, which is the cable address registered in Philadelphia of one of the departments of this company. Said cable was entirely on the company's business and related to the litigation now in progress here to which the Venezuelan Government is a party and was in answer to a cable received by me from the company on October 27. My cable was accepted by the cable company, paid for by me, and the receipt was made out in my name. My name was also entered on the stub of the receipt book in the cable office, which book is always subject to the inspection of the Venezuelan authorities. This cable was stopped by the Venezuelan government fiscal or censor at La Guaira, and has never been sent. The only reason given for this detention is that when the cable company was asked by General Valerino, the government director of telegraphs, who was the sender of that cable the answer given him, he claims, was not satisfactory. Whether or not this answer was satisfactory is a matter which should concern only the cable company and the director of telegraphs, and this company's business should not be caused to suffer by any alleged error or mistake of the cable company.

On November 4, 1904, I addressed another cable to "Gyramand," Filadelfia, which is another registered address for this company in Philadelphia. It was accepted by the cable company and receipted for, as was done with the previous cable, and numbered 24. It also was stopped by the Venezuelan government fiscal or censor at La Guaira and has not yet been allowed to go forward. No reason whatever has been given for the stoppage of this cable.

As the Venezuelan Government is the plaintiff in two suits against this company in its own courts here, you can readily see that if it possesses and exercises the power to stop or interfere with the means of communication by cable or otherwise between this office and the headquarters of the company in Philadelphia that this constitutes a grave denial of justice, and I beg that you will call the attention of the Venezuelan Government to the above abuse of power and international right and request that the necessary orders be given to allow my cables to be sent and received free from all detention.

You have my positive assurance that no cables have been or will be sent by me except such as refer to the legitimate business of this company; and while we might be willing under ordinary circumstances to disclose to the government the contents of our cables, as we are now in litigation with the government and our cables relate to said litigation, it is manifestly impossible to do so at present, and the government should not expect it.

I am, etc.,

ROBERT K. WRIGHT,  
*Managing Director.*

[Inclosure 2.]

*Mr. Wright to Chargé Hutchinson.*

IN RE CABLES STOPPED.

CARACAS, *November 18, 1904.*

DEAR SIR: I have the honor to inclose herewith copy of protest addressed by me to the minister of fomento, together with his reply in returning the same and translations of both papers.

In regard to the above I beg to inform you that this company has been sending cables in this manner for several years, even during the blockade and while a state of actual war existed, without interference from the Venezuelan Government, and I have personally been sending and receiving them as the company's representative in this manner also for several months without any question.

I desire also to state that there can be nothing doubtful about the signatures to the two cables in question, as this company is a large user of the cable and has always sent them in the way that these were sent; and they are stopped now for the express purpose of preventing any quick conference with my superiors in Philadelphia, hoping thereby to prevent our making any headway in the suits brought against us, or in case we translate our cables to be advised beforehand of the exact nature and value of our defense.

Under these circumstances, it appears to come under the head of a denial of justice and I submit the matter to your attention and to that of the Department of State that you may take such steps as may be deemed advisable.

I am, etc.,

ROBERT K. WRIGHT,  
*Managing Director.*

[Subinclosure 1.—Translation.]

*Mr. Wright to the Minister of Fomento.*

*Citizen Minister of Fomento:*

Robert K. Wright, an American citizen, residing in this capital, acting for and in behalf of the New York and Bermudez Company, of which I am the managing director in Venezuela, appear before you and with the greatest respect show:

That on October 28, 1904, I addressed a cable to "Wellow," Filadelfia, which is one of said company's registered cable addresses in Philadelphia, which cable was accepted by the French Cable Company and a receipt for the payment for said cable duly made out in my name, and numbered 107 by the said cable company was given to me. Said cable was stopped by the Venezuelan government fiscal or censor at La Guaira and has never been forwarded.

That on November 4, 1904, I addressed a cable to "Gyramand," Filadelfia, which is also one of the registered cable addresses of this company in Philadelphia, which cable was accepted by the cable company and paid for and a receipt numbered 24 by said cable company made out in my name was given me. This cable was also stopped by the Venezuelan government fiscal or censor at La Guaira and has never been allowed to go forward to its destination.

With the greatest respect for your excellency and in accordance with my duties as managing director of the New York and Bermudez Company, I present in the name of said company a formal protest against the detention of the above-mentioned cables, which relate solely to the business of this company in relation to the suits now pending before the courts of Venezuela, and respectfully call your attention to the fact that under the circumstances said detention constitutes a grave denial of justice and right and has caused and continues to cause great loss and damage to the New York and Bermudez Company.

The president of the New York and Bermudez Company has directed me to inform your excellency that this company will hold the Venezuelan Government responsible for all losses and damages of whatever nature and kind arising from the above acts of detention and from any other similar acts that may be committed in the future.

I beg that your excellency will give the necessary orders that I be furnished with certified copies in duplicate of this protest and that all my cables in the future shall go forward without detention, hereby certifying that no cables have been sent by me in the past nor will be sent in the future except such as relate exclusively to the legitimate business of this company.

It is justice that I ask in Caracas this 12th November, 1904.

ROBERT K. WRIGHT,  
*Managing Director New York and Bermudez Company.*

Original written on stamped paper and signed over a 1-bolivar stamp.

[Subinclosure 2.—Translation.]

*The Minister of Fomento to Mr. Wright.*

MINISTRY OF FOMENTO,  
*Caracas, November 16, 1904. (94 and 46.)*

Immediately on receipt of your protest at this department I addressed myself to the director-general of telegraphs, who reports as follows:

*"CARACAS, November 15, 1904. (94 and 46.)*

*"Citizen Minister of Fomento:*

"Referring to the protest made by Mr. Wright, of the New York and Bermudez Company, I beg to report as follows: On October 28, at 7.40 p. m., the censor in La Guaira held a cablegram addressed 'Philadelphia—Wellow,' bearing as responsible signature 'Wright, Manager of Bermudez & Co.' As there is not in Caracas any mercantile firm under the name of 'Bermudez,' a rectification was asked for through the censor making him inquire whether the sender was some functionary of the New York and Bermudez Company. Said censor answered, 'I am informed by the clerk that it is a functionary of the Bermudez Company,

of which Mr. Carner is the representative.' As the cablegram was a doubtful one, I sent it for consultation to Doctor Baldó and has been held up to now. The 4th instant at 10.40 a. m. another cablegram, No. 24, from Caracas, addressed 'Philadelphia,' for 'Giramand,' also with a very doubtful signature, came for consultation. It was reported 'responsible signature, New York and Bermudez and Company' by the cable office here. The cable office in Caracas, on being asked again to give a responsible signature clear enough, said that it could not give any further information about cablegram No. 24 from Caracas to Philadelphia than that at foot of the message, 'New York and Bermudez & Co.' a reason for which said message was also held, the responsible signature not being clear enough.—God and federation.—E. Vicente Velarino."

Moreover, it was noticed that the messages referred to were mostly written *in code*, and it is a law universally admitted that only diplomatic ministers can send messages in such conditions without being allowed to go through by the censor.

What has been done in the case of a representative of the New York and Bermudez Company is the more justified by the fact that said company has not yet justified itself from the charge of being revolutionist against the institutions and Government of Venezuela, which has caused the nation great and serious damages; and such proceedings would be the more justified if the above-mentioned protest involves an attempt made by said company to defend rights which it can not establish otherwise.

Wherefore it is resolved not to accept said protest and to return it with the present resolution.

God and federation.

ARNALDO MORALES.

[Inclosure 3.]

*Chargé Hutchinson to Mr. Wright.*

NOVEMBER 17, 1904.

SIR: I have to acknowledge the receipt of your letter of the 12th instant informing me again of the stoppage of your cables to the above-named company by the Venezuelan authorities.

You beg me to call the attention of the Venezuelan Government to the abuse of power and international right in the stopping of your cables.

As I verbally mentioned to you some time ago, I have communicated the facts in the case before us to the Government of the United States; and if you will be good enough to come to my house some evening this week, I will acquaint you further with what has been done.

I am, etc.,

NORMAN HUTCHINSON.

*The Secretary of State to Chargé Hutchinson.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 21, 1904.

(Mr. Hutchinson is instructed to immediately use his strenuous good offices with the Venezuelan Government to speed the prompt, impartial, and final trial and decision of the asphalt case.)

*Chargé Hutchinson to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, November 26, 1904.

(Mr. Hutchinson reports that he has followed instructions. The Venezuelan minister for foreign affairs is giving out notice that the Department of State has given in to the Venezuelan Government and has abandoned the request for the removal of receiver. Mr. Hutchinson told him the United States still reserved the point, if necessary. Mr. Hutchinson has done all in his power verbally.)

*Chargé Hutchinson to the Secretary of State.*

No. 368.]

AMERICAN LEGATION,  
*Caracas, November 26, 1904.*

SIR: I have the honor to acknowledge the receipt of the Department's telegram of the 22d instant.

In accord with the above instructions I have the honor to report that I made an appointment with Señor Sanabria, minister of foreign relations, to receive me at the ministry on the morning of the 23d instant at 9.15 o'clock.

I passed three hours with him, in a perfect atmosphere of cordiality, during which time we discussed the principal question before us: "The prompt, impartial, and final trial and decision of the asphalt case."

In substance I said I had received further instructions from the Government of the United States, in relation to the New York and Bermudez Company's case. That my government dropped, for the present, the discussion on the removal of the order of sequestration, but reserved the point, if necessary, for the future. The Government of the United States now urged the Government of Venezuela to use its good offices in speeding a prompt, impartial, and final trial and decision in the courts. I asked if his excellency's government could not do something to bring about a prompt decision, and that he must see that every day that passed meant a great loss to the company and its interests. I asked if he could give me any idea when the final decision might be expected.

Señor Sanabria replied that his government could not interfere or make suggestions to the court in this respect, just as before, in the case of the removal of the order of sequestration, his government could not influence the courts, which had their proper functions and were carrying them out in accord with the strict letter of the law and as expeditely as possible. He said he could not speak to any of the judges, but he would approach the attorney-general of the nation and explain to him that the Venezuelan Government was anxious, and deemed it to its interests, to have a prompt, impartial, and final decision of the case, and that he would ask the attorney-general to say, so near as possible, by what date the desired result might be expected. Señor Sanabria said, further, that of course the gathering of testimony and presentation of it must be considered, and that the courts could not deny the parties asking for such time and postponements as the law allows.

I then took up the subject of the impartiality, without naming it to him as such. I mentioned the fact that the president of the federal and cassation court, where the final decision would be rendered was Señor Jose Arnal, and that (1) Señor Arnal had originally made the order for the sequestration of the company's property; that (2) Señor Arnal had confirmed his order afterwards, as judge of first instance; and that, finally (3) Señor Arnal would have to render his decision again at the appeal, as president of the court.

Señor Sanabria replied that Señor Arnal was a man of the highest character and reputation and perfectly fair and just. He said the President one day, in his presence, had brought up the subject of the New York and Bermudez Company to the judge, but that the judge

replied to the President: "You must know, your excellency, that I must not talk about such questions," and the President agreed.

I then mentioned Judge Carlos León, saying that I understood he was Mr. Carner's attorney, and that he was formerly attorney for the New York and Bermudez Company, and that he had a seat in the federal and cassation court.

The minister replied that he did not know, and did not believe that Judge León was the receiver's attorney, but he would make inquiries. He added that Judge León having been attorney for the company, he would better be able to render an able opinion.

I then pointed out to him that Judge Paúl, vice-president of the federal and cassation court, had resigned his seat in the present case because he had been a judge in the "Felicidad case," which was decided in favor of the company some years ago.

The minister aptly replied that if any judge was not justly acceptable to the parties to the suit that there were legal means for having him changed. This I agreed to at once as being right and proper, but I very much doubt if a change of judges would be of any benefit to the company's cause, and it is quite certain that the final decision will be against the company and that it will fail to be impartial unless the company has every opportunity to obtain and present its evidence.

The question of the stoppage of the company's cables was then brought up, and I told the minister that in addition to Captain Wright's two cables having been stopped by the Venezuelan authorities, one of November 5 from the company had been stopped, and that this state of affairs prevented the company properly preparing its defense.

He said he agreed that it was prejudicial, but that the company had sent cipher cables from here signed "Bermudez and Company," which was not a proper identification. If the cables had been signed "Robert K. Wright," or the real name of the company, they would have been transmitted. "Bermudez and Company" was not the name of any registered company in Venezuela. As regarded the stoppage of the cable from the company at Philadelphia to its manager here he felt otherwise inclined, and believed it was wrong to stop that, and he would make inquiries about the matter.

I then brought up the question of the commission which the court is sending to get evidence as to whether the company has canalized the rivers or not. I asked if the commission had yet left Caracas, or when it would probably leave, and how long he thought it would take for them to conclude their report.

He said he would inquire of the attorney-general and let me know everything possible in relation thereto.

I then reported to him, and showed to him a copy of an affidavit (copy inclosed) which states that one Scott went to Guanoco, in the employ of the company, to obtain testimony for the company's case, and that he was not allowed to get testimony nor to remain, and that his life was threatened if he returned.

Señor Sanabria smiled incredulously at this, and said there was sufficient proof on the government's side to show that many of these affidavits were mere perjuries. The same men who have sworn to affidavits in favor of the company have since sworn to affidavits

stating they were forced (duress) or bribed to make affidavits in favor of the company. These contradictory affidavits were sworn to in Trinidad, where the Venezuelan Government could not have used influence.

I concluded by remarking to the minister that Mr. Carner, the receiver, had shipped, up to the present, 5,400 tons of Bermudez asphalt to New York, consigned to the Pan-American Company, of which he is the president.

This information I got from Captain Wright and gave without comment.

Señor Sanabria made a note of this information, and then concluded by telling me that the New York and Bermudez Company had shipped very little asphalt from Venezuela, and consequently had paid this government very little in export dues, but that, on the other hand, the company had shipped an enormous quantity of asphalt from Trinidad, calling it Bermudez asphalt, and for the reason that in Trinidad it must pay a duty whether any asphalt is shipped or not, while in Venezuela it only has to pay duty when asphalt is actually shipped.

Our first conference upon the above questions here ended, the minister again promising me to do all possible to speed the trial and I again reiterating the desire of my government to witness the final decision of the case in the courts.

Our second conference took place on Friday afternoon, the minister having called me up on the telephone in the morning, inviting me to come to the ministry at 3 p. m.

Señor Sanabria informed me that since seeing me on Wednesday he had met and talked with the attorney-general of the Republic and had also looked up the matter of the stoppage of the company's cables and further questions.

As regarded the affidavit of the company's agent, Scott, a copy of which I had shown him, he said it was all a lie. That Scott had gone to Guanoco with the company's lawyer, Doctor Piñango, and that the latter had written a letter to Doctor Ponce, at Guanoco, the attorney-general's agent, saying that he had been well and properly treated. Doctor Piñango went before the jefe civil with Doctor Ponce and swore to his signature on the letter in question. As for Scott, Doctor Ponce had asked him if he had any papers to show that he came as the company's agent and not to stir up trouble, and Scott was unable to produce any document. Doctor Piñango is an old friend of Doctor Ponce's.

The minister mentioned, further, that one Bartlett, and he believed Scott as well, were making trips to Guanoco whenever Mr. Carner, the receiver, went away, and that they went there for the purpose of inducing the negroes to give false testimony and to quit work, offering them better wages in Trinidad.

As regarded the position of Judge León, that judge had very recently resigned his seat in the court, so that he would not be one of the judges on the appeal.

In regard to the departure of the commission of experts to report upon the canalization, the minister said they had been unavoidably delayed by one of its members having to arrange his private affairs. The commission would leave by the very next steamer.

Respecting what I had informed him concerning the shipping of asphalt by Mr. Carner to the Pan-American Company in New York, Señor Sanabria said Mr. Carnar sold the asphalt to a broker at the lake, free on board at Guanoco.

As regarded the stoppage of the company's cables, the minister said there was a law by which they could be stopped, unless the sender explained the contents to the minister of fomento. This was to prevent revolutionary messages being sent through commercial houses or otherwise. He had to admit, however, that in the present case there should be an exception made to the law, for the reason that the government is one of the parties to the suit and that it has no right to see what the other party is doing or to prevent it preparing its defense without hindrance. He said he would bring up this point with the attorney-general.

Finally, upon the principal question (the prompt, impartial, and final decision of the case by the courts), he said he had seen the attorney-general and that he had told him that the government desired and was very much interested in seeing the final settlement of the case. The attorney-general had replied that the case would be concluded with all expedition, and that the only possibility of delay was that the company would be the cause of it. He recommended that I should advise the company to have everything on its side in readiness.

This ended the second conference.

What strikes me as certain is that Señor Sanabria has a very bad opinion of the company and its methods, and, in fact, he has said as much to me.

In drawing this dispatch to a close I wish to say that the Department's last instructions, taken alone, make it appear that the request for the removal of the receiver has been abandoned. I felt it my duty, without actual instructions, to impress the minister with the fact that my government did not drop its previous request, but only temporarily dropped discussion of it. However, I could see that it was difficult to impress the minister with this view. The position taken by the Department against the sequestration is so strong and unassailable that the mere fact of not pressing its request in that direction continuously and to the end comes as a relief to the Venezuelan Government, and it is over anxious to believe that the Government of the United States has conceded a point.

I may telegraph the Department for further instructions.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.]

AFFIDAVIT OF PHILIP SCOTT.

I, Philip Scott, a British subject, make oath and say as follows:

I have been employed by the New York and Bermudez Company for the last three years as timekeeper. I left Port of Spain on the 21st of October for Guanoco, and I am authorized by F. R. Bartlett, superintendent of the New York and Bermudez Company, to represent the company in his absence.

I arrived in Guanoco on the night of the 29th of October, and on my arrival was told by a number of friends that I was expected and that there was an order out for my arrest. I paid no attention to this, but proceeded to a house rented by the company off the company's property. On the morning of the 30th I sent my respects to Doctor Ponce, whom I knew when he was employed by the company and who is at present the representative of the attorney-general of Venezuela, but my card reached Doctor Ponce on his way down to see



me. He asked me what I was doing there, and told me that he had ordered the civil authority there to bring me to him, and that in case I refused to arrest me. On the afternoon of the same day Doctor Ponce paid me another visit, and asked me to go with him to the house of the jefe civil, which I did. On my arrival there I waited in a room outside while Doctor Ponce had a lengthy conversation with the jefe civil. When Doctor Ponce came out he began a very angry conversation with me. He said I was a bad element in Guanoco and that I had come over to make trouble among the workmen and the government was holding that property and that I must respect it; that I was not an official of the company, and that I was one too many in Guanoco. Moreover, that all the witnesses that had been cited by the company were his men and would do as he wanted them, and that it was his intention to make me a prisoner and send me to Carúpano or Maturin. Doctor Ponce left and I remained a prisoner. At 8 o'clock that night Doctor Ponce returned, and with the jefe civil and six armed men I was taken down to the house of Sisto Gil, who lives on the banks of the Guanoco River and keeps curiaras (small canoes). At Sisto's house I asked for my baggage, and two soldiers were sent for it. While we were waiting Doctor Ponce talked considerably. He told me that a Mauser bullet from one of the soldier's guns was liable to escape, and of course my family could put in a claim, but it would then be all too late; also that he was prepared to do the same with Doctor Pinaño, our attorney, if Pinaño did not do as he wished him to, and he would make him a prisoner. He called me a "Jodedor Carajo." I wanted to make protest to the jefe civil, but it was denied me. I further asked for a written order of my banishment, but this was refused. I first went to Caño-Colorado, and from there to Trinidad, where I arrived on the 6th of November. I must add that the accusations of Doctor Ponce are false, and that I went to Guanoco because I was ordered to do so and to get information for the company. I had about three weeks previously been ordered off the company's property by the military authorities there, and have not been on the property since.

PHILIP SCOTT.

Sworn at No. 32 St. Vincent street, Port of Spain, in the island of Trinidad, this 8th day of November, A. D. 1904, before me.

VINCENT LEON WEHEKIND,  
Notary Public.

[Notarial seal.]

This is to certify that Señor Vincent Leon Wehekind is a notary public in this place, and that the foregoing bears his signature and seal.  
Port of Spain, November 14, 1904.

BARCELÓ.

[Seal. Consul-General of Venezuela at Trinidad.]

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*The Acting Secretary of State to Chargé Hutchinson.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, November 26, 1904.

(Mr. Loomis states that the Department's request to the Venezuelan Government to instruct its attorney-general to move the court to discharge the receiver is consistent with and stands with the Department's request for prompt and impartial trial and decision.)

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*Chargé Hutchinson to the Secretary of State.*

No. 369.]

AMERICAN LEGATION,  
Caracas, November 27, 1904.

SIR: I have the honor to acknowledge the receipt of the Department's message of yesterday, which arrived at half past 7.

The above was a reply to my telegram sent yesterday morning, in which I told the Department that a report was circulating here that the United States Government had abandoned its request for the

removal of the receiver of the New York and Bermudez Company's property.

Immediately upon receiving the Department's reply, I sent a note to the minister of foreign relations (copy inclosed), which puts on record that the above-named request has not been abandoned. This is the only note I have written in connection with the Department's recent telegraphic instructions, because I was afraid of making some error, without a fuller explanation of the Department's views.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.]

*Chargé Hutchinson to the Minister of Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, November 26, 1904.

MR. MINISTER: It has come to my knowledge that there is a report current, as having come from the Venezuelan Government, that the Government of the United States has abandoned its request for the removal of the receiver of the New York and Bermudez Company's property.

I beg to call your excellency's attention to the fact that I expressly told your excellency that the Government of the United States did not do more than drop the discussion of its argument in this respect for the moment, reserving the privilege to press its request further if necessary. The request of the Government of the United States to the Venezuelan Government to instruct its attorney-general to move the court to discharge the receiver is consistent with and stands with the United States Government's request for a prompt and impartial trial.

I gladly avail, etc.,

NORMAN HUTCHINSON.

*Chargé Hutchinson to the Secretary of State.*

No. 372.]

AMERICAN LEGATION,  
Caracas, December 10, 1904.

SIR: Referring to my No. 369, of the 27th ultimo, having to do with the New York and Bermudez Company affair, I have the honor to inclose copies of notes exchanged between this legation and the ministry of foreign relations.

The note of the minister is in answer to my note of November 26, which the Department will find inclosed with my above-named dispatch.

My note of December 2 was sent to the minister to act as an explanation of my note of November 26 and at the same time to acknowledge his note of December 1, above mentioned.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure 1.—Translation.]

*The Minister of Foreign Affairs to Chargé Hutchinson.*

SIR: In this office has been received the note in which your honor communicated as having reached your knowledge the rumor which has been spreading about as proceeding from the Government of the Republic that the United States has abandoned its request in regard to the removal of the receiver of the mine which has been worked by the New York and Bermudez Company. Your excellency also says in it that the Government of the United States leaves for the moment the discussion relative to the removal of the receiver and reserves the right of pressing the request if deemed advisable.

The Government of Venezuela finds it impracticable to take into account the rumor which your excellency alludes to and the publication of which is so unjustly attributed to it, the same way that it has paid and will pay little heed to versions of any kind whatsoever relative to this affair which have no official confirmation.

Regarding the second item of the affair above mentioned, I refer again to what I have expressed to the legation your excellency so honorably has in charge.

I gladly, etc.,

GUSTAVE J. SANABRIA.

[Inclosure 2.]

AMERICAN LEGATION,  
Caracas, December 2, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's kind note of yesterday relating to, as your excellency states, a most unjustifiable rumor which was heard in Caracas last week, but which, by virtue of its very existence, made it my duty to put in writing and on record that which I had previously only expressed to your excellency verbally, namely, that the request of the Government of the United States to the Venezuelan Government to instruct its attorney-general to move the court to discharge the receiver of the New York and Bermudez Company's property is consistent with and stands with the United States Government's request for a prompt and impartial trial.

I gladly avail, etc.,

NORMAN HUTCHINSON.

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, February 15, 1905.

(Mr. Bowen reports that the court to-day confirmed sequestration Bermudez property.)

*Personal telegram, to be delivered at the home of Hon. John Hay, 800 Sixteenth street, Washington.*

CARACAS, February 20, 1905.

Reported that the custodian of the Bermudez Lake has check with which the First Assistant Secretary of State was paid and a letter from him promising the United States will not intervene. The custodian and the President of Venezuela, therefore, feel safe. The facts are known here by the diplomatists and many others.

BOWEN.

*The Secretary of State to Minister Bowen.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, February 24, 1905.

Referring to your dispatch of the 20th, the Department is of the opinion that unless able to confirm them you should deny such defamatory reports concerning superior officer, instead of seeming to give them weight by cabling. Your use of the word "facts" seems unwarranted by any evidence before the Department.

HAY.

*Minister Bowen to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Caracas, February 25, 1905.

My cablegram of the 20th was intended simply to give to you alone information which was agitating all official circles here and which my colleagues had sent by mail to their respective governments. The information was given by two of my colleagues to me in the presence of the military attaché, and was a great surprise to us both; but such exact details were furnished then and subsequently that it would have been useless for me to deny the report.

Although the words "it is reported" were intended to cover entire contents of my cablegram, I should have used the word "alleged" before the word "facts."

BOWEN.

*The Secretary of State to Minister Bowen.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, February 24, 1905.

Would you like ——? It is the best post now available. Or would you prefer to remain where you are for the present?

HAY.

*Minister Bowen to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Caracas, February 25, 1905.

In answer to your telegram of the 24th, I prefer to remain here for the present.

BOWEN.

*Acting Secretary of State Adee to Minister Bowen.*

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, April 29, 1905.

(In pursuance of the direction of the President and in accordance with the cablegram of Secretary Taft,<sup>a</sup> Mr. Adee instructs Mr. Bowen to return to Washington for the purpose mentioned in Secretary Taft's cablegram.)

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<sup>a</sup>Printed in report of charges published by the Secretary of War, 1905.

*Acting Secretary of State Loomis to Chargé Hutchinson.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, May 22, 1905.

(Mr. Hutchinson is instructed to inform Department if there has been a recent decision in asphalt case.)

*Chargé Hutchinson to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, May 24, 1905.

(Mr. Hutchinson reports that court of first instance gave decision against the New York and Bermudez Company last Saturday on Hamilton concession, annulling concession, and damages to be assessed by experts.

The case will be appealed to full court.)

*Chargé Hutchinson to the Secretary of State.*

No. 418.]

AMERICAN LEGATION.  
Caracas, May 27, 1905.

SIR: I have the honor to acknowledge the receipt of the Department's cablegram of May 22; [printed ante]; and my reply of the following day [printed ante].

In further connection with these cablegrams I beg to inclose a copy of the above-mentioned decision. By next mail I shall be able to forward the translation, which is difficult and complicated.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.—Translation.]

*Decision of the court of first instance in the New York and Bermudez Company case.*

The United States of Venezuela. In their name. The tribunal of first instance of the federal and cassation court.

The court has viewed the proceedings and heard the oral and seen the written addresses of the parties. On the 20th day of July, 1904, the attorney-general of the nation sued the New York and Bermudez Company through its representative, Robert Kemp Wright, to the end that he agree to the dissolution of the contract made by the minister of fomento with Horace R. Hamilton on the 19th day of October, 1883, approved by the National Congress on the 6th day of June, 1884, of which he is assignee; and to the end that he pay to the nation the damages caused by failure to execute the said contract, according to the just valuation of experts and calculated in accordance with the bases set out in the first additional article, and to the end that he likewise pay the expenses caused by the judicial proceedings. And the attorney-general alleging that the contract made with Hamilton is a contract of lease, the subject-matter of which is the enjoyment of all the natural products to be found in the wild lands of the former State of Bermudez, founded on the voucher and telegraphic dispatch which he annexed for the purpose of proving that the lessee had failed to make improvements which he was bound to make, such as the channeling of the rivers of the said state in conformity with the seventh case of article 373 of the code of civil procedure, requested that the sequestration be decreed of the mine that the company is developing at

Guanoco, with all the apparatus and accessories of the development, to abide the result of the suit. In the minutes of the 21st of July, 1904.

Of Robert Kemp Wright and the sequestration asked for were granted and the sequestration was carried into effect by the judge of the civil division of the court of first instance in the seccion of Cumana. The legal formalities on this motion having been complied with, the tribunal under date the 4th of October, 1904, confirmed the minute of sequestration of the 21st day of July of the same year, a decision which the court of appeals in turn confirmed on the 15th day of February, 1905. The time for answering the action having arrived, they proceeded to do so at the sitting of the 5th day of August, 1904, at the hour previously appointed and in the presence of the parties. After the requisite pleadings were read the managing director of the company presented the answer in writing, signed by himself and Dr. Juan Bautista Bance, and based his contradiction both on the facts and on the law, because the Hamilton contract is not a contract of lease, since its provisions can not be adapted to the rules and consequences of a lease, because the rights conceded to Hamilton are not only optional, except that of developing, but the possibility of exercising them is doubtful and hypothetical; because the results of the contract were entirely uncertain and it was not the only example of analogous concessions; because all the advantages which the company was said to have, even if they existed, which is denied, do not vitiate the juridical chain of the agreement, and the profits obtained from the negotiations are the fruit of foresight and effort; because the obligations contracted have all been executed according to the tenor of the substantive law, and this appears from official declaration; because the obligations which the company is said not to have executed have no fixed term, and on fixing it, as the question is one of personal obligations, engendering personal actions, they would be barred because the company has other titles in virtue of which the asphalt lake, lands, and other appurtenances at Guanoco belong to it; because the rescissory condition has not such far reaching effects as the plaintiff attributes to it; because when the contract was made there were no motives that could give rise to allusions and purposes which are now said to have disappeared, and that the expression "natural products other than asphalt is so vague and ample that through saying too much it says nothing." He summoned Horace R. Hamilton for the purpose of guaranteeing and safeguarding him; he asked that the cause be stayed and that the action should be disallowed; he expressly reserved the company's rights of action for the loss and damage caused thereto by the sequestration and prayed for extraordinary time for taking evidence. The tribunal endeavored in vain to effect a settlement between the parties, granted the extraordinary time prayed for, and adjourned the proceedings.

The summons for guaranteeing and safeguarding having been granted, and the cause suspended in accordance with the provisions of article 281 of the code of civil procedure, it remained at that stage until by minute of the 23d of September, 1904, Dr. Juan Bautista Bance having withdrawn his demand for the safeguarding and guaranteeing, it was withdrawn, and the cause consequently followed its legal course. The time for putting in evidence having arrived the parties put in what they deemed expedient, and from the judicial debate it appears in the minutes from the evidence put in by Dr. Juan Bautista Bance that Andres J. Vigas and Ambrose H. Carner declared in Caracas; Jose Vicente Solis, Juan Bos, and Andres Campos in Guiria; Jose Maris Aristimuno at Maturin; Antonio Cervoni and Laureano Villalba at Guariquen; Charles Arno at Port of Spain; that in Philadelphia, State of Pennsylvania, through the interpreter, Gustavo Navarrete y Romay, a comparison was made of the report put in by Horace R. Hamilton, marked No. 2, which appears on folios 93 to 103 of the third volume; that it was certified at the ministry of fomento; that from the year 1883 to November, 1904, there had been issued 30 definitive titles of mines of distinct kinds, situated in the jurisdiction of the former State of Bermudez, and several titles in fee simple of wild lands in the same state; that the official notes marked with the numbers 374 and 375, issued to the civil and military chiefs of the former States of Cumana and Maturin, transcribed in the resolution published in No. 7986 of the Official Gazette, were forwarded by the minister of fomento, certified; that the contract made on the 1st of February, 1886, with Cornelius F. O'Brien for the supply of woods, and No. 7986 of the Official Gazette were put in; that the benefit was claimed of the sequestration proceedings and of the proceedings relating to the New York and Bermudez Company which are lodged with the minister of fomento, and a single copy of Hamilton's report, confirmation of which was asked for and also put in. From the proofs of the attorney-general of the nation it appears in the minutes that the following persons declared: Manuel Guzman Alvarez at Barcelona; Rafael Velasquez at Cumana; Santiago Briceno A. at San Felipe; Ildelfonso Nunez, Adolfo Alemar, Jose Maria Aristimuno Coll, Angel Nunez, Manuel Antonio Gordon, and Lorenzo Arias at Maturin; that the experts, Doctors and Engineers, Santos Ortega, A. Gomez Franco, and Rafael J. Diaz put in the report which appears on folios 135 and 136 of the second volume; that a certificate was produced from the general accountant of the chamber of audits which shows the exportation of the natural products therein expressed to the 30th of June, 1904; 14 certified parts of the file marked with the letter "I," substantiated in the ministry of fomento and referring to the contract made with Horace R. Hamilton for the development

of building and cabinet woods, resins, plants, aromatic, essential, dye, and medicinal plants, in the States of Bermudez; Nos. 9065 and 3753 of the Official Gazette, the year book of the ministry of fomento for the year 1885, and a pamphlet or book entitled "Defense of the New York and Bermudez Company before the federal court of Venezuela in the suit instituted against the company by Messrs. Charles M. Warner and Patrick R. Quinlan to the end that it agree to the validity of the title of the asphalt mine Felicidad," published by Dr. Juan Bautista Bance in January, 1904.

Both the testimonial and documentary proofs of the constituted attorney of the New York and Bermudez Company tend to show that the company has executed the contract and consequently the obligation to explore and develop the natural products to be found in the State of Bermudez; and of the witnesses already named put in for this purpose only Jose Maria Aristimuno and Charles Arno state that the company exported woods, the former observing that this took place from 1886 to 1887, and the second states from 1886 to 1888, without either of them saying to whom the wood was consigned; on being cross-examined cross-questions that Arno refused to answer on the first being put to him. All the other witnesses are not aware that the exportation of woods had taken place, and some, on being cross-examined, stated specifically that only asphalt had been exported by the said company. And Andres J. Vigas and Ambrose H. Carner referred to a certain publication, and the former ended by saying that only asphalt had been exported; Hamilton's report, without date, marked with the number 2, proved to be in conformity with the original one and refers to a journey of inspection to the properties of the concession obtained by him in his contract, and proves that certain preliminary work had been commenced which was necessary for the enterprise, which had not yet begun to develop the asphalt nor constructed the railroad which it used for that purpose; the certified copies of the communications addressed to the civil chiefs of Cumana and Maturin, which appear on folios 88 and 89 of the third volume, prove that the government once more recognized the rights acquired by the company in the terms of its contract; and the certificate of the minister of fomento, published in the Official Gazette, No. 7986, showing that the company has executed its engagements, is an assertion whose legal efficacy must be considered in the light of law.

The testimonial proof of the attorney-general of the nation tends to demonstrate that the company had developed and exported only asphalt, thus disregarding the other obligations of the contract; that it has not channeled any of the rivers in the State of Bermudez; declarations made by Manuel Guzman, Rafael Velasquez, and Santiago Briceno A. are in agreement in asserting that the company has not done any channeling work, and that the monopoly that it exercises has prejudiced the mining industry and the development of the natural products of that state; the remaining witnesses already named, who declare at Maturin, agree in saying that it is years since the company has been excavating and exporting asphalt, and it is worthy of remark that these six declarations do not contain any substantial discrepancy, and it is seen from them that a considerable number of tons was exported annually and that this exportation was from about 1,900 to the exclusion of the other natural products of the state; from the examination made the experts in their journey from Cano Colorado to the coast guard of the same name and from there to Maturin, in spite of the careful inspection they made, did not find any work or sign or indication that showed that any attempt had been made to channel the Cano Colorado and the river Guarapiche mentioned in the second article which they had before them of the contract made with Hamilton. The documentary proof of the attorney tends to show that only asphalt has been exported; that the company was under the obligation to explore and develop the several natural products of the former State of Bermudez; that the obligation to channel was invoked by the company on wishing to renew it; that the monopoly exercised by the company was objected to publicly and before authorities by municipal councils, common councils, and private individuals, and these proofs by documents emanating from the said company, by the certificates of the minister of fomento of the contract and the additions thereto.

On making his address the constituted attorney of the New York and Bermudez Company proposed that the following questions should be decided as preliminary points: That of "incompetency of this tribunal to pass definitely," relying on the supposed unconstitutionality of attribute 5, article 16, of attribute 2, article 17, and of article 7 of the organic law of the federal and cassation court, and the necessity of the present judge abstaining from taking part in the cause for having expressed his opinion "on what now becomes the principal part of the suit." In the demand instituted by the citizen attorney-general of the nation in the name of the latter against the French Company of Telegraphic Cables, as appears from the "judgment published in No. 9427 of the Official Gazette," and for having classified the Hamilton contract as a lease on the motion for sequestration, in entire conformity with motive 15 for inhibition contained in article 117 of the code of civil procedure.

It is therefore necessary to decide both points before entering upon a consideration of the merits of the question that is being discussed and the tribunal resolves:

1. Whereas the law of May 5, 1904, or the "Organic code of the federal and cassation court," is not in collision with attribute 14 of article 95 of the national constitution, which attributes to the said court cognizance "of the controversies that arise from the contracts

or negotiations made by the President of the Republic," but rather on the contrary regulates the manner in which the said court shall exercise the competency attributed to it by the constitution; and

Whereas in section 2 of title 6 of the text cited it is not in any way determined that the controversies that arise from said contract should be taken cognizance of and tried at only one instance; for which reason the Congress making use of attribute 16 of the constitution in force had the power to pass the law relative to the exercise of the attribute of this court and to make enactments with respect to the functioning of its consequent competency, giving necessary and sufficient legal power to act as judge of first instance in taking cognizance of said matters; for such reasons it is so declared.

2. Whereas in the civil procedure now in force there is no provision whatsoever that authorized the parties to move for inhibition and in Title IV. it duly expresses the motives for which judicial functionaries can be objected to and those for which they can and ought to abstain from sitting in judgment; whereas the motives mentioned by the constituted attorney of the defendant company has no legal ground it would not be allowable even to justify the present judge in abstaining spontaneously, since for this purpose the concurrence of the following circumstances would be necessary; to have expressed an opinion before the judgment and that that opinion were on the principal matter of the suit and that the judge objected to were a judge in the cause, article 117, number 15 of the code of civil procedure; and

Whereas the principal matter of the suit is not constituted hereby the incompetence and classification alleged, but by the cause for which the government sues the New York and Bermudez Company before the federal and cassation court, for such reason the second point submitted to the preliminary decision of this tribunal is hereby disallowed.

And as regards the action brought and the exception taken, the subject-matter of this judgment, the tribunal, having studied the minutes and the evidence taken and of the allegations of the parties, proceeds to give the reasons for its decision; and

Considering that contracts should be executed in good faith and should bind therein not only to fulfill what is expressed therein, but also to the consequences which arise from the same contract, according to equity, custom, or law (art. 1104 of the civil code);

That the contract made between the national government and Horace R. Hamilton and his cessionaires (folios 23-51 and reverse of the second volume; folios 1 and reverse of the first volume) is a bilateral contract in the sense of article 1078 of the current civil code and the corresponding one, No. 1061, of the code of 1881, under the operation of which that agreement was made and the constant addition of minutes was made at the request of the said Hamilton, and consequently that it is not possible in this case to affirm that reciprocal obligations have not arisen by reason of the stipulations therein contained, because it appears from a simple reading of the text of the agreement and of its additional article that if the Government of Venezuela contracted with Hamilton and his cessionaires the obligations in articles 1, 2, 3, 4, and 7 of the instrument on folio 1 and reverse side of the first volume of the minutes, on the other hand he acquired the right specified in articles 5, 6, and 9 of the same instrument and those contained in the first and second additional articles of October 19, 1883, and May 30, 1884, which constitute for the contractor Hamilton and his successors or cessionaires perfect obligations, recognized and accepted by the latter also in the contract which they made with Horace R. Hamilton on November 16, 1885, in New York and appears in the second volume of the minutes on pages 23 to 34;

Considering that obligations should be fulfilled exactly as contracted, the obligor being responsible for loss and damage in case of contravention (art. 1163, civil code of 1881, 1190 of the present one);

That it appears from the minutes, from the testimonial declarations rendered, and from the expert examination made, and from the certificates issued by the competent public authorities that the cessionaires of Hamilton have not complied with the obligations contracted with the government of the nation in numbers 5, 6, and 9 and in the additional articles of the above-mentioned instrument, and that they have only occupied themselves with the development of the asphalt;

That they can not object to the efficacy of the proofs put forward, to which reference is made in the ministerial resolution of July 23, 1900, and the certificate of the minister of fomento of the same date, because the first only recognizes in the company the right of making use of its rights in conformity with the Hamilton contract, which does not exclude the possibility of bringing suit later for the dissolution of the contract for a legal reason existing previously, as, if it is true that "the rescissory condition is always implied in bilateral contracts, in case one of the parties does not fulfill his obligations," it is also true that the contract in this case is not dissolved rightfully. The party to whom the obligation has not been fulfilled has an option in his favor—to oblige the other to fulfill the contract, if possible, or to ask for its dissolution, besides the payment of loss and damage in both cases (art. 1110 of the civil code of 1881 and 1137 of the present one), a choice which being optional by this party can be carried into effect whenever it best suits his interest. And as to the second, the certificate of the minister of fomento, it, even if valid, could not vitiate the contrary acts, demonstrated completely in this suit by the testimony and proofs contained in



the second volume of these minutes; but it is not valid, because it is illegal, and it is illegal because the certificate of the minister of fomento, dated July 23, 1900, is, at the most, testimony peculiar to the person of the minister, the particular opinion formed by him in view of the documents which he might have had before him at that time to form his individual opinion; certificate which, on the other hand, it was not in his authority to give, as is seen from the law of March 9, 1898, referring to the ministries, on pages 26 to 29 and reverse of the compilation of laws, volume 21, which defined the attributes of the cabinet ministers, in none of which is found that of issuing the certificates in question. Moreover, a certificate made in the personal way above stated is not a "ministerial resolution" dictated in the name of the federal executive and by order of the President of the Republic, as is proven by reading the text in question. It thus lacks, both in form and matter, all legal force, as well because of what is stated above and because the constitution in force at the date of the certificate in question, which was 1893, in article 120, terminantly prohibits any magistrate or corporation from exercising functions which are not specially ascribed to him therein or in the laws, it declares null and void the acts emanating from all usurped authority in its article 118 and in article 95, already mentioned, that "all acts of the minister should be in conformity with the constitution and the laws;" and as the act invoked by the defendant is not in conformity with the laws, as these did not give to the minister of fomento the right to make such declarations, it is clear that the certificate above mentioned of July 23 is null through being the work of usurped authority and does not bind the Government of the Republic by any legal or juridic reason. In Venezuela the ministers of the cabinet are "the legal, only, and necessary organs of the President." (Art. 94 of the national constitution of 1903; 83 of the present one.) Therefore the acts of the latter produce no effect nor do they bind for fulfillment when they do not come countersigned by the respective minister, and in the same way the acts of the minister have no effect when they consist of his own act, which he has not been authorized to do by the President of the Republic, unless by virtue of a special law to that effect, and in the case before us the minister of fomento was neither authorized by the law to issue certificates like those in question nor was he so authorized by the President of the Republic, as is proven by the very text of the document. The efficacy of this is thus absolute;

That the bilateral contract made between the Government of the Republic and Horace R. Hamilton, which appears in the proceedings, imposes on him conditions which were expressly accepted by his cessionaires in the instrument under which they acquired above referred to and which appears on folios 23 to 45 of the second volume, and that these conditions should be fulfilled in the way that the parties had desired or truly understood that they should be (art. 1111 of the civil code of 1881 and 1138 of the present one), without it being allowed that any of the said parties should invoke the nullity of such conditions, for here we are not treating of a suit for nullity, but for the dissolution, and the nullity of an agreement is not occasioned in absolute right except through the action of an express law, which determines it to be null;

That the conditions imposed on Hamilton and his assigns in the second additional article of his contract, expressly accepted by the New York and Bermudez Company, imposes on the latter the obligation to channel one or more rivers of the State of Bermudez, commencing with the Cano Colorado and the Guarapiche as far as Maturin, for exportation and importation, a work that the government bound itself to pay for by conceding to the company "the exclusive right of navigating the rivers that it might channel," a condition that has not been complied with "in the manner that the parties intended," as is demonstrated by the proofs made in the respective volumes of the evidence given by the parties and of the reiterated confessions of the defendant in the minutes of the suit from the time the answer has been put into the declaration of the action;

That the condition mentioned does not fall within the denomination of alternative, as the defendant maintains, since the said additional article does not give the company the right to elect whether it will channel or construct the railroad, as has been affirmed, since the sole paragraph of the said article only says that Hamilton "shall have the rights if he construct a railroad," but in no way establishes that he shall not be obliged to channel if he construct it, which would result if the condition were alternative—that is to say, "to channel one or more rivers of the State of Bermudez, etc., or to construct a railroad," and it is not so, according to the clear and precise text of that paragraph which indicates that Hamilton, if he constructs the railroad, should enjoy the exclusive use of the line and should in agreement with the government charge the dues for traffic on the line. And that that has been the intention of the parties can not be doubted, for if the paragraph were interpreted as the defendant wishes it to be, the result would be a palpable absurdity—that is to say, that the contractor, through the fact of having constructed a railroad, would have the right to navigate rivers not channeled by him and that have not been channeled by anybody, when the object of the additional article introduced into the contract at Hamilton's request was the channeling of those rivers for "importation and exportation;"

That the obligations contracted by Hamilton and expressly accepted by the cessionaires do not constitute optional rights for them in the sense of their being able to execute them

or not, according to their caprice or wish, is obvious, because "the failure to execute any of the stipulations here expressed ipso facto nullifies the present contract (art. 9), this the contractor himself states; and because in another sense optional rights are those the exercise of which is not barred by disuse and can be carried into effect by the proprietor when he pleases, and this is not the case with the New York and Bermudez Company, which will have to comply with its obligations and exercise its rights within the time fixed by the contract in the terms and manner therein agreed and in no other way. Nor is it admissible that the condition contained in the second additional article is optional in the sense of article 1104 of the civil code of 1881 and 1131 of the present one, since the contrary appears from the text of the said article, for the defendant company is not given the choice between channeling rivers or constructing a railroad, but it contracts the obligation of channeling and besides it has given to it the power to construct railroads, in which case it shall be able to charge dues, etc., of the line in accordance with the government, but the construction of the latter does not exclude the channeling of the former, which was the primary aim of the additional article;

That the principal matter in the present suit is the action for the dissolution of the contract made between Hamilton, his successors, and those claiming under him and the Government of the United States of Venezuela for failure to execute the contract and not the legal classification which the contract should have. And consequently it is of no value to the parties to establish now whether the contract is or is not a lease or whether it is unclassified, since the juridical motive, and even that of fact which the action brought involves, consists of the failure on the part of the New York and Bermudez Company to execute the obligations contained in the instrument transferred by Hamilton, with all its additional articles, to the said company, and the stipulations with which the latter undertook to execute in the manner desired and understood therein by both parties, since the New York and Bermudez Company accepted them, very expressly in the contract of transference made by Hamilton without reservations of any kind. But, as in the course of the debate it has been discussed, first, that the Hamilton contract is not one of lease, and, second, that the additional clauses are legally null, the tribunal thinks it expedient to decide both these points and establishes:

First. By lease of things is understood "a contract (art. 1487 of the civil code of 1881, and 1531 of the present) in which one of the contracting parties obliges himself to allow the other to use a thing for a certain time and at a determined price that the latter obliges himself to pay him." Well, then, if these conditions or extremes are carried into effect in the Hamilton contract, the contract is one of lease. Let us see if they are fulfilled here. The government has conceded to Hamilton the right to explore and develop to which the first number of his contract refers, that of development determined in the second, that of navigation to which the fourth refers, and mentioned in article 7—that is to say, the government has obliged itself to allow Hamilton to enjoy the things therein indicated, and for the time fixed in the contract, which is twenty-five years, and for the price also determined in the articles 5 and 6, the additional article, to which article 6 of the contract refers. In them the price of the things leased is fixed. For these points the classification of "lease" is imposed on the contract whose dissolution is asked for, and moreover, because if it is true that real estate can not be leased for more than fifteen years and that leases made for a longer time are limited to that period, it is also true that in the present case one treats of "absolutely uncultivated lands," of the forests existing on public lands of the State of Bermudez, excluding those of the section of Barcelona for their exploration and development; and article 1489 of the civil code of 1881 and 1533 of the present one establishes that leases of absolutely uncultivated lands can be extended to more than fifteen years, but not more than fifty, under the condition that they be cleared and cultivated; and as the development of the public forests contains the idea of its clearing and cultivation, it is logical to conclude that the period of twenty-five years fixed for the Hamilton contract does not take away from it its character of a lease, but rather confirms it. On the other hand, it appears from the minutes that the government made free the inlets and rivers of the State of Bermudez to Hamilton and to his successors and the public forests of the same jurisdiction, and it appears also from the minutes (second volume) that Hamilton and his successors have not exploited the forests in question, nor do they develop them at the present time, as well as that they have not channeled the rivers mentioned in the second additional article. The government, therefore, has fulfilled for its part the obligation of every lessor of things, that of guaranteeing the lessee in the enjoyment of the thing leased. Moreover, the lessee has not fulfilled his in the whole extension of the contract, because he has limited his efforts to the sole development of an asphalt lake, to only one kind of natural product, prescinding from the development of the uncultivated lands and from the said channeling, as is proven by the proofs advanced by the plaintiff.

Second. The legal nullity of the additional clauses of the Hamilton contract is the second point sustained by the defendant. In respect to this the tribunal considers that, as to the additional articles of the Hamilton contract they can be considered, as regards the same contract, as accessories to the principal part which in no way alter or vitiate the substance thereof, but that, rather to the contrary, it is supported; that the principal part was approved by the National Congress in its sessions of 1884, as appears from the minutes, as was the

accessory part in the sessions of the Congress of 1885, on considering and approving the special yearbook of the minister of fomento in that year in which the attention of the legislative body was especially called to the contracts added to after their approval by the preceding legislature. The contract was, then, legally made between the parties. The defendant accepted the additional articles in all their extension. Therefore the contract has the force of law between them and obliges them to fulfill it, not only in what is therein expressed, but in the consequences which may arise according to equity, custom, and law; and, moreover, the additional clauses can be and should be, as a last resort, considered as those consequences that the parties, so as not to leave them to the criticism of judicial judgment should wish to attach to them in a way expressed in the said text of the contract, it being, consequently, unnecessary for their validity that they should be submitted individually to the discussion and approbation of Congress, as is the case with the laws ordinarily passed by the legislative power regarding general matters of its jurisdiction, as approval had been given to the Hamilton contract, of which the additional articles are merely accessories which follow their legal and juridical fate.

Considering:

That article 9 of the contract, the dissolution of which is asked for, imposes on the defendant the obligation of commencing its fulfillment within the period of six months, prorogable for six months more at the option of the government, counting from the date on which it was approved by the federal council under pain of nullity;

That it appears on the minutes that on many occasions Hamilton and the cessionaries petitioned that they be allowed an extension for the beginning of the explorations and development of the natural products of the forests existing on the wild lands of which number 1 of the instrument of 1883 treats, and for the channeling of the rivers named in the second additional article, without their having up to that date fulfilled what had been agreed upon; that the judicial fixing of the period within which the obligation should be fulfilled occurs when there is no stipulated term and if the nature of the obligation or the manner in which it should be fulfilled or the locality of its fulfillment renders it necessary (articles 1118 of the civil code of 1881, and 1145 of the present), or if the period has been left to the wishes of the obligor, which is not realized in the present case, because the parties fixed in the cited article 9 of the document of 1883 the term of six months "for commencing the contract"—that is to say, the exploration and development of the products specified in it, and especially of those of its numbers 1 and 2 and the second additional article, without it being possible to separate the exploration from the development, as to-day the defendant pretends to do, because the contract which is the law of the parties, does not do so, but rather to the contrary, comprises in the phrase "beginning the execution of the present contract," the two terms "exploration" and "development" which are used in the text; and finally

Considering:

That the limitation invoked by the defendant regarding the personal obligations which the stipulations of the Hamilton contract imposed on him for its nonexecution in twenty years is not admissible, because the duration of this contract is twenty-five years, as article 9 stipulates, and such a stipulation of the period makes it not liable to be barred in the sense that as long as this is not concluded the sense of the obligation, which it is pretended to bar, is renewed, and consequently the limitation for nonexecution of clause 9, which fixes the time for the beginning of the execution of the contract whose dissolution is asked for, does not take effect, and, moreover, because in any case the minutes show that twenty years have not elapsed since the last extension of grace conceded by the government at the petition of Hamilton, which bears date October 13, 1885, and expires in April, 1886.

On account of these facts, administering justice by authority of the law, the suit brought by the attorney-general of the nation against the New York and Bermudez Company, a limited company, established in Philadelphia, and with a domicile in this city, is declared to be well founded, that is to say, the contract made between the minister of fomento and Horace R. Hamilton, on October 19, 1883, and its additional clauses, is declared dissolved; and the aforesaid company is ordered to pay the loss and damage sued for according to a just valuation by experts. No special order is made as to costs.

Publish and register.

Given, signed, and sealed in the audience chamber of the tribunal of first instance of the federal and cassation court in the capitol at Caracas, this twentieth day of the month of May, 1905, ninety-fourth year of independence and forty-seventh of the federation.

J. I. ARNAL.  
 JUVENAL ANZOLA,  
*Secretary.*

*Chargé Hutchinson to the Secretary of State.*

[Telegram—Paraphrase.]

AMERICAN LEGATION,  
*Caracas, June 20, 1905.*

(Mr. Hutchinson reports that the court of first instance overrules Bermudez Company exceptions, which claimed incompetency of the court and defect in the form of the demand in revolutionary case.)

*Chargé Hutchinson to the Secretary of State.*

No. 432.]

AMERICAN LEGATION,  
*Caracas, June 22, 1905.*

SIR: I have the honor to confirm my cablegram to the Department, dated the 20th instant, and reading as follows: [Printed ante.]

As the exceptions taken by the company have been overruled, the case will be proceeded with.

I inclose copy and translation of the decision.

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.—Translation.]

[From the Official Gazette 9491 of June 19, 1905.]

United States of Venezuela. In their name. The Civil Division of the Court of First Instance of the Eastern Section of the Federal District.

The court has seen the proceedings and heard the addresses of the representatives of the parties. On the day and hour fixed for taking the answer to the action instituted by the nation against the New York and Bermudez Company, an incorporated company which has its domicile in Philadelphia, United States of America, and also in this city, to the end that it satisfy the loss and damage occasioned through its participation in the late revolution, called "Libertadora," Dr. J. B. Bance, the constituted attorney of the defendant company, took the dilatory exceptions of incompetency of the court, and defect in the form of the action, the first as a principal and the second as a subordinate objection, and he based them on the following grounds: The first, in that the principal act and the one from which the present action arises, is, according to two corresponding judgments delivered on the hearing of the preliminary objection of inadmissibility of the action by this court or by the superior court, that the defendant company had furnished funds and given moral and material support to the "Libertadora" revolution, from the beginning until the end of the struggle, and that this act, which had been so erroneously estimated by the judges who gave the judgments, and who disregarded the allegations put forward in defense of the company, took place, according to the terms of the declaration itself, beyond the territory of the Republic, and that the action having been admitted in that form, this court proves to be incompetent. The second exception is based on the following reasons: That the action has been instituted against the company to the end that it be condemned to pay the United States of Venezuela for the serious damage caused thereto by its participation in the late "Libertadora" revolution, adding that the amount for said damage should be fixed by experts from data to be furnished at the legal opportunity. And it is also stated in the declaration that the said revolution, besides the enormous sums which it obliged the government to expend for the quelling thereof, occasioned considerable hurt to the national treasury, as can be obviously supposed, and as will be proved during the course of the suit. That in treating of a personal action brought by the state for reparation for the like detriment, it is indispensable, in order that the object of the action and the reasons and documents on which it is based should be clearly expressed and determined by means of the necessary explanations and data, as is required by article 242 of the code of civil procedure, to know the amount of those enormous sums, and in what the hurt of considerable importance consists, and all the corresponding accounts should likewise be furnished; and that in the declaration there is not a single item of such expenses, nor is

a single explanatory word given of the exceptional damage which can not remain subject to suppositions and conjectures for the defense; nor are there data which can be adduced at any other time or during the course of the suit.

In due time Dr. F. Arroyo Parejo, the attorney-general of the nation, joined issue on these exceptions, alleging that both are improper and contrary to law, and he asked that, as the matter of said exceptions constituted merely a point of law, they should be determined without taking evidence. The constituted attorney of the defendant company having made the like request, the court granted the same, and having, in conformity with the law, considered the motion, now proceeds to pass judgment thereon.

The incompetence of this court has been raised as a principal objection by the constituted attorney of the defendant company, by reason of which should be the proper territory to take cognizance of the action brought, and this being a point which should be made clear in the light of jurisprudence and legal teaching, the court, for the purpose of firmly establishing the present judgment, proceeds to consider it and observes:

1. That the principal act, that is to say, the "Libertadora" revolution, participation in which has been imputed to the defendant company, took place in this Republic, and that it was the result of the measures taken abroad by the representative of the New York and Bermudez Company, and the agreement made between the latter and the leader of the said revolution.

2. That in the declaration of the action it is not stated that the fact from which the action arises took place beyond the territory of the Republic, since it is therein said "that as the result of the measures of the defendant company in Europe the sadly celebrated steamer *Banrigh*, the history of whose piratical depredations is well known to all, appeared off the coasts of Venezuela, armed for war, with abundance of material, and having the leader of the revolution on board.

3. That that point was not submitted to the courts which passed on the exception of inadmissibility and therefore they could not have given any decision thereon; and

Whereas that act from which the action brought is made to be derived having been committed in Venezuela, this is the competent court to take cognizance of the action instituted by the nation against the New York and Bermudez Company;

And whereas in conformity with the second case of article 101 of the code of civil procedure, even those who are not domiciled in the Republic can be sued before the courts thereof when the acts in question took place within its territory, including, therefore, all responsibilities that arise from crimes or misdemeanors;

And as to the exception to the form of the action the court finds that the estimation of the loss and damage from failure to execute contracts or from the commission of crimes and misdemeanors should be made by the judge in accordance with equity and the evidence adduced, as is determined by article 185 of the code of civil procedure, and when he can not estimate them from the evidence the law provides that the estimation should be made by experts, which clearly indicates that the claimant in a suit should not and can not make the estimation beforehand, and that he is only obliged to prove them.

And whereas the exception of defect in the form of the action is only proper when some of the requisites prescribed by article 242 of the code of civil procedure have not been complied with; and in the present case all seem to have been complied with.

For these reasons, administering justice by authority of law, the court disallows the exceptions of its incompetence and defect in the form of the action taken by the constituted attorney of the New York and Bermudez Company and makes no special order as to costs.

Given, sealed, and signed at the audience hall of this court, at the Yellow House, in Caracas, this 9th day of June, 1905. Year ninety-fourth of the independence and forty-seventh of the federation.

P. HERMOSO TELLERIA.  
VICENTE E. VELUTINI, *Secretary*.

*Chargé Hutchinson to the Secretary of State.*

No. 434.]

AMERICAN LEGATION,  
*Caracas, June 22, 1905.*

SIR: I have the honor to report that during the last two weeks *El Constitucional*, the government newspaper, has been devoting a large portion of its space every day to publishing the correspondence which passed between this legation and the Venezuelan foreign office this year relative to the asphalt case. So far, no comments have been added to the said correspondence by the editor. The notes in

question have been copied from the yearly report of the minister of foreign relations.

I have, etc.,

NORMAN HUTCHINSON.

*Chargé Hutchinson to Acting Secretary of State Adee.*

No. 444.]

AMERICAN LEGATION,  
Caracas, July 8, 1905.

SIR: Referring to my No. 434, of the 22d ultimo, I have the honor to report that practically all the correspondence between this legation and the ministry of foreign relations relating to the New York and Bermudez Company affair and the question of arbitration has been published on the principal page of *El Constitucional*, the government newspaper, which has the largest circulation in the country. Even Mr. Hay's No. 242, of March 10, 1905,<sup>a</sup> to this legation has been published, with President Castro's reply thereto. \* \* \*

*Chargé Hutchinson to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, via Haiti, August 2, 1905.

(Mr. Hutchinson reports that the final argument on the Hamilton concession has been called for, which means that final decision is expected this month, and possibly by August 11. Requests Department to advise Bermudez Company.)

*Chargé Hutchinson to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, August 8, 1905.

(Mr. Hutchinson reports that the final decision in Hamilton suit on the 7th confirms all the points of the lower court, including costs. Requests Department to advise Bermudez Company.)

*Chargé Hutchinson to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, August 8, 1905.

(Mr. Hutchinson states that the Bermudez Company manager files formal protest with the legation of the United States. He claims absolute denial of justice.)

*Chargé Hutchinson to the Secretary of State.*

No. 468.]

AMERICAN LEGATION,  
*Caracas, August 13, 1905.*

SIR: I have the honor to confirm my two cablegrams of the 8th instant. [Printed ante.]

Referring to the first cablegram, I have to report that the decision was known to me on the afternoon of the 7th, but I had not yet seen the printed copy of the decision in the Official Gazette—copy and translation inclosed—so did not cable the Department until the morning of the 8th.

The manager of the company, Captain Wright, asked me to have the company advised of the decision through the Department, and this was fortunate, as the cablegram which Captain Wright sent was stopped by the fiscal in La Guaira, although a translation of its contents was given him. This, as the Department knows, is not the first time that the company's cablegrams have been stopped.

Referring to the second cablegram, I have to report that the company's manager filed with me, on the morning of the 8th instant, two copies of a written protest, in the name of the company, protesting against the decision, as being an absolute denial of justice and as being contrary to the evidence, the facts, and the law. This protest is addressed to me as chargé d'affaires of the United States and is accompanied by various documents and translations sustaining it. The action of the Government of Venezuela, its attorney-general and his agent, and the actions of the lower and higher courts are protested against. The manager also protests against the stoppage of his cablegrams by the government fiscal. The said protest was signed and sworn to before me in the American legation on the 8th instant and bears my legal authentication. Copy of the said protest inclosed, with accompanying documents and translations.

As the Department has sent me no instructions in connection with the company's protest, I have not made protest to the Venezuelan Government, as I conclude Mr. Russell and Mr. Calhoun will arrive at a proper time and with full instructions.

In conclusion, I beg to point out that it is now nine months since the Department instructed me by cablegram to use all my efforts in inducing this government to hasten the final decision in this case, which the federal and cassation court has just rendered.

I have, etc..

NORMAN HUTCHINSON.

[Inclosure 1.—Translation.]

DECISION OF THE FEDERAL AND CASSATION COURT.

The United States of Venezuela—in their name, the tribunal of the only and last instance of the federal and cassation court.

With the pleadings of the parties the trial concluded. In virtue of the appeal lodged by the New York and Bermudez Company against the judgment of the 20th of May of the present year, pronounced by the tribunal of the first instance of the federal and cassation court, the records have come to this tribunal. On the 20th of the month of July of the preceding year the attorney-general of the nation sued the New York and Bermudez Company in the person of its representative, Robert Kemp Wright, that it should agree to the cancellation of the contract that the ministry of fomento of Venezuela, by order and authority of the Presi-

dent, concluded on the 15th of September, 1883, with Mr. Horatius R. Hamilton, to which contract additions were made on the 19th of October of the same year and on the 30th of May, 1884, approved by the National Congress on the 6th of June, 1884, and of which the above-mentioned company is the cessionary. The attorney-general also sued for the payment of damages caused by the nonexecution of said contract according to a just estimation by experts, calculated in accordance with the terms established by the first additional article, and for the expenses occasioned by the judicial suit. The plaintiff alleged in his bill that a lease was the question, the matter of which is the enjoyment of all the natural products existing in the public lands of the former state of Bermudez. In virtue hereof, and resting on the voucher and telegram which he inclosed in order to prove that the leaseholder had failed to perform improvements to which it was bound, such as the canalization of the rivers of said state, he petitioned in conformity with case 7, article 373 of the code of civil procedure, for the sequestration of the mine which the defendant company exploits at Guanoco, with all the exploitation apparatus and accessories, to answer for the consequences of the suit. By writ of 21st of July, 1904, the New York and Bermudez Company was summoned in the person of its legal representative to answer to the petition, and on the same date the tribunal of the first instance decreed the sequestration sued for, which was performed by the civil judge of the first instance of the section of Cumaná and ratified after the legal procedure on the 4th of October, 1904. The tribunal of appeal confirmed in its turn, on the 15th of February of the present year, the last-mentioned decision. When the opportunity to answer to the petition arrived, it was proceeded thereto in the sittings of the 5th of August of the year 1904 at the hour previously pointed out. The parties being present, after the reading of what was convenient, the managing director of the company presented the answer in writing authorized by him and Dr. Juan Bautista Bance. He contradicted the action both as to facts and right and based his opposition on the following grounds: That the Hamilton contract is not a lease; that the contracting parties never intended to conclude a lease when they executed that contract; that neither of the contracting parties has considered or held it as a lease; that the stipulations of said convention can not be adapted to the rules and consequences of the lease, either in virtue of their form or of their meaning; that all rights granted to Hamilton, excepting that of exploration, are of doubtful and hypothetical exercise on account of their being conditional; that the results of the contract were aleatory and that it was not the only specimen of analogous concessions; that all the so-called advantages of the company, in case they existed, which is denied, would not vitiate the juridical force of the convention, since the profits obtained are the fruit of prevision and effort; that the obligations contracted have been carefully and most completely complied with both by the assignor Hamilton and the company, and that such compliance therewith is fully proved by an official and express declaration of the federal executive power of Venezuela; that the obligations said not to have been complied with by the company are not subject to any fixed time and could only be considered as due and demandable after the judicial authority should have fixed a time and this should have expired; that respecting these same obligations he formally opposes the prescription established by article 1909 of the civil code then in force and by article 1964 of the present civil code; that the supposed obligation of canalizing one or more rivers never existed legally for Hamilton or for the company; that if it had existed it would be found that it was an alternative condition and that it was complied with; that, even supposing it to have existed as a simple obligation, it would be found that it was complied with as far as possible; that the company has other titles in virtue of which the asphalt lake, lands, and other appurtenances at Guanoco pertain to it; that the effects of the rescissory condition have not the extent attributed to them by the plaintiff; that the action proposed in the bill, even supposing all the facts adduced to be certain, is held by the company to be contrary to right; that neither Mr. Hamilton when he contracted nor the company when the government accepted it as the cessionary of the contract depended (by far) [sic] on enormous capitals that would further certain illusions and purposes now said to have vanished. The defendant company vouched Mr. Horatius R. Hamilton, petitioned for the suspension of the course of the suit, and also applied for the extraordinary term granted for the obtaining [obtention] of evidence, owing to the fact that the New York and Bermudez Company has its direction and general office in the city of Philadelphia. He finally petitioned the action to be declared ungrounded, the company expressly reserving its actions for the damages caused to it by the sequestration. The parties having been invited to conciliation, this was not obtained. It was declared that the petition for the extraordinary term of evidence had been made in due time and the tribunal reserved to itself the legal term to decide as to the voucher and the suspension of the course of the suit, after the decision of which, in virtue of the provisions of article 281 of the code of civil procedure, the cause remained in suspense until Doctor Bance having withdrawn the voucher it was declared to be withdrawn, and the suit continued its legal course. The latter being opened to evidence, Dr. Juan Bautista Bance proposed his in two writings of the 4th of October, 1904, and the attorney-general those he thought fit in his writing of the 5th of said month, the respective decisions of the 13th of October, 1904, concerning both the first two writings and the last one being pronounced. Respecting the evidence proposed by Dr. Juan Bautista



Bance the result was that Andres J. Vigas and Ambrose H. Carner declared in Caracas; José Vicente Solis, Juan Bosch, and Andres Campos, in Guiria; José Maria Aristimuño, in Maturin; Antonio Servoni and Laureano Villalba, in Guariquen; Charles Arno in Port of Spain; that No. 7986 of the Official Gazette, of the 25th of July, 1900, in which is inserted a certification issued by the minister of fomento, on the 23d of July of the same year was annexed to the records; that at the ministry of fomento it was certified that from the year 1883 up to the 29th of November, 1904, there have been issued thirty definitive titles to mines of different kinds situated in the jurisdiction of the former state of Bermudez and several property titles to public lands pertaining to the same state of Bermudez; that the favorable merits of the records, including that of the file of the sequestration, and all the favorable merits shown by the file of the New York and Bermudez Company existing in the archives of said ministry of fomento were reproduced; that certified copies were obtained from the same ministry of the official communications 374 and 375 addressed to the civil and military chiefs of the former states of Cumaná and Maturin, in which official communications the resolution printed in No. 7986 of the Official Gazette was transcribed to those authorities; that the contract concluded on the 12th of February, 1886, with Mr. Cornelio F. O'Brien concerning the supply of wood, which appears on sheets 4, 5, and 6 of the file, was produced; that the collation of the report appearing on sheets 93 and 103 of records No. 3, marked No. 2, undated and signed by Mr. Horatius R. Hamilton, the general manager, was made in Philadelphia, State of Pennsylvania, by the interpreter Gustavo Navarrette y Romay; which report was produced in a copy before the tribunal to the effects of said collation: that there was produced a pamphlet entitled "The New York and Bermudez Company. The allegation of its rights against an illegal executive resolution issued in January, 1898. The ratification of its titles and concessions by the executive power and the high federal court of the United States of Venezuela," [see protest 7/6] for the purpose of obtaining the declaration of Messrs. Ambrose H. Carner and Dr. Andres J. Vigas concerning the particulars inserted on sheet 3 of the file.

With regard to the evidence of the attorney-general, there appear in the records the declarations of Generals Manuel Guzman Alvarez, Santiago Briceno, A. and Rafael Velasquez, who at several times have been presidents of the states into which the former state of Bermudez was subdivided, and those of the witnesses enumerated in an attestation proposed by Gen. Luciano Rodriguez before the civil judge of the first instance of the section of Maturin, the last-mentioned declarations having been ratified before the same court conformably to a petition of the plaintiff. There likewise appears on sheets 137 and 138, second page, and 139 of the file the survey proposed by the attorney-general, with the purpose of establishing that Cano Colorado and the Guarapiche River have not been canalized up to the city of Maturin. The plaintiff produced a certification of the auditor-general of the audit office, contained in records No. 2, showing the exportation made by the New York and Bermudez Company up to the 30th of June, 1904. The minister of fomento issued the certification of several documents and acts of the file containing the contract concluded by the National Executive with Mr. Horatius R. Hamilton for the exploitation of natural products in the state of Bermudez. The attorney-general asked, furthermore, to cross-examine all the witnesses the opposite party might adduce, asked to interrogate the representatives of the opposite party, and alleged the favorable merits of the records.

The cause being fixed, the counsel for the defendant company proposed in his pleadings as points to be previously decided, that of the incompetency of the tribunal of the first instance of the federal and cassation court to pronounce judgment in the suit and the necessity of the self-recusation of that judge.

With such elements the tribunal of the first instance of the federal and cassation court pronounced judgment, on the 20th of May of the present year, declaring the admission of the action entered by the attorney-general against the New York and Bermudez Company. This sentence having been appealed, the appeal accepted, and the records removed to this tribunal of appeal, this was formed in conformity with the law, as appearing from the report drawn up on the 7th of July, 1905, after the self-recusation of the vice-president, Dr. Carlos León, had been declared lawful and the second deputy judge, Dr. Fernando Cadenas Delgado, had been called by writ on the 3d of July of the same year. After the case had been examined the parties were called to pleadings. The attorney for the company presented his in writing, which were read, and the opposite party stated that he reproduced those presented by him in the first instance.

In his pleadings the attorney for the company proposes, as a point to be previously decided, the incompetency of this tribunal of appeal, and

Considering *a*

That the power of the tribunal of the only and last instance to take cognizance of the present litigation [is derived] derives from article 11 of the organic code of the federal and cassation court.

*a*See inclosure 2, note A.

Considering:<sup>a</sup>

That article 95 of the national constitution, which attributes to the federal and cassation court the cognizance of the controversies arising from contracts or negotiations concluded by the President of the Republic does not provide for the procedure to be observed in the exercise of that attribution of the court, as such depends on the organic institutions of the latter.

Considering:<sup>a</sup>

That in virtue thereof the collision adduced by the defendant does not exist.

Considering:<sup>a</sup>

That in view of the provision contained in article 10 of the code of civil procedure, the tribunals must preferably apply the constitutional precept only when the law in force the application of which is asked collides with that precept.

Considering:<sup>a</sup>

That in the present case the adduced collision does not exist. Now, therefore, it is hereby declared that the tribunal of the only and last instance of the federal and cassation court is competent to take cognizance of the present controversy, and, inasmuch as the attorney for the company requires the self-recusation of some judges composing this tribunal, because of their having, according to what he says, given an opinion, the following remarks are relevant:

First. That article 117 of the code of civil procedure provides that judicial officers, whether ordinary, accidental, or especial, may be recused.

Second. That article 119 of the same code prescribes that any judicial officer knowing that some ground for recusation militates against his person is bound to declare it. If the defendant, therefore, has surrendered the recusation right given it by the law; if the judge has not held himself bound to recuse himself, because he has not found any recusation circumstance to militate against his person, it is indispensable and conformable to law that that judge should maintain his jurisdiction over the case. Therefore the petition for self-recusation is disallowed.

And whereas the incompetency of the tribunal and the petition for the self-recusation of the judge were also adduced in the first instance as points to be previously decided, this tribunal of appeal, resting on the fact that it finds conformable to the law the grounds on which the tribunal of the first instance rested when it disallowed both the point of the incompetency and that of the self-recusation above mentioned, confirms in all their parts the previous decisions of the tribunal of the first instance of the federal and cassation court.

With regard to the action, considering:

That the cancellation being petitioned for of the contract concluded on the 15th of September, 1883, by the ministry of fomento of the Republic, by order and authority of the President and Mr. Horatious R. Hamilton, of which the New York and Bermudez Company is the cessionary, *the name that contract may deserve is alien to the character and nature of the action instituted,*<sup>b</sup> since to pronounce a decision as to the latter it sufficed that the said contract is a synallagmatic one and that one of the contracting parties is said not to have complied with its obligations. (Art. 1110 of the civil code of 1880.)

Considering:

That the above-mentioned contract is a synallagmatic one, since it appears from the examination of its clauses that the parties bind themselves reciprocally. If the Government of Venezuela contracted with Hamilton and his assigns the duties contained in articles 1, 2, 3, 4, 7, of the instrument appearing on sheet 1 of record No. 1, it in return obtained the rights specified in the same document under numbers 5, 6, and 9 and those contained in the first and second additional articles of the 19th of October, 1883, and the 30th of May, 1884. If Hamilton and his assigns may import duty free the machinery, implements, and tools required by the exploitation of the products of the state of Bermudez and obtain the right to export asphalt in the same state, Hamilton and his assigns bind themselves to pay to the public treasury 2 bolivars for every 999½ kilograms of asphalt they may export and 5 centimes of a bolivar for each kilogram of any natural product, Hamilton, and therefore his assigns, bind themselves to canalize, in virtue of the second additional article, one or more of the rivers of the state of Bermudez, beginning by Caño Colorado, Guarapiche, as far as Maturin, for the exportation and importation, *and the government grants them in return the exclusive right to navigate the rivers they may canalize,*<sup>c</sup> collecting a tax, to be fixed in concert with the government, from the vessels or boats that may navigate the same.

<sup>a</sup> See inclosure 3, note "A."

<sup>b</sup> *The fact which was assumed by the lower court that the contract in question was a lease, was the sole ground upon which the sequestration could have been made; hence to this extent the name was VITAL.*

<sup>c</sup> This is what the government expressly denied to the company in public documents from the government archives, and to which the attention of this court was particularly drawn, but which they entirely ignored. (See 7/58, 7/54, and 7/57.)

Considering:

That the additional clauses were all approved by the National Congress, as appearing from the decree of the 17th of April, 1886, and from the preliminary statement of the ministry of fomento, presented to the Congress of 1885.<sup>a</sup> The legal validity of those additional clauses has, furthermore, been recognized by the attorney for the company in the pamphlet entitled "Defense of the New York and Bermudez Company before the federal court of Venezuela in the action instituted against it by Messrs. Charles M. Warner and Patrick R. Quinlan, that it should agree to the validity of the title to the so-called *Felicidad* asphalt mine," which pamphlet has been especially recognized in this suit by its author, who, on page 9, says, "10. To form a right opinion as to the rights and obligations derived from said convention, set up for a law of Venezuela (articles 1076 and 1077 of the civil code), we give here the integral part thereof," it being observed that he copies it thereafter with the three additional articles.

Considering <sup>b</sup> that by the analysis and appreciation of the evidence of both litigants it is proved in the records that the company has confined itself to the exploitation of an asphalt lake discovered within the territory of the state of Bermudez.

Considering:

That the obligation of canalizing one or more of the rivers of the state of Bermudez contained in the second additional article is an unqualified obligation independent from the text of the sole paragraph of the same additional article, for which reason it is not just to establish that said canalization or the construction of a railway determine an alternative obligation. In that class of obligations the contractor binds himself to one of two prestations and in the present case the construction is left at the discretion of the contractor, since the paragraph reads: "He will have the same rights if he constructs a railway."

Considering:

That it appears from the survey contained in the records authorized by the Engineers S. Ortega, E. Gomez Franco, and Rafael Diaz that on the whole tract of the two portions of the river which they have surveyed—namely, that from Caño Colorado to the coast-guard station of that name—and that from there to the city of Maturin no work, sign, or indication has been found during the careful inspection made, showing that it has ever been pretended to canalize said canyon and river, since they remain in their primitive state.

Considering:

That while it is true that, as appearing from the certification issued by the ministry of fomento on the 26th of November, 1900, communications were respectively addressed to the civil and military chiefs of the states of Cumana and Maturin transcribing to them the resolution of the Executive Power declaring that said company could make use of all and every one of the rights granted it by the contract and that it had in every case the same preference in any preemption of asphalt mines or public lands. Such a fact is justified by the circumstance that at the time of those communications the cancellation of the contract had not yet been petitioned for, or, in other words, that the contract was firm as long as its cancellation had not been declared by the judicial authority.

Considering:

That the certification issued by the ministry of fomento on the 23d of July, 1900, is radically null, as deriving from an usurped authority, in accordance with the provisions of article 120 of the constitution of 1893, in force at the time the above-mentioned certification was issued. By that article every magistrate or corporation is definitely prohibited from exercising functions that are not thereby or by the laws expressly attributed to them. The same constitution, by its article 118, declares the acts derived from any usurped authority to be void, and inasmuch as in the organic law of the ministries of the 19th of March, 1898, there does not exist among the faculties of the ministers that of issuing certification such as that referred to, and inasmuch, furthermore, as article 95 of the same fundamental law provides that the acts of ministries must conform to the constitution and the laws, it follows therefrom that the above-mentioned certification is deprived of any legal value, for which reason it can not either be considered as a concession, as the attorney for the defendant company pretends.

Considering:

That obligations are to be complied with exactly as they have been contracted. The debtor is responsible for damages in case of breach. (Art. 1163 of the civil code of 1880; 1190 of the present code.)

Considering:

That the rescissory condition is always implied in synallagmatic contracts subject to the event that one of the contracting parties should not comply with its obligation. In this case the contract is not of right canceled. The party respecting which the obligation has not been complied with has the option either of compelling the other party to the execution of

<sup>a</sup> See inclosure 2, note B.

<sup>b</sup> The records prove the direct contrary of this. (See 7/52-2, pp. 6 to 9, and note on page 9 of same as to omissions of years 1892-1902 and 1904.)

the contract, if it is possible, or of demanding the resolution thereof, besides the payment of damages in both cases. (Art. 1110 of the civil code of 1880; 1137 of the present code.)

Considering:

That article 9 of the contract under discussion provides in its final part that "the nonfulfillment of any part of the stipulations herein mentioned renders in fact (*ipso facto*) the present contract null and void," which clause the federal court of Venezuela, in a sentence pronounced on the 23d of August, 1898, declaring the nullity of the executive resolution of the 4th of January of the same year, petitioned for by the New York and Bermudez Company, termed in number 10 of the preamble "an unqualified binding compact," which term this tribunal confirms; and inasmuch as said compact is equivalent in law to the implied rescissory condition dealt with in article 1110 of the civil code of 1880, equal to article 1137 of the present code, it produces the same effects and does not imply the waiving of any right.

Considering:

That the nonexecution of the contract by the defendant company is fully proved in the records.

Considering: *a*

That the allegation of prescription is irrelevant, both because the cause of the obligation being in vigor, which in the present case is the contract of 1883, the obligation itself exists, and because from the month of April, 1886, when the last extension of time expired, up to the 20th of July, 1904, when the action as instituted, the twenty years required by the law for the prescription of personal obligations have not elapsed. (Art. 1909 of the civil code of 1880; 1964 of the present code.)

In virtue of these grounds, administering justice by authority of the law, the appealed judgment is confirmed in all its parts and the appellant is condemned to pay the expenses.

Let it be published and registered.

Let the file be returned.

Given, signed, and sealed in the sitting hall of the federal and cassation court, at the Federal palace of Caracas on the 7th day of the month of August, one thousand nine hundred and five, the ninety-fifth year of the independence, the forty-seventh of the federation.

The Vice-President,

EMILIO CONSTANTINO GUERRERO.

The Relator,

TOMAS MARMOL.

The Chancellor,

J. ABDON VIVAS.

Judge,

E. ENRIQUE TEJERA.

Deputy Judge,

FERNANDO CARDENAS DELGADO.

Deputy Judge,

EMULIO H. VELUTIM.

The Secretary,

R. MEDINA TORRES.

[Inclosure 2.]

NOTE A.

These five "Considerations" agree in principle with our contentions and also with the opinion of Dr. P. Febres Cordero, who, as attorney-general of the nation, in 1898 rendered an opinion, translated on page 125 and following of Volume I, printed book, Felicidad litigation. But in practice the present court departs from the action of its predecessor in sending this case first to an inferior division of the court, thus requiring two hearings and an appeal, at least, where the former court settled the case definitely in one hearing.

Moreover, by dividing the case into two parts it required four hearings and two appeals, at least, to reach the same definite result that the court in the previous case reached in one hearing.

It is evident from the record of this case that this division of both the court and the case was deliberately done for the purposes of delay, that thereby the final result might be put off as long as possible in order that the Government of Venezuela, being in possession of the property, might the longer enjoy the possession and the fruits of the company's property; and instead of this action of the court of first instance being an advantage and protection to the company, as stated by the lower court, it has been a direct hardship and has greatly prolonged the proceedings and added immensely to their cost.

*a* See Inclosure 2, note A.

[Translation.]

For the full text of this opinion see page 125, Volume I, printed book (considerations on pages 7 and 8).

## OPINION OF PROCURATOR-GENERAL.

REPUBLIC OF VENEZUELA,  
OFFICE OF THE PROCURATOR-GENERAL OF THE NATION.

Report of the procurator-general of the nation upon the Executive order declaring the escheat of the contract between the government and the New York and Bermudez Company for the exportation and exploitation of the natural productions of the forests on the wild lands in the State of Bermudez, of Venezuela.

MAY, 1898.

REPUBLIC OF VENEZUELA,  
OFFICE OF THE PROCURATOR-GENERAL OF THE NATION.

Report of the procurator-general of the nation upon the declaration of escheat of the contract executed with Horatio W. Hamilton in 1884, which was assigned to the association known as the New York and Bermudez Company in 1885 for the exploitation and exportation of the natural products, including asphalt, of the forests standing on the wild lands of the State of Bermudez.

The former minister of fomento of the United States of Venezuela issued, on January 4 of the present year (1898), an order wherein, on various grounds, is declared escheated the contract to which the present report refers, except in regard to the exploitation of asphalt, on account of its not having been executed in the period granted therefor, nor before said period, and because "by the ninth article of said contract it is provided that failure to comply with any of its terms annuls it at once." And as Señor Dr. Carlos León, in his capacity as agent of the New York and Bermudez Company, presented a petition to the ministry of agriculture, industry, and commerce, under date of April 12 last, asking for the annulment of said order of January 4 of the present year, and as a consequence the confirmation of the contract referred to, the undersigned, procurator-general of the Republic, in compliance with the dispositions made in cabinet by the citizen President of the Republic, hereby reports his opinion on the subject, having studied the papers which Señor Minister of the Department was pleased to send to him with his official communication of the 23d of the present month.

\* \* \* \* \*

The contract having been entered into and its fulfillment ordered, one of the parties says, some time after, that the other party has not carried out its obligations, when such other party, confiding in its rights, believes the contrary. Here then is a difference, a controversy, the decision of which, if it can not be amicably arranged by mutual consent of the parties, devolves only upon the judicial power and in no manner upon one of the parties themselves. The law, always wise, always prudent, foresaw the dispute which might arise in contracts and provided that a condition of dissolution shall be always implied in bilateral contracts in case one of the contracting parties should not meet his obligations. (Art. 1131, civil code.) And as it is also provided that in such case the contract should not terminate automatically (*de pleno derecho*), but that the party who had suffered from failure of fulfillment should have the option either to force the other party to perform the contract, if performance be possible, or to demand its rescission, with payment of his damages and losses in either case (*ibid.*), so also it directed that in such cases as the present the high Federal court is the tribunal which should take cognizance of and decide in first and any instance controversies arising from contracts or negotiations entered into by the national Executive. (No. 11, art. 110, constitution; No. 7, art. 11, organic law of the high court.) And this method of procedure gains more force when one observes that it is provided for in the contract in question, which directs, at the close of its eleventh article, that "doubts and controversies arising from this contract shall be decided by the *tribunals* of the Republic in conformity with its laws."

\* \* \* \* \*

Such is the opinion of the procurator-general, which is respectfully submitted to the better criticism of the national cabinet.

CARACAS, May 28, 1898.

P. FEBRES CORDERO.

Republic of Venezuela, Office of Procurator-General.

## NOTE B.

It appears by this record, page 1, that the original Hamilton contract made in September, 1883, had certain additions made—one in October, 1883, and three others in May, 1884; that the contract was approved by Congress in June, 1884—that is, after these additions

had all been made. Therefore it appears that the Congress of 1884 had before it the contract and all four additional articles, but it only approved the *first additional article*, and therefore by all ordinary rules of construction this was equivalent to an express declaration that Congress did not desire to approve the last three additional articles. When, therefore, this court declares, see page 11, that by the omnibus decree of the Congress of 1885, approving in gross all executive acts of the President, it included these additional articles, it is plainly in error, as the additional articles had been passed upon by a previous Congress and failed of approval. Hence by the action of the previous Congress they were removed from the domain of a simple executive act, requiring confirmation. The rest of what the court says in that paragraph on page 11 about Doctor Bance's quoting the contract with all the articles attached, and thereby giving them *judicial validity*, is too absurd for serious consideration, except that it shows that this court was itself doubtful of their judicial validity without Doctor Bance's approval.

## NOTE C.

By Article VIII of the Hamilton contract (which this court very carefully refrains from mentioning or quoting), the rights and obligations of Hamilton became fixed as of the late of September 15, 1883, and the period of the statute of limitations *runs from the same date*.

The time to begin the work has nothing to do with the term of the contract or with the term of the running of the statute of limitations, and the date of the approval by the Federal council refers only to said extension of time for beginning the work. (See Art. IX.) It is therefore evident that from and after the 16th day of September, 1903, all actions for breach of the terms of the above contract were absolutely barred.

[Inclosure 3.]

*Mr. Wright to Chargé Hutchinson.*

## PROTEST AGAINST THE DECISION OF THE FEDERAL AND CASSATION COURT.

CARACAS, August 8, 1906.

SIR: I beg to inclose herewith a copy of the Official Gazette, No. 9532, published last night, with translation, marked with our document number 7/59, which contains the decision of the court of last resort, the federal and cassation court of the United States of Venezuela, on the appeal of this company from the decision of the hall of first instance of said court. This decision confirms in all points the decision of the lower court and adjudges the costs of the litigation against the company.

In the name of the New York and Bermudez Company, as its legally constituted attorney in fact and as the managing director in Venezuela of said company, I appear before you and enter formal protest against the above-mentioned decision and all officials and persons connected therewith as being an absolute denial of justice and as being contrary to the evidence, the facts, and the law.

I also attach hereto the pamphlet numbered 7/58, which contains (separately bound) translations and copies of the following documents in the case:

## ENGLISH TRANSLATIONS.

7/54. Argument of company's counsel, Doctor Bance, on appeal for final decision in suit in Hamilton concession. Attorney-general of Venezuela made no answer to these arguments.

7/55. Organic law of courts of Venezuela, quoted by Doctor Bance and also by the court in its decision.

7/57. Pinelli contracts for navigating the rivers canalized by the company, and comments on same.

## SPANISH COPIES.

7/54, 7/57.

I also attach the following documents. These constitute the complete record on appeal.

## ENGLISH.

7/52-2. Translation of second part of record, containing proofs submitted by the government in this case, referred to in decision.

7/52-3. Translation of third part of record, containing proofs submitted by the company in this case, referred to in decision.

## SPANISH COPIES.

7/52-1. This consists of the demand and answer in lower court, were translated some time ago, and copies are already before the Department of State or can be furnished from Philadelphia office of company—namely, 7/1, 7/2, and 7/4.

7/52-4. This consists of the arguments of counsel before lower court and the court's decision. The same remarks apply to these documents as to those next above. They are 7/48, 7/49, and 7/50.

I have no translations of 7/52-1 and 7/52-4 here, or would attach them hereto.

I also protest against the Government of Venezuela, the attorney-general of the same, and Dr. Manuel A. Ponce, his agent at Guanoco, for their illegal interference with and intimidation of our lawyers and agents sent there to obtain testimony, and also our witnesses, as appears in the affidavits of Bartlett, Scott, Pinango, and others already before the Department. See Documents 7/10, 7/11, 7/12, 7/19, 7/20, 7/29, 7/41, 7/42.

I also protest against the stoppage of my cables by this government as constituting a denial of justice. See 7/37, 7/38, 7/39, and 7/40.

I also protest against the lower court for protecting A. H. Carner from testifying when he was subpoenaed by this company to certify to the authenticity of a certain pamphlet, marked "7/6," copy attached, entitled "The New York and Bermudez Company—Statement of its rights against an illegal executive resolution of January 4, 1898. A revalidation of its titles and concessions by the executive power and the high federal court of the United States of Venezuela. Caracas. Editorial Printing Office of Soriano Sucesores. 1899." The dedication of which to Gen. Ignacio Andrade, constitutional President of the Republic, is signed A. H. Carner, managing director, and the preface and acknowledgments of which are signed "A. H. Carner, managing director, Guanoco (Venezuela), April, 1899." See 7/52-3, pages 22 and 23, also attached to exhibit I herewith. An exception was taken by the company at the time, as important letters and documents in the company's files had been used by Mr. Carner in making the entitled defense, and it was desired to introduce them here and have them verified by Mr. Carner as the basis of his defense of the company. The action of the lower court frustrated this. There was still, as we supposed, a chance that on hearing this exception the higher court would give us the opportunity to examine Mr. Carner and get this evidence in. The higher court apparently has taken no notice whatever of this exception, at least the writer has not been advised of any, nor is the incident in any way referred to in the decision of the court. I attach hereto the documents in question, marked as follows:

"Exhibits I to XVII," inclusive, noting the fact that there are two exhibits numbered 7 and no number 14.

"Exhibit XVIII." See 7/52-3, page 51.

"Exhibit XIX." Two affidavits of Clyde Brown, secretary New York and Bermudez Company, sworn to before Edgar W. Lank, August 26, 1904, and two affidavits of Peter B. Steffen, dated August 26, 1904, and August 30, 1904, sworn to before Edgar W. Lank.

"Exhibit XX." The letters and copies referred to by Clyde Brown in Exhibit XIX, with his affidavit attached, dated August 26, 1904.

"Exhibit XXI." Consisting of extracts from Exhibits I to XVIII and an envelope containing various letters, statements of accounts, receipts, and other papers from different agents of the company from 1886 to 1898.

I also protest against that part of the decision of the federal and cassation court on appeal (7/59) which gives weight to the testimony of Gen. Rafael Velasquez, whose evidence is all hearsay, and call attention to the fact that it was on the strength of a telegram from this witness that the government seized the property of the New York and Bermudez Company and placed it in the hands of our principal business competitors. I attach Exhibit XXII, documents 7/36, which contains this testimony in both English and Spanish, and it also appears in 7/52-2, pages 102-108. The original of this testimony is attached also to the sequestration proceedings, 7/51. And finally I solemnly and sincerely protest, in the name of the New York and Bermudez Company, against the said decision of the federal and cassation court of Venezuela and against any and all other acts of whatever nature or kind, whether embodied in this protest or not, which have been or which may be performed in the premises and which are or may be prejudicial to the interests of the said the New York and Bermudez Company, reserving to said company all its rights in order that it may use them at the proper time and opportunity.

ROBERT K. WRIGHT,  
*Managing Director New York and Bermudez Company.*

Subscribed and sworn to before me this 8th day of August, A. D. 1905, in the American legation, Caracas, Venezuela.

Executed in quadruplicate.

[SEAL.]

NORMAN HUTCHINSON,  
*United States Chargé d'Affaires a. i.*

[Inclosure 4.]

CERTIFIED COPIES OF THE PETITION MADE BY DR. CARLOS LEÓN, IN THE NAME OF THE "NEW YORK AND BERMUDEZ COMPANY," 1900.

[Seal of the ministry of fomento.]

Julio Perez Garcia, director of territorial riches in the ministry of fomento of the United States of Venezuela, certifies that in the mining archives of this ministry among the papers relating to the New York and Bermudez Company are the following:

*León's petition protesting against the order of escheat.*

*To the Citizen Minister of Agriculture, Industry, and Commerce:*

I, Dr. Carlos León, counselor, here domiciled and of legal age, as representative of the New York and Bermudez Company, as appears from the original power of attorney, which I inclose herewith in order that it may be returned certified, respectfully represent to you:

Under date of January 4, 1898, was issued by the ministry of fomento an order wherein the citizen President of the Republic, with the affirmative vote of the cabinet and after deliberation by the council of government, declared to have escheated the contract executed by said ministry with Horatio R. Hamilton on October 19, 1883, to explore and exploit in the State of Bermudez the natural products of the forests standing on its wild lands, asphalt being included therein, of which contract the company represented by me is assignee. The causes set forth in said order for declaring the escheat of the contract are precisely those which should have influenced the mind of the citizen minister not to issue said order; in effect it is acknowledged in said order that the New York and Bermudez Company has continually exploited in the State of Bermudez, and, what is more, that said company owns, by concession obtained under the law of mines, a bed of this substance in land for which it filed claim and which it bought from the national government under the law of wild lands. The ninth article of the contract reads thus: "Horatio R. Hamilton binds himself to begin the execution of this contract within the term of six months, which may be prolonged for six months more at the option of the government, to be computed from the date on which this contract is approved by the federal council under the law in the matter, and default in the fulfillment of any of the stipulations herein expressed annuls this contract immediately," and from the very order which we are analyzing it appears that the company has fulfilled such stipulations, since it has explored the forests of the State of Bermudez, has exploited its asphalt mines, and, moreover, has paid scrupulously the 2 bolivars which it bound itself to pay for every 999½ kilos of asphalt which it should exploit. Not only has the company explored the woods of the State of Bermudez, but it has built 6 miles of railroad from the banks of the river Guanoco to the mine which is now in exploitation.

It has paid to the custom-house at Caño Colorado 40,000 bolivars of taxes on exported asphalt, and has paid 175,000 bolivars to the same custom-house for goods imported for the use of the great number of laborers in its employ. In the ministry of finance are the reports on the progress which the company represented by me has made in the midst of the forests of the State of Bermudez. It is not long since Señor Perez León, the present inspector of customs for the east, made one of the most brilliant reports to said ministry. There, also, may be found a report by Gen. Diego Bautista Ferrer and another by the present administrator of customs of Caño Colorado, all of which you may obtain from said office in order better to enlighten your judgment. The company has spent more than half a million dollars in exploring the forests and exploiting the asphalt mines of the State of Bermudez, and I am unable to understand how it is said in said order that "the expenses which the said company may have incurred in its works and constructions can not validly be alleged in proof of the validity of this contract, since they were incurred only for exploitation of the aforesaid deposit of asphalt." This shows that when the order was issued the contract of which the company represented by me as assignee was not even read. Indeed, the contract in question says, in its first article:

"The government grants to Señor Horatio R. Hamilton the right to explore and exploit the natural productions of the forests standing on wild lands in the State of Bermudez, he being empowered to take from them wood for building," etc.

In its second article:

"The government also grants to Señor Horatio R. Hamilton the right to exploit the asphalt in said State of Bermudez."

In its fifth article:

"Señor Horatio R. Hamilton binds himself to pay to the public treasury 2 bolivars for every 999½ kilograms of asphalt exported by him and 5 bolivar centimes for each kilogram of any of the natural productions above named," etc.

The ninth article has already been quoted above.



Has the company which I represent made default in the fulfillment of the above stipulations? The government grants to Señor Horatio R. Hamilton the right to explore and export the natural productions of the forests standing on wild lands in the State of Bermudez, he being empowered to take therefrom timbers, etc., and also grants to him the right to exploit the asphalt mines, Hamilton binding himself in compensation to pay to the public treasury 2 bolivars for each 999½ kilograms of asphalt exported by him and 5 bolivar centimes for each kilogram of any of the other productions. It appears from the order that the company was exploiting at the date of the issue of the order one of the asphalt mines lying in the forests of the State of Bermudez, and it should have been remembered that in order to discover that mine it was necessary to make explorations in said forests under authority; and, moreover, the company has planted in them more than 20,000 cacao trees and has built wharves upon the river Guanoco, the timbers taken from the forests have been employed by it in the construction of bridges, of buildings for the lodging of its great number of employees, and of the railroad line above mentioned.

Thus it is evident that the company has exploited and was exploiting, both by its mining and by its agricultural works, up to the issue of the sudden declaration of escheat, the concession assigned to it by Hamilton, unless the citizen minister who issued the order believed that the company ought to explore and exploit simultaneously all the land and all the resources contained in said concession; but this, besides being absurd, is an obligation which is not found and can not be found in any of the clauses of the contract, and hundreds of millions would not suffice for such colossal undertaking. Business enterprises begin, however flattering may be their distant future, with a capital proportioned to the means of those who initiate them, being given the circumstances of time and place under which they are to be developed, and in this enterprise there have already been invested more than 2,500,000 bolivars. The farms and plantations known as "Guariquen," "Puerto Caripe," "Parare," "Buen Pastor," "Agua Clara," "Guacarapa," "Majagal," "Azagua," "Princeres," "Caripe," "Maturin," "Acagua," "Pillar," "Cariaco," and various others, extending for 80 miles from the mine, live by the company. It buys from them all their productions, and the great number of Americans who constantly come to visit the mine give life and animation to a large part of the territory of the State of Bermudez; and to-day all this region is desolate at the cessation of the daily work given by the company.

A steamer owned by it plies between Trinidad and Caño Colorado, and the government must have learned from the reports of the custom-house of this port the profit yielded by this steamer to the nation. I take the liberty of asserting that the order was not issued after sufficient deliberation, because such a measure besides inflicting great losses upon the company represented by me inflicts great losses also upon the national government and upon a large part of the state of Bermudez. Moreover, what confidence can foreign corporations have when after they have sunk great sums of capital in the country they may be suddenly and without warning deprived of all their rights? This is equivalent to closing the doors to foreign investors, inspiring in them just distrust.

For these reasons I have recourse through your honorable means to the chief of the executive power, petitioning him that he be pleased to vacate the order issued on January 4 of the present year by the citizen minister of fomento, and thus to declare valid the contract of which the company represented to me is assignee.

CARACAS, April 12, 1898.

CARLOS LEON.

MINISTRY OF AGRICULTURE, INDUSTRY, AND COMMERCE:

The foregoing document was received in this office to-day, April 13, 1898, at 11 a. m.  
The director.

FRANCISCO DE P. ALA, O.

*The Secretary of State to Minister Russell.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, October 18, 1905.

(Mr. Root advises Mr. Russell that, after full conference with Judge Calhoun, the Department entertains the hope that questions between the United States and Venezuela may be settled without recourse to either of the alternatives contemplated in the dispatch of March 10, 1905. [Printed p. 1027.] This government's desire for the friendship and kindly feeling of Venezuela is sincere and strong. It has taken so much trouble and devoted so much effort as a friend of Venezuela,

especially under the administrations of President Cleveland and President Roosevelt, that it is very reluctant to yield to the idea that any conditions between us can not be settled through diplomatic channels. Mr. Russell is directed to confer with the Government of Venezuela in this spirit and report whether or not he finds it disposed to resume the consideration of the various matters which have been the subject of discussion in the same spirit in the hope of reaching adjustment consonant with substantial justice and equity without in any way intimating that Venezuela has not been actuated by that spirit in the past. He will ascertain if they will meet this government half way in a friendly and practical effort to reach substantial justice without too much regard to technical questions, and report generally his views upon the practicability of such a course. The desire of the United States that there should not be a recurrence of the same difficulties from which this government helped to extract Venezuela a short time ago, leads this government to entertain a strong hope that the difficulties between Venezuela and France may be amicably adjusted. The French ambassador here, conferring regarding Venezuelan matters, has expressed in behalf of his government most considerate and kindly feelings toward Venezuela, and I am sure that if Venezuela will go half way with them toward an amicable settlement it can be accomplished. Mr. Russell will use his good offices to aid in bringing this about if possible. He is instructed to communicate freely by wire his progress and results.)

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*Minister Russell to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, October 20, 1905.

(Mr. Russell acknowledges Mr. Root's cable of the 18th, and reports a conference with the minister of foreign affairs that morning. Mr. Russell inquires if Mr. Root can tell him in detail what the desire of the United States Government is in the matter of Bermudez Company case? What would be half way for it and what does he consider half way for Venezuela? Would the United States admit that the Bermudez Company concession has been forfeited, thereby accepting verdict of the Venezuelan courts; and if so, would the Bermudez Company, in negotiating for a new concession, be willing to discuss the question of damages for nonfulfillment (of) contract? Mr. Russell thinks probably something may be done along these lines. The President is out of town, but he expects to have a conference with him in the course of a few days.)

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*Minister Russell to the Secretary of State.*

No. 24.]

AMERICAN LEGATION,  
Caracas, Venezuela, October 29, 1905.

SIR: I have the honor to inform you that the Venezuelan courts have appointed the appraisers to assess the damages alleged to have been caused the government by the nonfulfillment of the concession

of the New York and Bermudez Asphalt Company. The appraisers appointed are: Jesús Muñoz Tebar, Manuel Clemante Urbaneja, Isaías Garbiras.

Jesús Muñoz Tebar is a civil engineer, Urbaneja is a lawyer, and has been at times connected with the asphalt suits in Venezuela, Garbiras is a civil engineer.

I am, etc.,

WILLIAM W. RUSSELL.

*The Secretary of State to Minister Russell.*

No. 19.]

DEPARTMENT OF STATE,  
*Washington, November 10, 1905.*

SIR: I have just telegraphed you as follows:

Reply to your dispatch of October 20 has been withheld pending conferences with representatives of Bermudez Company. Clyde Brown, representing that company, is now going to Caracas for the purpose of settling differences with Venezuelan Government if practicable. Do what you can to promote fair and reasonable settlement.

I was not willing to undertake to answer the questions of your dispatch of the 20th directly, because by doing so I might seem to be taking upon the shoulders of this government the negotiation of a settlement which, in my view, ought to be undertaken by the Bermudez Company itself. It is, however, the wish of the State Department to render every proper assistance within our power toward bringing any negotiation between the company and the Government of Venezuela to a conclusion which will be in accordance with substantial justice.

Prior to Mr. Calhoun's visit to Caracas the Department had, necessarily, to proceed upon statements by interested parties regarding a great mass of facts, and these statements, although made in entire good faith, were of course liable to be colored by the feelings and opinions arising from self-interest and from the long-continued and heated controversy. Mr. Calhoun's mission was, as you are aware, to secure an unbiased and dispassionate view of the entire field of the controversy, and all the acts and proceedings affecting the interests of the New York and Bermudez Company. Mr. Calhoun has not yet made his report. He has brought with him upon his return a great mass of notes from which he is now engaged in the preparation of the report. An informal conversation with him, however, immediately following his return, has produced upon my mind an impression that when the report is submitted it will appear that there were questions between the company and the Government of Venezuela appropriate for judicial decision, and upon the raising of which a situation was presented calling for an equitable adjustment of differences, and which can not properly be disposed of by a simple demand based upon the idea that all the right is on one side and all the claims of the Bermudez Company unimpeachable.

I have also a strong impression, derived from the same conversation with Mr. Calhoun, that the litigation in which these matters of difference have been dealt with has been conducted in an exceedingly harsh manner, and that, without undertaking to consider any question of technical legal right which may have been the subject of decision, the result has been a degree of injustice toward the company, which I

have great confidence the Government of Venezuela will recognize and remedy if the subject can be approached in a spirit devoid of that controversial and unfriendly quality which has hitherto characterized the treatment of it, owing, perhaps, to a considerable degree to the attitude taken by the company itself.

The proceedings by which the company has been deprived of the major part of its property have been, in their essence, proceedings for forfeiture. Passing by the question whether upon technical legal grounds there exists sufficient cause to sustain legitimate forfeiture, we may well urge upon the Government of Venezuela that it is hardly consistent with that sense of justice which should control nations in their treatment of all persons who subject their property and property rights to the control of national power to press causes of strict forfeiture beyond the actual injury done and to inflict losses wholly incommensurate with the occasion. You are familiar with the growth of equity jurisdiction under our own system of jurisprudence, having its origin in a sense of the injustice frequently wrought by perfectly unimpeachable legal judgments and in the desire of the sovereign to relieve unfortunate suitors from undue forfeitures and penalties and other harsh results following from the strict letter of the law. It is perfectly competent for the Government of Venezuela to deal with the affairs of the Bermudez Company in this spirit of equity without in any degree admitting an impeachment of the validity of the judgments of the courts of Venezuela. It is especially easy for that government to deal thus with a case in which the government itself is the complaining party, for the complainant who has recovered a judgment can always limit its operation and rest satisfied with such degree of enforcement of it as he deems to be just. I wish you to urge upon the Government of Venezuela such a treatment of the present situation as being due to that sense of justice which should control the action of a great and powerful government and to that reputation for justice which every civilized nation prizes so highly.

There has been much evidence produced to the Department upon which the New York and Bermudez Company makes claims relating to the proceedings against them which will not be taken up for consideration until the submission of Mr. Calhoun's report and which I hope, by reason of the settlement of the matters in controversy along the lines I have described, may never require further consideration.

I am, etc.,

ELIHU ROOT.

**SETTLEMENT OF ARBITRATED FOREIGN CLAIMS BY VENEZUELA  
AND PROPOSAL FOR THE ARBITRATION OF PENDING QUESTIONS  
BETWEEN THE UNITED STATES AND VENEZUELA.**

*The Acting Secretary of State to Minister Bowen.*

No. 173.]

DEPARTMENT OF STATE,  
*Washington, January 22, 1904.*

SIR: I have to acknowledge the receipt of your No. 242, of the 9th instant,<sup>a</sup> in which you report a conversation which you recently had with the President of Venezuela and state that you handed him a memorandum "showing how much money this government owes on

<sup>a</sup> Printed in Foreign Relations, 1904, p. 869.

the Hancox and mixed claims and requested him to continue the payments to this legation without delay."

No payment has been made to these claimants, who received their awards through the commissions of 1890 and 1895, since August, 1901.

The Department has been extremely considerate in its attitude toward the Venezuelan Government in respect to these payments, which seem to have been unreasonably deferred, and deferred, too, in violation of specific promises.

You are instructed to insist upon prompt payment of all sums now due claimants who received awards on account of the Hancox claim and other claims of the commission of 1890.

I am, etc.,

FRANCIS B. LOOMIS.

*Minister Bowen to the Secretary of State.*

No. 246.]

AMERICAN LEGATION,  
Caracas, Venezuela, February 1, 1904.

SIR: This morning I had the honor to receive Mr. Loomis's reprimand, contained in his instruction of January 22 last.

His reprimand, as I understand it, is intended to convey to me the idea that I should not have employed the usual polite diplomatic methods in trying to induce President Castro to continue the payments on the Hancox and mixed claims, but that I ought to have made my request in stern and strong language, and not have gone away satisfied with his mere promise to give the matter his attention.

My only answer to the reprimand is that last week, on the return of President Castro from a three weeks' absence at the seashore, he sent me word that he would pay the said claims in full and without delay.

The minister of finance is now preparing the accounts and making arrangements for the purchase of a draft, which will be delivered to me at the end of this week or at the beginning of next week.

I am, etc.,

HERBERT W. BOWEN.

*The Secretary of State to Minister Bowen.*

No. 180.]

DEPARTMENT OF STATE,  
Washington, February 19, 1904.

SIR: I have received and read your dispatch No. 246, of the 1st instant, in which you state that a reprimand was conveyed to you in the Department's instructions No. 173, of the 22d ultimo.

The instructions of which you complain set forth courteously and precisely the position of the Department in reference to the long-deferred payments of the Venezuelan Government to claimants who had received awards from the Mixed Commission of 1890, and, in the case of the Venezuelan Steam Navigation Company, commonly known as the "Hancox" claim. Neither the action of the Venezuelan Government, nor your communications to it, nor the form of them, was under consideration. No reprimand was intended, none was conveyed, and there was no warrant for the assumption by you that the Department's instructions contained a reprimand, or for the manner in which you expressed that assumption.

I am, etc.,

JOHN HAY.

*Minister Bowen to the Secretary of State.*

No. 265, confidential.]

AMERICAN LEGATION,  
Caracas, Venezuela, March 5, 1904.

SIR: In answer to your instructions No. 179 [not printed], of February 16th last, I have the honor to inform you that on or about the 26th of February I had an informal talk with the minister for foreign affairs. I told him that complaint had been made that Venezuela has not been paying the 30 per cent of the total revenues of the ports of La Guaira and Puerto Cabello, and that his government ought to make some statement about the matter to the nations interested. I handed him a draft statement (a copy of which is inclosed herewith) and advised him to send it to the various legations here, in order that we ministers might send it to our respective governments as an explanation of the course of Venezuela. He thought the idea good, but the next day he told me that the President is very angry at the complaints, and does not see any reason to make any explanation whatsoever about a matter that is beyond criticism. I answered that in my opinion much difficulty would be avoided if Venezuela should meet the complaints now before they are stated officially. He told me that President Castro would not listen to him.

My opinion is that we should either insist that at least 5,400,000 bolivars be set aside annually and paid in monthly installments to the creditor nations, or that, if the terms of the protocols are not respected, Belgian customs officials be put in charge of the said two custom-houses, and be protected while performing their duties there by warships.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.]

(Draft of a statement I suggested privately and personally to Mr. Sanabria should be sent to the creditor nations.—H. W. B.)

As there seems to be some misapprehension on the part of several of the creditor nations of Venezuela in regard to what revenues of the ports of La Guaira and Puerto Cabello should constitute the amount out of which the 30 per cent as provided in the Washington protocols should be paid, the Venezuelan Government makes the following statement:

The plenipotentiaries who signed the Washington protocols, having taken into consideration the fact that the average annual incomes of the ports of La Guaira and Puerto Cabello amount to 18,000,000 bolivars, agreed that 30 per cent of the annual incomes of those two ports would be a proper proportion to set aside for the payment of the claims—that is to say, they made their estimate on the normal incomes of those two ports. Venezuela naturally concluded that the creditor nations were satisfied to make that arrangement and would not increase their demands if Venezuela in order to obtain greater revenues for herself adopted measures that would augment the said normal and regular incomes. Consequently she adopted such measures, and they were so carefully devised that the additional revenues were kept absolutely distinct from the said normal and regular revenues. It is impossible to confuse them. One of the additional revenues is a war tax of 30 per cent. That is simply an extra tax beyond the ordinary duties. The other tax is an export tax, and that of course is entirely distinct and apart. Neither of those measures was in the minds of the said plenipotentiaries, and the creditor nations have no right to claim anything under either of them. They are exclusively for Venezuela, who needs them for internal improvements, the support of her army and navy, and the development of her schools and colleges.

Some criticism has also been made in regard to the opening of the port of Tucacas. That, too, was a necessary measure for the Republic to take. Peace being restored, it was the duty of the government to facilitate the delivery of merchandise. With that object in view the port of Tucacas was opened. No important result contrary to the interests of the creditor nations followed. On the contrary, the opening of the new port tends to increase the trade

of Venezuela, and therefore to promote not only her own welfare, but to offer additional securities to her creditors that their claims will be speedily paid.

Venezuela, be it known now once for all, intends to keep good faith with all her creditors, and in order that there may be no further misunderstanding on the part of any of them she now declares that the sum she will annually pay to her creditors will not fall below the amount that formed the bases of the negotiations in Washington—that is to say, 30 per cent of 18,000,000 bolivars, which is 5,400,000 bolivars. She believes the amount will be greater, but she declares that it shall not be less.

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*The Secretary of State to Minister Bowen.*

No. 190.]

DEPARTMENT OF STATE,  
*Washington, March 28, 1904.*

SIR: I have to acknowledge the receipt of your No. 265, confidential, of the 5th instant, relative to the application of 30 per cent of the customs revenues of La Guaira and Puerto Cabello to the payment of the claims of the judgment creditors of Venezuela. Your telegram of the 23d instant is acknowledged and repeated.

You will advise the Department of the total amount of the awards rendered in favor of Great Britain, Germany, and Italy, severally, as soon as the work of the Mixed Claims Commission is finished. The Department understands that Mr. Ralston, the umpire for Italy and Venezuela, has not yet completed his work.

You will also ascertain and report the total amounts which have been paid on the awards of Great Britain, Germany, and Italy out of the 30 per cent of the revenues of La Guaira and Puerto Cabello. This will enable the Department to know how long it will be before the claims of the allied powers will be fully paid and satisfied.

You will ascertain the total amount of the awards rendered in favor of each of the creditor nations, severally, and the length of time it will take to satisfy those claims on the basis of the 30 per cent of said revenues out of the annual yield of 5,084,577.50 bolivars. It may turn out that the 30 per cent of the annual yield of those revenues will pay and fully satisfy the claims of the other creditor nations without undue delay.

If there should be a further decrease in the yield of those revenues, so as to unduly postpone the satisfaction of the said claims, the Department would be inclined to adopt your suggestion—that at least 5,400,000 bolivars be set aside annually and be paid in monthly installments to the creditor nations, or that Belgian customs officials be put in charge of the two custom-houses above mentioned, in order to assure the satisfactory collection of the revenues and the application of 30 per cent thereof to the payment of the said claims.

Your zeal and vigilance in seeing that the terms of the protocols are faithfully performed are appreciated and approved by the Department.

I am, etc.,

JOHN HAY.

*Minister Bowen to the Secretary of State.*

No. 270, Confidential.]

AMERICAN LEGATION,  
Caracas, Venezuela, March 30, 1904.

SIR: I have the honor to inclose herewith a statement showing the amounts that were paid monthly to the representative of the Bank of England here during the year ended February 29, 1904, and also a statement showing what the total income of Venezuela was during the year 1903.

Comparing the statements, we find that Venezuela is paying about one-eighth of her entire income to the said representative. That in itself is not a heavy burden, but by the terms of the protocols she is bound "to make a new satisfactory arrangement to settle simultaneously the 5 per cent Venezuelan loan of 1896 and the entire exterior debt," which together amount to very much more than the claims do which have been presented to the commissions. It is likely, therefore, that when the promised arrangement is made Venezuela will have all the financial burdens she can carry.

Although the 30 per cent of the amount collected in the custom-houses at La Guaira and Puerto Cabello falls short by about 315,000 bolivars of the 5,400,000 which it was estimated the 30 per cent would yield, it seems to me, in view of all the circumstances, that if the allied powers can afford to accept the situation we can, also.

Some time ago I informed you that I thought the allied powers would be paid off by the end of this year, but I believe now that I should have added nearly another year to that calculation. \* \* \*

I am, etc.,

HERBERT W. BOWEN.

[Inclosure 1.]

*Payments of 30 per cent of revenues of custom-houses at Puerto Cabello and La Guaira made to the representative of the Bank of England at Caracas.*

1903.			1904.		
	Month.	Amount.		Month.	Amount.
		<i>Bolivars.</i>			<i>Bolivars.</i>
April 16.....	March.....	403,227.75	January 15.....	December...	522,747.35
May 7.....	April.....	312,973.90	February 17.....	January.....	461,367.55
June 5.....	May.....	312,535.00	March 16.....	February....	439,405.10
July 10.....	June.....	290,195.45			
August 6.....	July.....	436,339.00	Total.....		5,084,577.50
September 11.....	August.....	400,007.30	Exchange, \$1=5 bolivars and 20 centimos		\$977,803.36
October 15.....	September..	444,004.60			
November 13.....	October.....	527,109.95			
December 10.....	November..	534,664.55			



*Income of Venezuela during the year 1903.*

Source of income.	Amount.	Source of income.	Amount.
	<i>Bolivars.</i>		<i>Bolivars.</i>
Customs duties.....	21,102,827.53	Loan of 1903.....	344,203.56
Transit duties.....	5,731,292.66	Patents.....	7,637.50
		Registrations.....	44,187.67
	26,834,120.19	Mortgage.....	2,000.81
War tax.....	9,760,172.59	Cattle tax.....	168,276.00
Salt.....	1,738,068.51	Buoy tax.....	62,726.00
Coining silver.....	1,616,783.94	Telegraphs.....	493,497.65
Consular returns.....	232,232.53	Creeks.....	41,331.84
Stamped paper.....	99,026.49	Special rents.....	6,926.73
Pearl industry.....	68,370.00	Wharf tax.....	171,438.95
Postal packages.....	27,150.55	Aqueduct Miranda.....	14,249.97
Unappropriated lands.....	42,140.05	Schools.....	1,745,590.83
Mines.....	43,347.07		
Waterworks of Caracas.....	45,429.50	Total.....	43,426,908.64
Municipal rents.....	18,000.00	Exchange, \$1=5.20 bolivars.....	\$8,351,328.58

These two statements might very properly be published.—H. W. B.

*Minister Bowen to the Secretary of State.*

No. 274.]

AMERICAN LEGATION,  
Caracas, Venezuela, April 16, 1904.

SIR: I have the honor to inform you it will probably be July before all the awards will have been made. I will then furnish you with a careful report and estimate about the amounts that have been paid and that remain to be paid and the length of time it will take to conclude the payment.

Owing to the extra duties that Venezuela has imposed on exports and imports since the protocols were signed, the income of the two custom-houses that have to provide the money to pay off the awards is likely to decrease.

Yesterday I had another talk with the minister for foreign affairs about Venezuela's obligations to the creditor nations, and I left with him a memorandum (a copy of which I inclose herewith) of my views, and he promised to submit it to President Castro. I think it is a fair statement of the facts and of what may be justly and properly expected of Venezuela.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.]

*Minister Bowen to the Minister for Foreign Affairs.*

MEMORANDUM.

AMERICAN LEGATION,  
Caracas, Venezuela, April 15, 1904.

On January 27, 1903, it was agreed that Venezuela would pay 30 per cent of the "total income" of the customs houses at La Guaira and Puerto Cabello to the creditor nations and that the said 30 per cent should be absolute, unchangeable, and not diminished by any previous or subsequent agreements affecting the said custom-houses. It was estimated by Venezuela that the average yearly payment would amount to 5,400,000 bolivars.

That agreement and that estimate having been made in good faith, the creditor nations naturally expected that Venezuela would not adopt new tariff measures until after their claims had been paid; but she did adopt new tariff measures. She increased her duties on imports by 30 per cent and imposed some heavy duties on exports.

Furthermore, she decided to interpret the words "total imports" as meaning the income she derives solely from the old duties that existed at the time the said agreement was made, and not the entire income she obtains from all the duties, new and old. Thirty per cent of

those old duties is all, she claims, that she is obliged to pay. The first year they amounted to 5,084,577 bolivars and 50 centimos, which is less than the estimate by 315,422 bolivars and 50 centimos, and this next year they are expected to fall considerably below 5,000,000 bolivars. The decrease is of course the natural result of increasing the duties.

It is clear, therefore, that the new tariff measures have increased Venezuela's share of the income of the said two ports. One of the main objects of the agreement, consequently, has been ignored by Venezuela, and that was to establish and maintain the proportion of the total receipts that should be paid to the creditor nations. No permission was given in that agreement to Venezuela to alter that proportion. On the contrary, it contains a stipulation that the proportion, which was fixed at 30 per cent, should remain absolute and unchangeable. Therefore, the creditor nations are entitled to 30 per cent of the total income of the said two ports, and the plain, indisputable meaning of the words "total income" is the entire income, and not the part of it that the old tariff produces.

In other words, under and by virtue of the agreement the creditor nations are entitled to 30 per cent of all the duties, export and import, ordinary and extraordinary, new and old, that are collected in the custom-houses of the said two ports.

It may of course be urged on behalf of Venezuela that when the protocols were signed the creditor nations had practically decided that they would be satisfied with the payment of the sum they had in mind, which was 5,400,000 bolivars; but unless Venezuela offers to guarantee the payment of that amount and induces the creditor nations to accept that offer the claim may be made by the creditor nations that Venezuela is not carrying out her undertaking, and that consequently Belgian officials must be placed in charge of the said custom-houses until the liabilities of Venezuela shall have been duly discharged, and that claim would undoubtedly be strengthened by the assertion of the fact that the new custom-house at Tucacas reduces the income of the custom-house at Puerto Cabello by from 15 to 20 per cent.

In view of all the circumstances the suggestion that Venezuela should guarantee the payment of 5,400,000 bolivars seems likely to remove, if accepted, all cause of dispute and to settle the question of payment satisfactorily and honorably.

HERBERT W. BOWEN.

*Minister Bowen to the Secretary of State.*

No. 286.]

AMERICAN LEGATION,  
Caracas, Venezuela, May 14, 1904.

SIR: I have the honor to inclose herewith a translation of a note I received from the minister for foreign affairs in regard to the memorandum I left with him about paying the creditor nations 5,400,000 bolivars annually, and my answer thereto. If I receive any other communication from him on the subject, I will send to you forthwith a translation thereof.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure 1.—Translation.]

*The Minister for Foreign Affairs to Mr. Bowen.*

CARACAS, 18th of April, 1904.

MR. MINISTER: I have the honor to inform you that the Executive, in taking into consideration the memorandum which on the 15th instant your excellency was pleased to leave at this department, desires, considering it necessary, to know beforehand whether your excellency is proceeding in this matter as the representative and authorized agent of the parties interested or at the special request of the government which has accredited you to Venezuela.

† avail myself, etc.,

GUST. J. SANABRIA.

[Inclosure 2.]

*Minister Bowen to the Minister for Foreign Affairs.*AMERICAN LEGATION,  
*Caracas, Venezuela, April 19, 1904.*

MR. MINISTER: In answer to your letter of yesterday's date I have the honor to inform you that I am not authorized to represent here any government except my own, and that my object in handing to you my memorandum was to suggest to your government that it would take a wise and creditable step if it should offer to pay to the creditor nations 5,400,000 bolivars annually, in monthly installments. My reasons for making the suggestion are clearly set forth in the memorandum.

I gladly, etc.,

HERBERT W. BOWEN.

*Minister Bowen to the Secretary of State.*

No. 293, confidential.]

AMERICAN LEGATION,  
*Caracas, Venezuela, May 28 1904.*

SIR:

\* \* \* \* \*

The diplomatic representatives of Germany, Great Britain, and Italy called on the minister for foreign affairs a few days ago and arranged with him to have the monthly installments of the 30 per cent of the customs revenues of La Guaira and Puerto Cabello paid directly to them hereafter, and not to the representative of the Bank of England.

\* \* \* \* \*

I am, etc.,

HERBERT W. BOWEN.

*Minister Bowen to the Secretary of State.*

No. 378.]

AMERICAN LEGATION,  
*Caracas, January 6, 1905.*

SIR: I have the honor to inclose herewith copies of notes exchanged with the minister of foreign affairs in regard to the payment of the claims of the foreign bondholders.

My note to him was purely personal and written in great haste, immediately after I had discovered that President Castro was entertaining a proposition to add 130,000,000 to the diplomatic debt.

The answer I received was so friendly in tone that I called at once upon the minister of foreign affairs, and suggested that he should submit to President Castro a plan for settling all pending questions with foreign nations. I outlined the plan (copy of which I inclose), and this morning he called on me and said that President Castro would authorize me to propose it to you.

This afternoon he brought me a letter (of which I inclose herewith a copy), and which contains an unsatisfactory modification of my plan, inasmuch as it ignores the settlement of the claims of the European creditor nations. When I pointed out to the minister of foreign affairs that defect in the letter, he said: "My letter to you should be regarded as the first step."

I then asked him whether President Castro intends to submit to arbitration all of his pending disputes, including the asphalt case. He answered: "Certainly."

I then intimated that no arrangement could possibly be satisfactory that ignored the right of the other creditor nations to have their claims also submitted to arbitration. He answered: "We shall, of course, have to take up that question when we hear that Washington desires it to be settled."

I then agreed to send a cablegram to you in regard to what had been done. A copy of the cablegram I inclose herewith.

I have, etc.,

HERBERT W. BOWEN.

[Inclosure 1.]

*Minister Bowen to the Minister of Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, January 4, 1905.

MY DEAR MR. SANABRIA: Word has reached me from home to-day that the German and British bondholders wish President Castro to agree to settle their claims by giving to them about 130,000,000 bolivars in the so-called "diplomatic debt." I earnestly hope that President Castro will not consent to enter into that agreement.

In the first place, as the claims of the bondholders were not settled by the Washington protocols, the claims that were settled by them should enjoy preferential treatment. The only proper way, in my opinion, to pay the bondholders is to let them have 30 per cent of the customs receipts of La Guaira and Puerto Cabello after the claims of the allies and the peace powers shall have been fully paid.

In the second place, by adding 130,000,000 to the diplomatic debt the value of the French, Dutch, and Spanish holdings of that debt will be diminished very greatly, and France, Holland, and Spain would all have reason to complain that they had not been treated justly.

Finally, according to the existing law of Venezuela, as I understand it, only 2,000,000 bolivars can be set aside per annum for paying interest, etc., on the diplomatic debt. It is evident that with only 2,000,000 it would be impossible to pay interest on 130,000,000.

Please do me the kindness to present these personal views of mine to President Castro, and believe me,

Yours, very sincerely,

HERBERT W. BOWEN.

[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Minister Bowen.*

CARACAS, January 5, 1905.

MR. MINISTER: I am charged by the Provisional President of the Republic to say to your excellency as follows regarding your letter of the 4th instant:

The Venezuelan Government has not yet made the agreement to which your excellency refers, but it feels forced to enter into negotiations with the bondholders of Germany and Great Britain, etc., in conformity with the protocols which your excellency, as representative of Venezuela, signed at Washington, and which say in article 6 (see German protocol and British protocol).<sup>a</sup>

Moreover, the President while acknowledging what you state, that the claims of the bondholders were not arranged by the protocols of Washington, because they did not have to be, as they were recognized as debts by valid agreements, previously made by the Venezuelan Government, recognizes that the obligation exists in said article of the said protocols. As to the opinion of your excellency that preferential treatment be accorded to the claims of the allied and peace powers, and the 30 per cent be afterwards given to the bondholders, the Government of the Republic would have no objection, if your excellency would aid Venezuela to make that arrangement, and support our government if necessary.

The President states that if the claims of the bondholders are reduced to the 130,000,000, which your excellency refers to in your said letter, there would be no diminution in value of the French, Dutch, and Spanish holdings, first, because of the diminution of these holdings; second, because of the security; and third, because the new diplomatic debt would be incorporated in the existing diplomatic debt.

Lastly, the President would have to put aside, in order to conclude the said new agreement with the bondholders, a sufficient sum of money for that purpose, as it is true that the 2,000,000 bolivars would not be sufficient to cover the interest and amortization of the whole debt.

I am, etc.,

GUST. J. SANABRIA.

[Inclosure 3.—Translation.]

*The Minister of Foreign Affairs to Minister Bowen.*

CARACAS, January 6, 1905.

MR. MINISTER: In connection with my talk with your excellency last night I am pleased to inform you that I am authorized by the Provisional President of the Republic to say to you the following:

1. The Venezuelan Government being obliged in conformity with Art. 6 of the Washington protocols to make an agreement with the bondholders, and at the same time being obliged by the same protocols to continue paying 30 per cent of the customs revenues of La Guaira and Puerto Cabello to the allied and peace nations, and mindful at the same time of its desire to effect a satisfactory arrangement with all the creditors of the Republic, the Venezuelan Government would not be indisposed to fix at 5,000,000 of bolivars the sum which the 30 per cent would invariably yield and which by virtue of the said protocols the government is obliged to pay in twelve installments—a sum which, once the allied and peace powers have been paid would continue to be paid in the same proportion to the British and German bondholders. This agreement could become effective in the fiscal year beginning July 1.

2. The Venezuelan Government, desiring to maintain its good relations with the United States, offers to make with the United States an arbitration treaty for the solution of all legal questions which, having legally acquired diplomatic character, can not be settled by mutual consent by the two governments.

I am, etc.,

GUST. J. SANABRIA.

[Inclosure 4.]

*Plan proposed by Mr. Bowen.*

1. Venezuela will guarantee that the 30 per cent of the revenues of La Guaira and Puerto Cabello to be paid to the allied and peace powers shall amount to the fixed sum of 5,000,000 bolivars per annum. This agreement applies to the current year ending in March, as well as to the future.

2. Venezuela will pay the British and German bondholders interest and amortization out of the 30 per cent of the customs revenues of Puerto Cabello and La Guaira after the allied and peace powers shall have been fully paid, if the American Government will induce the bondholders to accept this agreement.

3. Venezuela agrees to submit to arbitration all pending questions between Venezuela and the United States, including the asphalt case.

4. President Castro is ready and willing to submit to arbitration all questions relating to claims.

(NOTE.—After a long talk about arbitration with the minister for foreign affairs I decided not to ask for a permanent arbitration treaty at present, but first to try to induce the President to sign a protocol to arbitrate pending questions and claims. I told the minister that it takes a long time to get a treaty ratified, and that I did not believe you would be satisfied with any proposition involving delay. Of course President Castro prefers to negotiate a treaty.)

H. W. B.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, January 7, 1905.

(Mr. Bowen states that the Venezuelan President is now disposed to yield, and Mr. Bowen is duly authorized by the minister of foreign affairs to inform Mr. Hay that in order to settle pending questions the

President will fix at 5,000,000 bolivars the annual sum to be paid to the allied and peace powers from the customs revenues, and that when they are fully paid he will continue to pay that sum to the German and British bondholders. Furthermore, he will agree to make an arbitration treaty with the United States for the settlement of all questions which, having a diplomatic character, can not be settled by mutual consent—that is to say, he is willing to submit the Bermudez (asphalt) case and our other cases to arbitration and to make provision for future arbitration. Mr. Bowen requested to have added that he will submit to arbitration the unsettled claims of all the other powers. He thinks he will do that when he sees that the United States insists. If the sister American Republics would make treaties to submit to arbitration disputed claims Mr. Bowen thinks the Monroe doctrine would not be likely to be attacked. He advises acceptance of the 5,000,000 offer; that the Department insist that a protocol be signed at once submitting the pending American questions and the disputed claims of other nations to arbitration without delay; and that then a permanent treaty of arbitration of claims be made that will be satisfactory to all the creditors of Venezuela.)

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*The Secretary of State to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, January 9, 1905.

(Mr. Hay states that the President approves acceptance 5,000,000 bolivars annually to be paid to all creditor powers from customs revenues provided said powers assent. The President could not interfere in any way in relation to German and British bondholders, that being a question in which this government is not concerned.)

The President approves the suggestion of an arbitration treaty with the United States for settlement of all questions which being of a diplomatic character can not be settled by mutual consent. Also of the provision to settle by arbitration unsettled claims of all the powers except contractual claims and bonds held by citizens of other governments.

The Department will cable Mr. Bowen bases of protocol for arbitration of all disputed claims of the United States and other nations excepting bonds and all claims of a contractual nature.

The Department will take under advisement the question of a permanent treaty of arbitration.)

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*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, January 11, 1905.

(Mr. Bowen states that the protocol should define what are diplomatic questions, as Venezuela often claims questions before her courts are not diplomatic; that provision should be made to prevent delays

in choosing arbitrators and having them sit and render decisions; that Bermudez case ought to go to The Hague, and that custom-houses should remain guarantee, with power of substituting Americans for Belgians with consent of other creditors. He thinks disputes about interpretation of the protocol should be referred to the President of the United States.

He adds that it will be very difficult to induce President of Venezuela to make protocol unless he sees we are ready to use force.)

*The Acting Secretary of State to Minister Bowen.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, January 12, 1905.*

You are authorized to conclude following protocol Bermudez matter. Important insist upon immediate restoration of property. Cable results.

LOOMIS.

Protocol of agreement between the United States of America and the United States of Venezuela, for the submission to arbitration of all questions between the Venezuelan Government and the New York and Bermudez Company, a corporation under the laws of the State of New York and a citizen of the United States.

Whereas differences have existed and still exist between the Venezuelan Government and the New York and Bermudez Company, especially in relation to the asphalt mine or deposit, commonly called Bermudez Lake, in the State of Bermudez, in Venezuela; and

Whereas in July last, on process issued by the federal and cassation court of Venezuela, at the suit of the Venezuelan Government, the said mine or deposit was, together with all its works and appurtenances, sequestrated and taken from the possession of the New York and Bermudez Company, against the protest of the Government of the United States, as well as of the company; and

Whereas it is desired in the interest of justice and of harmonious relations between the two countries to put an end to all differences between the Venezuelan Government and the said company, at once and finally, by means of an international arbitration:

Now, therefore, the United States of America and the United States of Venezuela, through their respective representatives, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, \_\_\_\_\_, have agreed upon the following articles:

ARTICLE I.

All differences heretofore or now existing between the Venezuelan Government and the New York and Bermudez Company, and all claims on either side arising therefrom, whether such claims have been diplomatically presented or not, shall be referred to and shall be decided by a board of three arbitrators, one to be named by the President of the United States, one by the President of Venezuela, and the third by the President of the United States and the President of Venezuela jointly within sixty days.

In case of the death, absence, or incapacity of any arbitrator, or in the event of his ceasing or omitting to act the vacancy shall be filled in the same manner as the original appointment, the period of sixty days to be calculated from the date of the happening of the vacancy.

ARTICLE II.

The arbitrators shall meet in the city of Washington within sixty days after the date of the appointment of the third arbitrator.

The vote of two arbitrators shall suffice for the decision of all questions submitted to the tribunal, including the final award.

ARTICLE III.

Within six months after the signature of this protocol each party shall present to the other and to its agent, and also to each of the arbitrators two printed copies of its case, accompanied with the documents and evidence on which it relies, together with the affidavits of their respective witnesses.

Within a further period of four months either party may, in like manner, present a counter case, with additional documents and evidence and affidavits in reply to the case, documents, and evidence of the other party.

If either party shall, in its case or counter case, refer to any document in its exclusive possession without annexing a copy it shall upon the request of the other party furnish the latter with a copy; and either party may call upon the other through the arbitrators to produce the originals or certified copies of any papers adduced as evidence.

## ARTICLE IV.

Within four months after the expiration of the term allowed for the filing of counter cases each government may, by its agent, as well as by additional counsel, argue its cause before the arbitrators, both orally and in writing. Each side shall furnish to the other copies of any written arguments, and each party shall be at liberty to make a written reply, provided that such reply be submitted within the four months specified.

## ARTICLE V.

All proceedings whether judicial or administrative, pending against the New York and Bermudez Company at the suit of the Venezuelan Government, shall be immediately discontinued and the award rendered under the present protocol shall be accepted as a conclusive determination of all questions involved in said proceedings and of any and all rights of said company in Venezuela, under its concessions and deeds, or otherwise, including indemnity for any violation of said rights.

The company shall be immediately restored to the possession and enjoyment of Bermudez Lake, its works, and appurtenances, as fully as before the late sequestration, and shall be permitted to remain in such possession and enjoyment, subject only to the decision of the arbitrators; and the Venezuelan Government shall so far as possible restore to the company all asphalt and other property taken from it at and since the order of sequestration, and shall give all aid to the company in tracing and recovering all such asphalt and other property as may have passed out of said government's immediate control.

## ARTICLE VI.

The New York and Bermudez Company shall be permitted freely to seek and to obtain the testimony of witnesses, through agents of its own selection, whether Venezuelans or foreigners, in any part of Venezuela. Such agents shall not be obstructed, threatened, or harassed; nor shall any person be hindered or deterred from giving testimony in behalf of the company, or be made in any way to suffer by reason of having given such testimony. The company shall also be permitted freely to communicate by cable, as well as by other means, with its representatives and agents in Venezuela.

## ARTICLE VII.

The award of the tribunal shall be rendered within fifteen months from the date of the signature of the present protocol. It shall be in writing and shall be final and conclusive.

## ARTICLE VIII.

Reasonable compensation to the arbitrators for their services and all expenses incident to the arbitration, including the cost of such clerical aid as may be necessary, shall be paid by the two governments in equal moieties.

Done in quadruplicate, in English, and Spanish, at ———, this ——— day of ———, 1905.

*The Acting Secretary of State to Minister Bowen.*

No. 232, confidential.]

DEPARTMENT OF STATE,  
Washington, January 13, 1905.

SIR: Referring to your cablegram dated January 7, 1905, in connection with the suggested payment of 5,000,000 bolivars annually on the claims of the various creditor nations, the Department would like to know how far short Venezuela has come of compliance with the protocols in the matter of the payment of said claims.



In the protocols it was agreed that 30 per cent of the revenues of the ports of Puerto Cabello and La Guayra should be applied to the payment of the claims in question, and in the course of the negotiations the Venezuelan plenipotentiary stated the estimated amount which that 30 per cent should yield. In the light of the estimate thus given the protocols were agreed upon. You will accordingly ascertain and report to the Department the amount which has been paid over from month to month and from year to year by the Venezuelan Government on the claims for the creditor states; the total award made by the mixed commissions to Great Britain, Germany, and Italy, respectively, and what amounts have been turned over by the Venezuelan Government and applied toward the payment of those claims, so as to enable the Department to determine how long a time, judging from past experience, will be required to extinguish the claims of the three blockading powers.

You will also report to the Department as to the facts, whether or not the Venezuelan Government has, in good faith, collected, accounted for, and paid over a full 30 per cent of all the revenues of the two ports of La Guayra and Puerto Cabello, and whether or not any considerable portion of those revenues has been diverted from the two ports named in the protocol by the creation of a new port or ports of entry.

You will also report any other facts and conditions which would seem to justify the United States Government in requesting the Venezuelan Government to put United States officials in charge of the custom-houses of the two ports in order to enable the United States to insure the payment and satisfaction, in good faith, by the Venezuelan Government of the obligation which it assumed toward the United States and the other creditor states in the settlement of the controversy by the aid of the United States Government between Venezuela and the blockading powers.

I am, etc.,

FRANCIS B. LOOMIS.

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*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *January 13, 1905.*

(Mr. Bowen reports that he presented to the minister of foreign affairs this day the protocol with a note in which he insisted on the immediate restoration to the asphalt company of its property. The minister said, "your government in its cable instructions to you accepted the offer of the Venezuelan Government to submit to arbitration all questions which, being of a diplomatic character, can not be settled by mutual consent, and I understood therefore that you would present a protocol general in character covering all pending questions." Mr. Bowen adds that the minister promised to answer in writing. Mr. Bowen believes he will object to changing the agreement.)

*The Acting Secretary of State to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 16, 1905.*

(Referring to Mr. Bowen's cablegram of January 13, Mr. Loomis states that Department does not understand that there are any cases for arbitration other than the Bermudez case and possibly the Critchfield, Jaurett, and Olcott cases. The Department is considering the three latter cases. Instructs Mr. Bowen to advise Department what other claims or questions there are for arbitration. Department understands the offer of 5,000,000 bolivars annually to apply to claims already adjudicated, and in order to make satisfactory arrangements with other interested governments the United States Government would have to take over the custom-houses of Puerto Cabello and La Guaira and appropriate the 5,000,000 bolivars annually to payment of adjudicated claims of all the creditor states, handing over the residue to the Venezuelan Government. If this arrangement is made, Department will endeavor to effect satisfactory arrangement with all creditor states. Department would be willing to submit all other claims and questions which admit of arbitration to the same tribunal that tries the Bermudez case. If this is agreed to by Venezuela, furnish list of all claims you know of, and Department will prepare protocols of submission to the same tribunal mentioned.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Caracas, January 17, 1905.*

(Mr. Bowen reports that the minister of foreign affairs resigned last night. He must begin negotiations again. The pending cases named in Department's cable of yesterday are the only pending questions.

Mr. Bowen understands minister of foreign affairs resigned because the President would not support his declaration that the words "diplomatic questions" include the Bermudez case. The President claims that is not a diplomatic question, yet he will never agree to let the United States take custom-houses. The American Government would have to do that by force.

Mr. Bowen adds that the new minister of foreign affairs, General Ibarra, is a personal friend of his.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
*Caracas, January 19, 1905.*

(By an official letter which Mr. Bowen received from the minister of foreign affairs last night, he is given to understand:

First. That the President of Venezuela will not agree to pay the 5,000,000 bolivars to the allied and peace powers.

Second. That pending diplomatic questions do not include questions before the Venezuelan courts.

Third. That Venezuela is willing to make a permanent arbitration treaty and to submit to a tribunal whether according to international law a question can be considered a diplomatic question that is pending in a national court. In other words, the President will not agree to submit the Bermudez case to arbitration until a tribunal decides that it is a diplomatic question.

Mr. Bowen adds that the President evidently considers the discussion ended, as he has gone to Maracay for ten days. Mr. Bowen is also of opinion that it should be considered ended.)

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*The Secretary of State to Minister Bowen.*

No. 234.]

DEPARTMENT OF STATE,  
Washington, January 20, 1905.

SIR: I have to acknowledge the receipt of your No. 378, of the 6th instant, in regard to the arbitration of pending questions with Venezuela.

In reply I have to say that the matters mentioned in your dispatch and inclosures appear to have been covered by instructions by cable already sent you, with the following exception:

In Mr. Sanabria's note to you of January 6 reference is made to an arbitration treaty in general. The Department is not disposed to enter into a general arbitration treaty covering all future controversies with Venezuela. Some of those controversies in the past have grown out of claims for comparatively small sums of money, not large enough to justify the expense of an arbitration proceeding. Such claims will have to be settled diplomatically in the future, as in the past. After the settlement of questions pending between the United States and Venezuela either diplomatically or by arbitration, the Department will be ready to take into consideration the subject of the negotiation of a general treaty of arbitration, covering all claims of sufficient magnitude to warrant the expenses of arbitration.

I am, etc.,

JOHN HAY.

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*Minister Bowen to the Secretary of State.*

No. 383, confidential.]

AMERICAN LEGATION,  
Caracas, January 22, 1905.

SIR: In answer to your instructions No. 232, of the 13th instant, received to-day, I have the honor to refer you to the following documents I have sent you during the last year: Memorandum, dated April 15, 1904, with dispatch No. 274;<sup>a</sup> dispatch No. 315, dated August 20, 1904. [Printed in *Foreign Relations*, 1904, p. 871.] \* \* \*

They, together with more recent data I have obtained, justify me, I think, in stating—

I. That Venezuela is not paying 30 per cent of the total income of the customs revenues of La Guaira and Puerto Cabello. If she had

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<sup>a</sup> Not printed.

done so during the year ended February 29, 1904, she would have delivered to the allied powers about 10,000,000 bolivars, instead of only about 5,000,000 bolivars. She claims to believe that she is compelled to pay only 30 per cent of the duties that existed when the Washington protocols were signed, and not of the new duties also.

II. That by creating the custom-house at Tucacas she reduced the customs revenues of Puerto Cabello. The reduction now amounts to over 40 per cent according to the statistics prepared by my very clever and intelligent French colleague and also by my very conscientious German colleague.

III. That the amount paid this second year will be about 4,500,000 bolivars, or about a half a million less than was paid last year.

IV. That the allied powers will be paid in about two years and the peace powers in about seven years from date at the present rate.

V. That President Castro's policy, if it is not interfered with, will continue to reduce the amounts paid yearly, and will therefore lengthen the aforesaid period of seven years to perhaps ten years or more.

VI. That no arrangements have yet been made to pay the British and German bondholders, in conformity with the requirements of the protocols.

VII. That President Castro has notified Belgium he will not pay the award to Belgium. \* \* \*

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.]

*Debt of Venezuela.*

	Bolivars.
To the British bondholders, principal and interest.....	78, 771, 705
To the German bondholders.....	61, 553, 452
	<hr/>
French, Spanish, and Dutch (diplomatic debt).....	140, 325, 157
	11, 320, 264
	<hr/>
Total exterior debt .....	151, 645, 421
Internal debt (60 per cent held by the French) .....	92, 983, 088
	<hr/>
Total exterior and interior debt.....	244, 628, 509
Total amount awarded by mixed commissions, about.....	38, 428, 580
	<hr/>
Grand total debt .....	283, 057, 089
	<hr/>
Venezuela's expenditures amount yearly to about.....	30, 000, 000
And her income to about.....	70, 000, 000
	<hr/>
What becomes of the 40,000,000 surplus is not officially told.	

H. W. B.

*Monthly payments to the allied powers.*

	Amount.		Amount.
	<i>Bolivars.</i>		<i>Bolivars.</i>
1903.		1904.	
March.....	403,227.75	February.....	439,405.10
April.....	312,973.90	March.....	461,456.20
May.....	312,535.00	April.....	472,835.20
June.....	290,195.45	May.....	411,484.00
July.....	436,339.00	June.....	457,736.45
August.....	400,007.30	July.....	297,280.90
September.....	444,004.60	August.....	363,233.20
October.....	527,109.95	September.....	337,497.50
November.....	534,664.55	October.....	340,132.50
December.....	522,747.35	November.....	390,204.17
		December.....	373,830.41
1904.		Total.....	8,990,268.03
January.....	461,367.55		

H. W. B.

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *January 27, 1905.*

(Mr. Bowen says the Venezuelan Government was astounded to receive the protocol about Bermudez case after being assured, in conformity with Department's cable of the 9th, that it would send bases protocol for arbitration of all disputed claims. Minister of foreign affairs says he sent the correspondence as to the matter to Washington by last mail. Mr. Bowen adds that the Venezuelan Government evidently think the Department's said cablegram was an invention of his; that the newspapers in Caracas are rapidly strengthening the cause of the President and increasing daily number who would resist the United States.)

*The Secretary of State to Minister Bowen.*

[Telegram.—Paraphrase.]

[DEPARTMENT OF STATE,  
*Washington, January 28, 1905.*

(Mr. Hay instructs Mr. Bowen to try to get Venezuelan Government to agree to the principle of an impartial arbitration of the cases of Bermudez Company, Critchfield, Jaurett, and of the revision of the Olcott award, and the trial of all these cases absolutely on their merits. If Venezuelan Government will accept the principle above stated, Mr. Bowen is authorized to conclude protocol sent him in the Bermudez case, and is told that the Department will send him protocol for the other cases and that all can be submitted to the same tribunal.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *January 30, 1905.*

(Mr. Bowen reports that he has sent a note to Venezuelan minister of foreign affairs asking if his government will agree to the principle of an impartial arbitration of the four cases, and suggesting if it will not

that it propose to the Government of the United States that a tribunal of arbitration be selected to declare whether these and other cases of other nations are diplomatic questions and to hear and to decide them if they are, and to fix the amount that ought to be paid out of the customs revenues to the creditor nations.)

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*Acting Secretary of State Loomis to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
*Washington, January 30, 1905.*

(Mr. Bowen is informed that the Department's cablegram January 28 only contemplated arbitration of four cases mentioned on their absolute merits. It could not agree to submit to any tribunal to decide whether any question is or is not a diplomatic question. That would be an innovation. When cases are submitted to arbitration on their merits only, if the tribunal decides adversely to any claimant that would show that there ought not to have been intervention in that particular case, and hence that that was not properly a diplomatic question. But if the tribunal decides in favor of any particular claimant, that shows that diplomatic intervention was just in that case. The United States Government could not agree with any government whatever to submit to a tribunal the function to pass on its exercise of the discretionary right of diplomatic intervention. Mr. Bowen is instructed to so advise the Venezuelan Government, and limit the proposed arbitration to terms stated in Department's cablegram of January 28.)

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*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *February 1, 1905.*

(Mr. Bowen says his note of the 30th may not be answered until the President returns February 4. He suggested that Venezuela should propose to submit to arbitration whether the cases are diplomatic in order to show that if suggestion was declined peaceable settlement is impossible, and to offer to Department an opportunity, if it is accepted, to deal a death blow to the pernicious Calvo doctrine, and to secure justice for all of the creditor nations and an equitable sum from the customs revenues. He asks if he may await the answer to his note before advising Venezuelan Government. The Department's instructions to him contemplated arbitration simply of its own four cases. Asks if that declaration should be made if Venezuelan Government rejects his suggestion.)

*Acting Secretary of State Loomis to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, February 2, 1905.

(States that the Department is unable to submit to arbitration the question whether cases are or are not diplomatic, but Mr. Bowen may use his discretion about communicating this government's position to the Venezuelan Government.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS (VIA HAITI), February 2, 1905.

(Mr. Bowen reports he has just received the answer to his note. The President declines to arbitrate the four American cases and to submit to arbitration whether pending questions are diplomatic or not and finally to permit a tribunal of arbitration to fix the sum that should be paid out of the customs revenues. He asks again for a treaty of arbitration for settling questions that may become diplomatic.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, February 3, 1905.

(Mr. Bowen states that the President asks for a general treaty of arbitration for settling questions that may become diplomatic in accordance with the rule of international law. Asks if the Department wishes him to decline foregoing request or to inform the Venezuelan Government that the Government of the United States could not agree to submit to arbitration whether or not pending questions are diplomatic.)

*The Secretary of State to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, February 3, 1905.

(Mr. Hay states that the suggestion that the United States enter into a treaty of arbitration to determine what questions may become diplomatic can not be taken seriously. Mr. Bowen will so inform the Venezuelan Government.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *February 5, 1905.*

(Reports that the Venezuelan chargé d'affaires cabled the President yesterday that Department said the difficulties with Venezuela could be arranged. The President cabled for details. The Venezuelan chargé d'affaires replied that Department asked him why does not the President accept a general arbitration treaty, adding, if he would, all would be settled amicably and Venezuela would never have a better friend than the United States. The President cabled back to tell Department that he never asked for anything except to submit everything to arbitration, but that Mr. Bowen prevented everything. Mr. Bowen says that statement is false. The President refused to submit to arbitration pending questions and asked for a general arbitration for the future. Mr. Bowen adds that Department instructions to him stated the United States would consider negotiating a general arbitration treaty only after pending questions are settled. As the President claims cases before his courts are not diplomatic questions, it would be useless to make a general arbitration treaty unless he accepts the Department's definition of a diplomatic question.)

*Minister Bowen to the Secretary of State.*

No. 385.]

AMERICAN LEGATION,  
*Caracas, February 5, 1905.*

SIR: I have the honor to inclose herewith copies of my correspondence with the minister of foreign affairs and of the cablegrams that have passed between Washington and this legation since the 23d of January last and to acknowledge the receipt of your instructions No. 234, of the 20th ultimo. I am holding the said instructions until I receive an answer from you to my cablegram of the 3d instant, asking whether or not you desire me to decline the request of President Castro for a general treaty of arbitration. I am decidedly of the opinion that we should not make a treaty with him of that kind until he settles all pending questions in conformity with our repeated requests and consents to accept our definition of what are diplomatic questions. His evident purpose is to maintain the Calvo doctrine in its entirety, and he has no doubt he can do so if he can persuade the Government of the United States to agree to make with Venezuela a general treaty of arbitration for settling questions that may become diplomatic in accordance with the rules of international law.

\* \* \* \* \*

I am, etc.,

HERBERT W. BOWEN.

P. S.—I have just had a talk with General Ybarra, the minister of foreign affairs. He told me that he has cabled to Washington in the hope of securing your assent to the making of a general arbitration treaty. I expressed the opinion that he would not succeed, unless he is willing to submit to arbitration the asphalt case and all other pending cases that can not be settled by mutual consent. He replied



that President Castro is anxious to make only one treaty and to have that cover everything. "That might be possible," I remarked, "if he really would let it cover everything; but so far he has excluded everything. Send for me the moment he consents to submit the asphalt case and all other questions to arbitration, and we will then see what we can do."

H. W. B

[Inclosure 1.]

*Minister Bowen to the Minister of Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, January 30, 1905.

MR. MINISTER: I have the honor, in compliance with instructions I have received from Washington, to request your excellency to inform me whether the Government of Venezuela is willing to agree to the principle of an impartial arbitration of the asphalt case, the Critchfield and Jaurett cases, and the revision of the Olcott award and of the trial of all those cases absolutely on their merits before arbitrators appointed to hear and to decide them.

A favorable answer to that question would, in my opinion, be indisputably creditable to the Government of Venezuela and surely acceptable and gratifying to the Government of the United States.

The only reason, if I understand clearly the views of the Venezuelan Government, why it has hesitated to submit the asphalt case and similar cases to arbitration is because it is inclined to hold that while cases are before the Venezuelan courts they can not be considered diplomatic questions, and that they can only become such after the courts have rendered their final decision in such a way or in such terms as to constitute a denial of justice.

If the Venezuelan Government is deterred by those views from submitting to arbitration the aforesaid cases or any of them, I suggest that it propose to the Government of the United States that an arbitration tribunal be selected and authorized to declare whether or not the aforesaid cases or any of them may be properly regarded as diplomatic questions, and to hear and to decide such of them as are diplomatic questions.

It would not be practical nor is it necessary to submit to arbitration the general principle of international law that a case pending in a national court is not a diplomatic question. We are not discussing a general principle, but specific cases, and these specific cases can, in my opinion, be shown to be wrongfully referred to the aforesaid general principle.

Furthermore, I suggest that Venezuela at the same time propose that the same arbitration tribunal be authorized to hear and decide such cases of the other creditor nations as it may declare are diplomatic questions, and may decide what sum should be paid yearly to the creditor nations out of the customs revenues of La Guaira and Puerto Cabello.

I have made these suggestions in order that I may never be reproached with having failed to put forth every effort possible to induce the Government of Venezuela to settle in a fair and honorable way her disputes with foreign nations. Your excellency will appreciate my friendly motives, and will, I know, give to every view I have expressed very careful and conscientious consideration.

I gladly avail, etc.,

HERBERT W. BOWEN.

[Inclosure 2.—Translation.]

*The Minister of Foreign Affairs to Minister Bowen.*

MINISTRY OF FOREIGN AFFAIRS,  
Caracas, February 2, 1905.

MR. MINISTER: I acknowledge the receipt of your excellency's note of the 30th of January last, and I have received instructions from the Provisional President of the Republic to answer in order the points which it contains in the following terms:

The asphalt cases have been fully answered in previous notes to your excellency from this office by it being stipulated in such contracts between the interested parties and the government of the Republic that doubts and controversies which may arise in the execution and fulfillment should be decided by the tribunals of justice of the Republic, there not being able to be in any case grounds for international claims, and now your excellency, who is a jurist, will understand that it would not be creditable for the Venezuelan Government to violate the said proviso agreed upon with American citizens or companies.

The Jaurett matter is a mere police question, and as to the revision of the award of Mr. Olcott, although it is not known that any protest about the matter has been made by him, the case, in the opinion of the Federal Executive, would be of such gravity if it were made that in his judgment all the protocols would be annulled which your excellency signed in Washington in the name and as the representative of Venezuela.

Nothing creditable would then result to the government of the Republic from its acceptance.

If a judicial question can be taken away from the competent tribunals which have cognizance thereof in order to be submitted to a diplomatic decision, as your excellency has affirmed already in your various notes, the Venezuelan Government would not be indisposed to accede to your repeated request, provided always, this principle were thus sustained, maintained, and embodied in international law.

The government of the Republic has not been able, even remotely, to foresee the denial of justice, because the cases in court are of such a character that they are not susceptible to it, nor much less would it be acceptable to the Federal Executive if the honor and dignity of the nation were involved.

Your excellency knows by the contents of previous notes from this office that the Venezuelan Government has proposed in every way to the Government of the United States a general arbitration treaty for all the questions which in due international form can be thus decided; and as regards this paragraph of the note of your excellency which I am answering, the President observes, moreover, that the very fact of submitting to an arbiter the decision as to whether a question is diplomatic or not would be not only a proof that it was not, but even prejudicial to the exact investigation of the questions by the chancelleries that discuss them; nor is it understood that the special cases to which your excellency refers can be governed by other principles or other rules than the general ones.

The next paragraph of your excellency's note is of such magnitude and gravity that, dealing with your excellency, I have to say that the Federal Executive hardly can understand it or explain it, as your excellency, as former representative of Venezuela, ought to know what sum is the one which from the date of the protocols is being paid to all the creditor nations or to all the nations which signed with her diplomatic agreements. The point which the government of the Republic could not settle—that is to say, preferential treatment—your excellency knows the award of The Hague tribunal decided it clearly and categorically, and thus it has been observed and fulfilled by the Government of Venezuela.

If any new rule or agreement in the form of payment, but not as to the amount, could be obtained by the Government of the United States with the other nations for the Government of Venezuela, said payment would be equally acceptable. I have to inform your excellency anew that the Venezuelan Government has no pending questions of any kind in relation to what your excellency embodies in the paragraph to which I have just alluded.

I have special instructions from the Provisional President of the Republic to give to your excellency at all events the most cordial thanks for your good offices and desires, and avail myself of the opportunity, etc.

ALEJANDRO YBARRA.

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*The Secretary of State to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, February 6, 1905.*

(Mr. Hay states that the Venezuelan chargé was informed there could be no settlement which did not provide for prompt arbitration of pending questions. He was distinctly told that a general arbitration treaty as proposed by Venezuelan Government would be unacceptable at this juncture.)

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*The Secretary of State to Minister Bowen.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

*Washington, February 13, 1905.*

(Mr. Hay instructs that no action be taken in Critchfield or the United States and Venezuelan Company case until further instructed.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

CARACAS, *February 10, 1905.*

(Mr. Bowen states that on the 6th he answered the last note of minister of foreign affairs by stating simply that the United States declines to make any settlement which does not provide for prompt arbitration of pending questions, and that general arbitration treaty is unacceptable at this juncture. The Venezuelan Government has not replied except by fortifying mountain passes to the coast and sending extra forces and ammunition to La Guaira.)

*Minister Bowen to the Secretary of State.*

No. 388, Confidential.]

AMERICAN LEGATION,  
*Caracas, March 4, 1905.*

SIR: I have the honor to inclose herewith a copy of my last note about arbitration to the minister of foreign affairs, and copies of the cablegrams that have passed between Washington and this legation since the 5th of February last.

The fact that the correspondence about arbitration ended by the sending of President Castro's "most cordial thanks" to me for my good offices (see foreign office note of February 2) is very significant. It proves that he did not take the correspondence seriously and attached but little importance to it. It seemed to me, however, very necessary to have our record in good shape, so that if we use force we may easily prove that we are justified in so doing.

The rumor that President Castro was fortifying the mountain passes and preparing to fight the United States is now known to be untrue. At no time has the President believed that trouble was imminent with the United States. \* \* \*

In case action is taken here I respectfully request that a naval officer be attached to this legation. Captain Parker, the military attaché, is doing excellent work here, and I beg that he be allowed as long as you continue me at this post to remain with me.

I am, etc.,

HERBERT W. BOWEN.

[Inclosure.]

*Minister Bowen to the Minister of Foreign Affairs.*AMERICAN LEGATION,  
*Caracas, February 6, 1905.*

MR. MINISTER: In answer to your note of the 2d instant I have the honor to inform you that the Government of the United States declines to make any settlement which does not provide for the prompt arbitration of pending questions, and deems the request of the Government of Venezuela for a general treaty of arbitration unacceptable at this juncture.

I gladly avail, etc.,

HERBERT W. BOWEN.

*The Secretary of State to Minister Bowen.*

No. 242.]

DEPARTMENT OF STATE,  
*Washington, March 10, 1905.*

SIR: I have to acknowledge the receipt of your No. 385, of the 5th ultimo, in regard to the pending negotiations between the United States and Venezuela.

In reply I have to say that the Department approves your opinion that we should not make a general arbitration treaty with Venezuela until all pending questions between the two governments have been settled in conformity with the Department's instructions heretofore given. In the light of President Castro's statement to you, contained in the note of the minister of foreign affairs of February 2, "the very fact of submitting to an arbiter the decision as to whether a question is diplomatic or not would be not only a proof that it was not, but even prejudicial to the exact investigation of the questions by the chancelleries that are to discuss them." This language of the President completely demonstrates the futility of proposing or discussing the formation of an arbitration treaty for the purpose of deciding the question whether a case is diplomatic or not. In short, the language quoted shows the inability of this government to accede to any arbitration of the question proposed. Taking the Bermudez Asphalt Company case as an example, if the question were submitted to a tribunal to decide whether or not the case is diplomatic, it would involve the presentation before an international tribunal of many details in connection with prosecutions instituted against the Bermudez Company which this government would wish to be spared the necessity of presenting. Incidents such as have characterized the successive prosecutions of the Bermudez Company were fully considered by the Department of State before it determined whether or not the government ought to intervene with the Venezuelan Government for the protection of the company. Once its decision to intervene is taken and an arbitration arranged, the case then goes to the tribunal on its merits, and it would be very inconvenient, since it might lead to recriminations creating resentments if the intervening government had to show the many serious charges and proofs adduced that the Executive had overawed the courts and by removals and imprisonments of judges and of attorneys and by interposing other obstacles to the due and impartial administration of justice had thus finally convinced the intervening government of the propriety and necessity of its action. Expositions and discussions of this nature would not conduce to the maintenance of that mutual respect and friendship which should continue in spite of serious controversies between differing governments.

The revision of the Olcott award could not have the serious consequences supposed in the note of the minister addressed to you on February 2. The protocol for the revision of that award would be so drawn that the action of the reviewing tribunal would have no effect on the previous protocol and awards. It would have the effect, however, and this the Department asks, that the tribunal might fairly and fully reconsider the whole case and render to Mr. Olcott that justice which appears to have been denied by the award given under the previous protocol.

The attitude of the Venezuelan Government toward the Government of the United States and toward the interests of its citizens who have suffered so grave and frequent wrongs arbitrarily committed by the Government of Venezuela require that justice should now be fully done, once for all. If the Government of Venezuela finally declines to consent to an impartial arbitration, insuring the rendition of complete justice to these injured parties, the Government of the United States may be regretfully compelled to take such measures as it may find necessary to effect complete redress without resort to arbitration. The Government of the United States stands committed to the principle of impartial arbitration, which can do injustice to nobody, and if its moderate request is peremptorily refused it will be at liberty to consider, if it is compelled to resort to more vigorous measures, whether those measures shall include complete indemnification, not only for the citizens aggrieved, but for any expenses of the Government of the United States which may attend their execution.

You are at liberty to furnish a copy of this instruction to the minister of foreign affairs.

I am, etc.,

JOHN HAY.

*Minister Bowen to the Secretary of State.*

No. 391.]

AMERICAN LEGATION,  
Caracas, March 19, 1905.

SIR: I have the honor to acknowledge the receipt of your No. 242 of the 10th instant, and in conformity with the instructions therein contained I have sent a copy of it to the minister of foreign affairs with an accompanying note. (Copy inclosed herewith.)

I have, etc.,

HERBERT W. BOWEN.

[Inclosure.]

*Minister Bowen to the Minister of Foreign Affairs.*

AMERICAN LEGATION,  
Caracas, March 19, 1905.

MR. MINISTER: I have the honor to request your excellency to inform me whether or not the Government of Venezuela will accept the final proposal of arbitration which is contained in the accompanying copy of instructions I received yesterday from Washington?

I gladly avail, etc.,

HERBERT W. BOWEN.

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, March 20, 1905.

(Mr. Bowen states that he has sent to minister of foreign affairs copy of Mr. Hay's final proposal of the 10th, and requested answer whether or not Venezuelan Government will accept it.)

He adds that the Dutch chargé d'affaires has cabled advising coercive measures, as he can not secure the release of five Dutchmen illegally imprisoned seven months ago.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, March 23, 1905.

(Mr. Bowen reports that the Venezuelan Government, in answer to final proposal of arbitration contained in Mr. Hay's note of the 10th, denies it has any pending questions with the United States, claims it would be offensive to the honor of the Dutch to revise the Olcott case, and maintains there is reason to believe the case belongs to Venezuelan courts. Before giving further consideration to Mr. Hay's note the Venezuelan Government states that it must know whether the United States respects the methods and nobility of the Venezuelan courts. Mr. Bowen adds that the answer is unyielding and requires no further ultimatum.)

*Minister Bowen to the Secretary of State.*

[Telegram.—Paraphrase.]

AMERICAN LEGATION,  
Caracas, March 25, 1905.

(Mr. Bowen reports that Señor Paul cabled to Venezuelan President on the 24th that the Government of the United States will not answer Mr. Bowen, or will give him conciliatory instructions.)

*Minister Bowen to the Secretary of State.*

No. 394.]

AMERICAN LEGATION,  
Caracas, April 2, 1905.

SIR: I have the honor to inclose herewith a copy of the answer of the minister of foreign affairs to your note of March 10 and a translation of the answer.

As my correspondence with the government in regard to arbitration ended in an absolute refusal on the part of President Castro to favor any of my suggestions, and was interpreted by him as evidence that I was attempting to impair the good relations existing between the United States and Venezuela, I decided to submit to him a copy of your note of March 10, in order that he might have the opportunity to ponder carefully your views and conclusions, and to answer them without being influenced by any feeling of personal animosity, as he may have been when he replied to my notes.

That he failed to avail himself of that opportunity is very apparent. The whole tone of his answer to your note is exceptionally impetuous, while the arguments he employs are distinctly disingenuous and obviously absurd. \* \* \*

I am, sir, with great respect, etc.,

HERBERT W. BOWEN.

[Inclosure.—Translation.]

*The Minister of Foreign Affairs to Minister Bowen.*

MINISTRY OF FOREIGN RELATIONS  
OF THE UNITED STATES OF VENEZUELA,  
*Caracas, March 23, 1905.*

MR. MINISTER: I limit myself to acknowledging the receipt of your excellency's note of the 19th instant and of the inclosure of his excellency, Mr. John Hay, of the 10th, because I believe, with good foundation, that the Venezuelan Government has in reality no pending questions with the Government of the United States, it being an evident fact, supported by every kind of evidence, that the Venezuelan Government arranged in Washington, by its protocols signed in 1903, the subjects that could be matters for discussion and that were decided by the mixed commission that afterwards met in Caracas.

As, on the other hand, one of the matters which is treated by his excellency Mr. Hay is found contained in those decisions, which is the same as if we should say that it has already the potency of things adjudicated, and because the Venezuelan Government would consider it as an offense to the honor of the Dutch nation and of the Dutch Umpire, Mr. Harry Barge, who decided the Olcott claim, acquiescence could not be given to such an unseasonable request without failing in the respect which is due to that which has been agreed upon, and it would be at the same time even a reason for believing that not even a new agreement, judgment, or arbitration could be executed, so with the matter of the New York and Bermudez Company, his excellency Mr. Hay ought to know that by its nature it is one of the cases that belong to the ordinary courts of the country, to which the laws now existing remit the case, and to which are subject all those of foreign nationality who come to reside or make contracts here.

The Provisional President of the Republic charges me, then, to say to your excellency, in order that you may in turn communicate it to his excellency Mr. John Hay that this government, in order to consider his note, needs to know at once and for the aforesaid reasons whether the matter in question relates to the sovereignty and independence of this Republic—that is to say, whether or not the Government of the United States respects and reverts the legislation of this Republic and the nobility of its tribunals, and whether it respects and reverts equally the agreements and arbitral decision which it, representing the Venezuelan Government, concluded.

I reiterate, etc.,

ALEJANDRO YBARRA.

**RELATIONS BETWEEN COLOMBIA AND VENEZUELA.—REQUEST FOR THE GOOD OFFICES OF THE UNITED STATES IN ADVOCATING THE PRINCIPLE OF THE FREE NAVIGATION OF RIVERS COMMON TO NEIGHBORING COUNTRIES.**

[NOTE.—See same subject under Colombia, p. 248.]

*Minister Russell to the Acting Secretary of State.*TEMPORARILY AT WASHINGTON, *July 25, 1905.*

SIR: I have the honor to inform you that while in Bogotá last winter I had frequent friendly talks with the minister for foreign affairs concerning the relations between Colombia and Venezuela. The minister assured me that it was the earnest desire of his government to arrange amicably all the pending questions with the neighboring Republic of Venezuela, and stated that the principal reason for the strained relations at present existing between the two countries is the attitude of the Government of Venezuela in closing the Orinoco River to Colombian commerce, thus denying to Colombia the right of an outlet to the sea. By an arbitral decree of the King of Spain in 1891 for a settlement of the boundaries between Colombia and Venezuela the left bank of the Orinoco River for a long distance was made the boundary between the two Republics. This decree was accepted by Venezuela, and joint commissions were appointed by the two governments to carry out its provisions; but the present Government of Venezuela

has always insisted that the decree in question was unjust to Venezuela, and that Colombia was awarded territory to which she had no right.

During the last five or six years reported invasions of Venezuelan territory by Colombians and Venezuelan revolutionists who had sought asylum on Colombian territory have intensified the strained relations between the two countries, and in 1900 the Colombian minister left Caracas, and in 1904 the Venezuelan Government, by an executive decree closed the Orinoco River to Colombian commerce. On the 23d of last May, just prior to my departure for Washington, the Colombian minister for foreign affairs furnished me with a memorandum, copy and translation of which is hereby inclosed, and requested me to bring the matter to the attention of my government, in the hope that the United States, by the use of friendly offices, might endeavor to persuade Venezuela to acknowledge and proclaim the principle of the free navigation of rivers to common bordering countries, a principle which our government has constantly maintained since 1851.

The inclosed memorandum will serve to enlighten you on this phase of the relations between Colombia and Venezuela. I also inclose for your information copies of the correspondence between the Venezuelan minister for foreign affairs and the Colombian minister at Caracas. Inclosure No. 3 is a map with the boundaries between the two countries marked off in accordance with the provisions of the arbitral decree of the King of Spain. [Not printed.] \* \* \*

I have, etc.,

WILLIAM W. RUSSELL.

[Inclosure.—Translation.]

*The minister for foreign affairs to Minister Russell.*

Memorandum on the commercial relations between Colombia and Venezuela and navigation of the common rivers, which the minister of foreign relations of Colombia presents to his excellency, Mr. William W. Russell, envoy extraordinary and minister plenipotentiary of the United States.

For more than fifty years the Colombian Government has had set forth in its laws, and maintained in practice, the principle of free navigation of rivers; and it has established this freedom even with regard to the navigation of the inland rivers which rise in its own territory, run through it, and empty into the sea on its own coasts, as is the case with the Magdalena, the Atrato, the San Juan, and the Patia, on which commerce may be carried on by foreign vessels on a basis of complete equality with those which navigate under the national flag. This principle of absolute freedom has been proclaimed and established in Colombia since 1852, when the Congress passed a law, dated April 15, which reads as follows:

“From the publication of this law the navigation of the rivers of the Republic in foreign merchant vessels under their own flag shall be free.”

With regard to the international rivers of which she is coproprietor, Colombia claims from the neighboring nations the benefit of freedom of navigation for her foreign commerce, both because this innocent use of the common rivers is fruitful in benefits for all nations which these rivers traverse, and because she understands that commerce is the most effective means whereby the development may be realized of the vast regions, now wild and desert, which are crossed by those rivers which belong to Colombia in coownership with other nations.

Colombia's foreign policy in this regard was inspired by that adopted by the United States Government with respect to the navigation of the Mississippi and St. Lawrence rivers, which was proclaimed even before independence was won from Great Britain, and which they so vigorously sustained in the discussion with the Spanish and English governments, which attempted to impede their innocent use of these rivers and their navigation as far as the sea. The United States was the first nation to declare as a principle of international law that the people occupying the region of the headwaters of a river has the right to navigate it through-



out its course to the sea, passing through the domain of the countries situated along its lower course, without other restrictions than those established by the police regulations and the measures taken to prevent defrauding the public revenue; and with respect to the Mississippi, the Federal Congress, pursuant to this policy, declared the following in 1788: "The free navigation of the Mississippi is a clear and essential right of the United States, and as such it should be considered and defended." Regarding the St. Lawrence, the allegations of this country were no less explicit in the prolonged controversy which it sustained with Great Britain for the purpose of obtaining for American commerce the free use of this river throughout its extent to the sea.

In her differences with neighboring nations, especially with Venezuela, Colombia has defended the principle of absolute freedom of navigation of the rivers which are common to both countries, adducing the reasons furnished her by American diplomacy. On this particular, the undersigned takes the liberty of calling the attention of his excellency the minister of the United States to the correspondence held by the minister of Colombia in Caracas, Mr. Luis Carlos Rico, with the minister of foreign relations, Mr. Calcaño Mathieu, in 1899, which is shown on the appended sheets. [Not printed.]

Therein may be seen what has been and is the attitude of each of the two governments in this important matter.

It is proper, above all, to call attention to the fact that the foreign import and export trade of the region of Colombia which borders on the Venezuelan States of Zulia and Táchira makes it necessary to use the river route of the Zulia, a river which rises in Colombian territory, as also the Catatumbo, which unites with the latter river in Venezuelan territory, which rivers, being united, empty into the lake of Maracaibo; and that these two rivers are navigable even before entering Venezuelan territory. It is likewise with the foreign import and export trade of the vast Colombian region which borders on the east with Venezuela, and is bounded on the north by the rivers Sarare and Arauca, on the west by the eastern cordillera of the Andes, and on the south by the rivers Guaviare and Infrida, which, united, enter the Orinoco opposite San Fernando de Atabapo; this trade, which in Colombian territory uses these rivers, especially the Meta, which, during a part of its course as far as the confluence with the Orinoco, forms a natural and legal boundary between the two republics, has as its necessary and compulsory route the Orinoco River, whose left bank belongs to Colombia, from where it is joined by the Atabapo to its confluence with the Meta, and it is a boundary between Venezuela and Colombia throughout its extent, in accordance with the award pronounced by the King of Spain on March 16, 1891, which fixed definitely the boundaries between these two nations.

For some time the commercial relations of the two republics were regulated and the necessary rules provided with regard to the navigation of the common rivers by means of a treaty concluded in 1842.

With regard to foreign merchandise introduced into Colombia through Venezuelan ports, it was provided in said treaty (art. 12) that it should pay in the custom-houses of the latter republic only a transit duty or other equivalent duty, intended for the preservation and improvement of the roads and canals, which duty should not exceed 3 per cent of the value of the merchandise; deducted according to the rules for collecting which governed in the country according to law, the merchandise being exempt from any other contribution or tax, national or municipal. The same article added: "The amount of this duty shall be deducted in the inland custom-houses of New Granada (Colombia) from the sum to which the import duties on such products or manufactures amount, calculated according to the same rules as in her maritime custom-houses, so that the total of the duties which they pay in the custom-houses of the two republics shall be equal to that which would have been collected in the maritime custom-houses of New Granada (Colombia) if the goods had been imported through the latter." With regard to foreign goods introduced into Colombia through Venezuelan ports and reexported to Venezuela, it was stipulated (art. 13) that they should be entitled to a restitution of the import duties which they had paid or given bond for in the Colombian custom-houses, and that, in place of these import duties, they should pay only a transit duty of 3 per cent of their value, intended for the preservation and improvement of the roads and canals, there being followed in this respect the same rules as in the preceding article had been established for transit goods through Venezuela destined for consumption in Colombia.

With regard to navigation, article 15 of the aforementioned treaty established the following: "In order to afford greater facilities to commerce between the adjoining countries, it has been agreed and is hereby agreed that the navigation of the rivers common to both republics shall be free for both and that there shall not be imposed other or higher duties of any kind or denomination, national or municipal, on the vessels pertaining to either of the two republics which may navigate within the dominions of the other than those which national vessels may or shall pay. This freedom or equality of rights of navigation is extended on the part of Venezuela to Granadine (Colombian) vessels navigating on the waters of the Orinoco River or of Lake Maracaibo throughout its extent to the seacoast."

The provisions of the treaty of 1842 regarding transit trade through Venezuelan territory destined for Colombia became void in 1853, and those relative to the navigation of the common rivers went out of force September 27, 1867. Since then the efforts of the Colombian Government toward arriving at a formal and equitable agreement with Venezuela regarding commerce and navigation have been futile.

But although the treaty of 1842 lost its effect with regard to these important subjects, it may be said that the commercial relations between the two nations, as well as the import and export transit by river and land of Colombia through Venezuelan territory, continued to be governed by a sort of consuetudinary right established by the aforementioned treaty, and that this right continued in force until 1897, when law 22, or the customs code of Venezuela, was issued, which, as far as the transit trade to Colombia via Lake Maracaibo was concerned, established extremely onerous restrictions and formalities. It was, in fact, established then that Colombian transit trade by way of Lake Maracaibo and the Catatumbo and Zulia rivers should be carried on solely through the port of Maracaibo, and that it should be limited, as far as importation was concerned, to merchandise destined to the city of Cucuta, in Colombia, and to that reimported from there into Venezuela, and since the Colombian flag had been implicitly excluded from those rivers since the lapsing of the provisions of the treaty of 1842 relative to the navigation of the common rivers, Colombian commerce was obliged to use only steamers and small vessels belonging to Venezuelans, being subjected to heavy charges and imposts which were exacted of it at Maracaibo, either as national tax or municipal impost or in the character of a tax for beneficent purposes, as if the goods comprised in this traffic were intended for consumption in Venezuela.

It is appropriate to make known some of the provisions of the aforementioned Law XXII of Venezuela, relative to transit trade to Colombia.

Article 1 provides that goods whose importation into Venezuela is prohibited can not be destined to transit, so that, according to this provision, the Venezuelan Government prohibits the exportation to the Colombian city of many articles which the Venezuelan tariff rejects, such as matches, sugar, etc.

According to article 2, transit cargoes in the shipment of which there has been committed some informality in the place or port of origin, shall be immediately subjected to the penalty of being examined in Maracaibo, if they do not incur the penalty of confiscation. An informality may, according to this legal provision, be punished twice, once in the port of Maracaibo and again in the Colombian custom-house at Cucuta, and the penalties in Venezuela in some cases are excessively severe, considering that it is a matter of slight informalities.

Article 4 of the law reads as follows: "The period of deposit for Colombian goods in the customs-house of Maracaibo shall be for only thirty days, extendible for three more, after which the cargo shall be declared for consumption, with an additional charge of 10 per cent of the duties, unless unavoidable accident can be proven which interrupted the transit." In this case the minister of finance shall take cognizance of the case in Caracas and decide it in the light of the evidence sent him.

By virtue of this provision, after thirty-three days have elapsed the goods are deposited in Maracaibo while the minister decides in Caracas what is to be done, and since temporary droughts are frequent in the Zulia River it also often happens that after the cause which prevented the movement of the goods has disappeared still the latter have to remain deposited in the custom-house until the minister reaches his decision. In view of the well-known slowness with which these cases are acted upon, the trader finds himself obliged to declare for consumption in Venezuela the goods which he intended for Cucuta, paying the extra duty of 10 per cent over that which is paid by the Venezuelan importer.

The foregoing exposition will suffice to show the spirit of hostility toward transit trade to Colombia which governs the customs legislation of Venezuela. However, in spite of the unfavorable conditions under which it has been placed, the commerce of the Cucuta valleys has had necessarily to use the route of the Zulia and Catatumbo rivers and the port of Maracaibo for the lack of more convenient, rapid, and economical routes through Colombian territory would have doomed it to perish, and thus, with some interruptions, it continued to use that route until October, 1904, when the Venezuelan Government adopted the following resolution: "Ministry of Finance—Caracas, October 26, 1904.—Resolved: The Provisional President of the Republic directs that, until the alarm being constantly raised by the refugees on the Colombian frontier ceases, the traffic from Encontrados to Puerto Villamizar be suspended, said traffic being carried on henceforth through Uraça, Colon, and Urena.—Let this be communicated.—By the executive: J. C. de Castro, minister of finance."

Since this resolution was adopted, the commerce of Cucuta by way of the Zulia, the Catatumbo, and Lake Maracaibo has been suspended, and that city, once flourishing, is to-day in a situation next to ruin, to which testimony is borne by the decline of the custom-house, which formerly produced \$200,000 in silver per month and now produces only \$10,000. The railroad from Cucuta to Puerto Villamizar, which in 1897 transported 8,220,000 kilograms of imports and 14,350,000 kilograms of exports, is to-day paralyzed for lack of freight, not even earning sufficient to pay expenses of repair.

The ostensible reason for the aforementioned resolution of the Venezuelan ministry of finance is that above expressed, viz., "the alarm constantly raised by the refugees on the Colombian frontier," but this reason is specious and devoid of foundation. The real cause of this measure, which will doubtless cause amazement to the honorable minister of the United States is the deliberate purpose of making Colombian commerce tributary to the monopoly which, by concession of the Venezuelan Government, is exercised on the navigation from Maracaibo through the Catatumbo and Zulia to the port of Guayabo over the latter river—a monopoly which is enjoyed by the owners themselves of the railroad running from Encontrados, at the confluence of the Zulia with the Catatumbo, to the town of Uraca, in the State of Tachira. The commerce of the valleys of Cucuta being deprived of an egress via the Zulia from Port Villamizar to Encontrados, it was desired to compel it to seek the Urena route via Colon to Uraca, where the railroad terminates, to continue thence by this route to Encontrados, and then continue by the Catatumbo to Maracaibo, subjected throughout this long and expensive voyage to the exactions and caprice of those who are granted so unjustifiable a monopoly by the Venezuelan Government. The import trade must naturally follow the same route, beginning at Maracaibo until arriving at Uraca, after having used the steamers of the lake and the river as far as Encontrados, having transhipped there to the railroad to reach Uraca, and having crossed the Cordillera from this last point to Colon by a rough-metalead road, terminating the voyage over a road of the same kind at Urena, on the Venezuelan frontier, opposite the city of Cucuta.

On the map which shows the boundary between Colombia and Venezuela, according to the award pronounced by the King of Spain, there are seen clearly indicated the two routes: That from Cucuta to Puerto Villamizar, the Zulia, the Catatumbo, and Lake Maracaibo; and that from Urena, Colon, Uraca, Encontrados, and the Catatumbo to Maracaibo. The former is the convenient and the practical route for Colombian trade, is that indicated by nature, and that which Colombia has a right to use by preference, utilizing the rivers which arise in her territory and furnish her a safe and convenient outlet to the sea. The other is artificial, and neither lives nor exists, but under the protection of a monopoly obnoxious to every notion of equity and public convenience, and the trade of Colombia can not avail itself of it because it is denied the use, under idle pretexts, of the highway which is that of the rivers whose headwaters are on its own land.

The foregoing statement will suffice to appreciate the justice of Colombia's cause in her differences with the Government of Colombia touching the transit trade by way of Maracaibo. The undersigned, therefore, does not believe it necessary to dwell further on this point.

The traffic over the Orinoco and its tributaries is likewise closed at present to the commerce of Colombia.

Under the revenue regulations of Venezuela, the commerce of that river is free to the whole world on its great mouths; hence, deep-sea vessels ascend as far as Ciudad Bolivar, some 270 miles from the point where it disembogues into the Gulf of Paria. The distance up the Orinoco to its confluence with the Meta is the same. The latter river is highly important for the trade of Colombia, which lies within the region to the east of the eastern range of the Andes, for it is the easiest and most expeditious route for her import and export trade. In fact, if Colombia's trade in that region could be carried on without legal trammels over the Meta and the other Colombian affluents of the Orinoco, the products which are exported from there could descend the Orinoco in steamers as far as Trinidad, where they could be transhipped to the ocean steamers. But the Venezuelan laws and the monopolies which they have sanctioned do not allow Colombian import and export trade the benefits of this direct navigation. In the first place, for over twenty years there has been conceded a monopoly and privilege in the navigation of the lower Orinoco by using the canals or arms of the river called Macares and Pedernales, which are the only ones through which river vessels going to the Island of Trinidad or ascending the river from there can pass; consequently, even if navigation under the Colombian flag were permitted throughout the distance from the confluence of the Meta to the mouths of the Orinoco, this permission, in view of the monopoly above referred to, would in reality be limited to the reach from the mouth of the Meta to Ciudad Bolivar. In the second place, the navigation in this latter reach of the Orinoco, which is entirely Venezuelan, has been denied to Colombian commerce, under the pretext that Colombia did not have custom-houses established in that region to protect the Venezuelan treasury from possible frauds. This is an extremely flimsy pretext, for the commerce of Colombia continues being deprived of the right of navigation on this part of the Orinoco, even after the Colombian Government has established the custom-houses whose absence furnished the Venezuelan Government an excuse for closing the Orinoco to the commerce of Colombia.

The Government of Colombia takes the liberty of submitting this memorandum to his excellency the minister of the United States, with the request that he kindly bring it to the knowledge of the honorable Secretary of State, in order that the United States may form a correct idea of the state of the relations between Colombia and Venezuela, and of the justification which each of these republics may have in the questions pending between them.

The boundary dispute which arose between the two peoples from the time they were organized as independent political entities having been settled by the King of Spain as legal arbiter, it appeared that from 1891, the year in which the royal arbiter gave his decision, all real cause of discord would disappear between them. Unfortunately, however, it did not so turn out. Ever since that award was pronounced, Venezuela's policy in regard to the transit trade of Colombia and the navigation of the common rivers has been characterized by a marked spirit of hostility toward Colombia, which the following two measures have confirmed in an unmistakable manner: That adopted by the ministry of finance on October 26, 1904, with the object of prohibiting the navigation of the Zulia River between Puerto Villamizar and Encontrados, and that which prohibits the traffic on the Orinoco from Ciudad Bolivar upward to the point where this river serves as a boundary line between Colombia and Venezuela.

Great interests, not only Colombian but American and European, have suffered irreparable injuries in consequence of these measures, of this policy of hostility to the commerce and industry of a neighboring country, which is denied the free and innocent use of the rivers which wash its soil, which have their origin in it, and which are the necessary route for its commerce with the outside world. Venezuela is to-day the only country on this hemisphere which does not recognize the free navigation of large rivers—the only one which in its laws and administrative practices preserves the trammels on commerce and navigation which have been definitely eliminated in Europe since 1815.

It was for the United States to cause the principle of free navigation to triumph in America, and Colombia trusts that the efficacious influence of its government will be exerted toward having this principle respected in quarters where it has not yet been recognized.

CLÍMACO CALDERÓN.

BOGOTÁ, *May 23, 1905.*

*The Acting Secretary of State to Minister Russell.*

DEPARTMENT OF STATE,  
*Washington, August 4, 1905.*

SIR: I have to acknowledge the receipt of your unnumbered dispatch dated Washington, the 25th ultimo. You report interviews with the minister for foreign affairs prior to your departure from Bogotá touching the strained relations between Colombia and Venezuela growing out of the closing of the Orinoco to Colombian commerce, and inclose a memorandum handed to you by the Colombian minister for foreign affairs bespeaking the good offices of the United States to urge upon Venezuela recognition of the principle of the free navigation of rivers.

The subject as presented in your dispatch and the accompanying papers has had attentive consideration. Should a favorable occasion present itself after your arrival at Caracas, you may express to the minister for foreign affairs in a friendly and unofficial way the great satisfaction with which the United States would view the adoption and proclamation by Venezuela of the broad principle of the free navigation of rivers and fluvial arteries of communication common to neighboring countries, a principle which this government has advocated and in its relations with its neighbors maintained for upward of fifty years.

In your conversation with the minister for foreign affairs it should be made entirely plain that this government does not seek to intervene or mediate in any way in the relations between Venezuela and Colombia, but in touching upon this matter is merely interested in the universal triumph of a policy so beneficial to the commerce of the world at large.

I am, etc.,

ALVEY A. ADEE.

*Minister Russell to the Secretary of State.*

No. 28.]

AMERICAN LEGATION,  
Caracas, Venezuela, November 12, 1905.

SIR: I have the honor to inform you that Mr. José Ignacio Diaz Granados, confidential agent of Colombia, has arrived in Caracas.

Mr. Granados's mission is to endeavor to reestablish diplomatic relations between Colombia and Venezuela, and he brings with him the draft of a protocol establishing the frontier between the two countries.

Mr. Granados brought to me a private letter from the Colombian minister for foreign affairs, asking me to use my friendly offices to aid in bringing about an understanding with Venezuela, and I think the moment is favorable for conferring with the Venezuelan Government in the line of the instructions to me in Washington of August 4 last.

I am, etc.,

WILLIAM W. RUSSELL.

*The Secretary of State to Minister Russell.*

No. 22.]

DEPARTMENT OF STATE,  
Washington, November 28, 1905.

SIR: I have to acknowledge the receipt of your No. 28, of the 12th instant, reporting the arrival of Mr. Diaz Granados, confidential agent of Colombia, who is to endeavor to reestablish diplomatic relations between Venezuela and Colombia, and who brings with him the draft of a protocol to establish the frontier between the two countries.

If Mr. Diaz Granados's powers include the adjustment of fluvial navigation questions, besides the settlement of the boundary, the occasion would appear, as you suggest, to be propitious for discreet compliance with the Department's instructions of August 4, 1905.

I am, etc.,

ELIHU ROOT.

*Minister Russell to the Secretary of State.*

No. 33.]

AMERICAN LEGATION,  
Caracas, Venezuela, December 10, 1905.

SIR: I have the honor to advise you of the following important notices in to-day's edition of *El Constitucional*, the government organ.

1. The signing of an act yesterday by which diplomatic relations are renewed between Colombia and Venezuela. The treaty is to be signed in Caracas by the special envoys of both countries. \* \* \*

I am, etc.,

WILLIAM W. RUSSELL.

**MESSAGE OF PRESIDENT CASTRO TO THE VENEZUELAN  
CONGRESS.**

*Chargé Hutchinson to the Secretary of State.*

No. 423.]

AMERICAN LEGATION,  
*Caracas, June 7, 1905.*

SIR: I have the honor to report that I was present with the ladies and gentlemen of the diplomatic corps at the reading of the message to Congress by General Castro at 4 p. m. on the 1st instant. \* \* \*

The message—copy and translation inclosed—contains several points of interest to the United States. \* \* \*

I have, etc.,

NORMAN HUTCHINSON.

[Inclosure.—Translation.]

*Extracts from the message of General Cipriano Castro, Provisional President of Venezuela, to the National Congress of 1905.*

In our foreign relations the Venezuelan Government has maintained the greatest harmony and good friendship with all the nations with which it has relations, to the extent to which the respective representatives have so desired.

Thus we see that our relations of friendship with Great Britain, Germany, Italy, France, Chile, Netherlands, Belgium, Spain, Argentina, Brazil, Sweden and Norway, Nicaragua, Guatemala, Panama, Salvador, Mexico, the United States, etc., have been relatively cordial.

In order to maintain these relations on so good a footing, the Venezuelan Government has not failed to accede to the desires of the respective representatives as far as justice, equity, and right are compatible with the dignity and honor of the nation.

On the other hand, the government has taken pains to fulfill the obligations which it has contracted, and, in accordance with these obligations, which are diplomatic compacts, the peremptory demands were first paid to the allies and afterwards, in conformity with the sentence of The Hague tribunal, recognized as arbitrator by all the claimant nations, 30 per cent of the customs receipts of La Guaira and Puerto Cabello were paid.

In this regard there will be no further grounds for change, for once the payment of the allies is completed the pacific claimants will continue to be paid honestly and fairly from the aforementioned 30 per cent, in conformity with the arbitral award.

Since it was clearly and positively stipulated in diplomatic compacts that the remaining debts of the Republic which did not come under the head of claims should be paid within a reasonable period, for which purpose the respective creditors were to reach an understanding with the Venezuelan Government by means of new agreements concerning the form of payment, the Venezuelan Government, being desirous of proceeding to make these agreements, sent Gen. José Antonio Velutini twice to Europe for this purpose, conferring on him the necessary authority to conclude the arrangements.

I have the satisfaction to announce to you that these agreements have already been concluded and signed by the contracting parties and that the agreement relating to the discount debt has been ratified by the German Government, and that it will also soon be ratified here. Our commissioner, General Velutini, is only awaiting the ratification by the English Government of the agreement concerning the debt or loan contracted with that nation some years ago in order to return.

This operation, which I consider as being definitely concluded with the German and English bondholders, is, in my opinion, of great magnitude and importance, for on it depend, in part, the credit, tranquillity, and good harmony of Venezuela with other nations.

The Venezuelan Government has, then, fulfilled and is fulfilling everything which its representative, Mr. Bowen, agreed upon by means of diplomatic protocols with all the nations with which Venezuela had matters pending settlement.

If, as I hope, the ratification to which I referred should take place before your session of this year is terminated, I shall at the proper time request admission to you in extraordinary session in order to relate to you in a special message the real extent and importance of the operation.

We have had a slight difference with the Government of the United States of North America from causes beyond our control and for which we are not in the least responsible,

and our chancellery has discussed the matter in a luminous manner, which appears to have explained the truth of the facts to said government, judging from the measures which it has recently adopted in behalf of our good and cordial friendship.

These matters are that of the Bermudez, or Asphalt, Company and that of the Orinoco Company, already determined by the respective arbitrators, in conformity with the protocols concluded by the aforesaid Mr. Bowen, who demanded that it be taken into consideration by a new court of arbitration. To neither of these demands could the Government of Venezuela accede, since the sovereignty and independence of the Republic were involved, although the government has always made it a rule in its policy with all countries to preserve the greatest cordiality and good friendship.

Our official relations with the government of our sister nation, Colombia, have not yet been able to be resumed, as was our desire, in spite of the fact that the relations of friendship with the Chief Magistrate of that nation have remained unchanged.

The cause has not lain with the Venezuelan Government, as those who ought to know are well aware, viz, those who have had a part in so serious a matter.

Nevertheless, I cherish the hope that these official relations will soon be resumed, as is demanded by our common interests, our common glory, and the future of both nations, the whole matter being governed by a spirit of equitable reconciliation, in accordance with the facts in this case.

It is proper in this connection to mention the decisive, important, honest, frank, and impartial assistance which the arbitrator recognized by both parties, Mr. Francisco Herboso, minister of Chile in this city, has lent toward a successful continuation of the negotiations.

So that, in venturing to hope, as I do, for a successful solution, I am influenced by the fundamental belief that intrigue can no longer place an obstacle in the way of so noble a purpose.

\* \* \* \* \*

CIPRIANO CASTRO.

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